



THE TEXAS RESPONSE TO HUMAN TRAFFICKING

Office of the Attorney General
Report to the 81st Legislature



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Executive Summary

Human trafficking is often referred to as modern-day slavery. Every year, men, women and children all over the world are transported within or across borders for the purpose of forced labor and sexual exploitation.² These victims endure unspeakable hardships and suffer severe psychological trauma. Victims are forced to work in domestic servitude, sweatshops, agricultural industries and the commercial sex trade, which includes prostitution, exotic dancing, pornography and live-sex shows.³ According to the U.S. Department of Health and Human Services, human trafficking victims can be found working in ordinary locations, including hotels, restaurants and private residences, and are often “hiding in plain sight.”⁴

“After drug dealing, human trafficking is tied with the illegal arms industry as the second largest criminal industry in the world today, and it is the fastest growing.”¹

There is little definitive research on the total number of trafficking victims. The U.S. Department of State’s most recent *Trafficking in Persons Report* estimates that approximately 800,000 victims are trafficked across international borders each year.⁵ Of those victims, between 14,500 and 17,500 are trafficked into the U.S. from Asia, Central and South America, and Eastern Europe.⁶ These figures do not include the large number of victims trafficked within their own countries, including domestic victims in the U.S.⁷ The State Department also estimates that of those trafficked internationally, 80 percent are female and 50 percent are children.⁸ Victims are trafficked to and from a wide range of geographical areas; from rural communities to small towns and big cities. Though many victims are trafficked into the United States each year, many more are trafficked domestically within the U.S. Unfortunately, most people are not aware of the nature and extent of the problem.⁹

The Office of the Attorney General’s report provides both an overview of human trafficking in the State of Texas and the government’s response to this horrendous crime. Human trafficking-related issues are identified, and recommendations are provided for the Legislature’s consideration as it examines how to enhance existing statutes and services available to human trafficking victims.

This report includes the following items for the Legislature’s consideration during its 81st Session:

- Funding for programs that educate victims of human trafficking about social service assistance networks, funding for programs that educate local law enforcement, prosecutors and the judiciary on human trafficking and caring for its victims.
- Funding to expand existing state-based social services for victims of human trafficking, as well as funding for grants to non-governmental organizations that support and protect human trafficking victims.

- Changes to existing laws related to human trafficking as outlined in Appendix C and in the Findings and Recommendations Section.
- Adopting a state civil racketeering statute to complement criminal laws and enhance the state's ability to both enforce laws prohibiting human trafficking and dismantle trafficking organizations.
- Adopting a child sex tourism statute that would improve law enforcement's ability to prosecute and investigate businesses that profit from the sexual exploitation of children.
- Creating a statewide human trafficking task force that would include representatives from federal, state and local law enforcement agencies, relevant state social service agencies, and interested non-governmental organizations from across the state.
- Acquiring a statewide system to capture and report data on human trafficking investigations, prosecutions, social services and victims, thereby improving the state's access to information about the magnitude of trafficking in Texas, the criminal operations involved in the trafficking, the source and destination areas of trafficking victims, and the efforts to combat the crime and provide for its victims.
- Creating legal remedies that hold traffickers fiscally responsible, thereby helping trafficking victims recoup their financial losses and allowing the state to recover the costs for victim services.

Introduction

Legislative Requirement

During the 80th Legislative Session, Senator John Carona authored Senate Bill 11 (SB 11) and Representatives Rafael Anchia, Aaron Peña and Debbie Riddle authored House Bill 1121 (HB 1121), which require the Office of the Attorney General (OAG) to prepare findings and recommendations related to human trafficking.¹⁰ This report, which fulfills the aforementioned legislative mandate, primarily focuses on Texas law, its efficacy and limitations. Under the same legislative mandate, the Health and Human Services Commission (HHSC) is preparing a companion report that addresses the delivery of social services to human trafficking victims.¹¹

The goal of this report is to comprehensively examine human trafficking in the State of Texas, address related shortcomings and to recommend improvements to the state human trafficking laws in both the criminal and social service arenas. Working with representatives from HHSC and other human trafficking experts, the OAG sought to answer the following questions:

- How do existing laws and rules in Texas address or fail to address the needs of human trafficking victims?
- How do existing social services address or fail to address the needs of human trafficking victims?

To determine if the services and laws were adequate, the OAG and HHSC considered whether victim needs were met in the following services areas:

- Shelter/housing and sustenance
- Medical, dental and mental health care
- Special services for child/juvenile victims
- Interpreter/translator services
- Criminal justice system-based victim advocacy
- Case management
- Legal services, including immigration advocacy and explanation of legal rights and protections
- Social services advocacy and explanation of benefits/availability
- Literacy education and/or job training
- Outreach services directed toward immigrant populations
- Transportation¹²

Background and Overview

Federal Human Trafficking Legislation

In October 2000, the U.S. Congress passed the first comprehensive law to protect human trafficking victims. The Trafficking Victims Protection Act of 2000 (TVPA) has three primary goals:

- Prevent human trafficking abroad
- Protect victims and help them rebuild their lives in the U.S. with federal and state support
- Prosecute traffickers of persons with harsh federal penalties

The TVPA increases prevention measures; makes victims of trafficking eligible for benefits and services under federal or state programs once they become certified by the U.S. Department of Health and Human Services (HHS); creates new law enforcement tools that strengthen the prosecution and punishment of traffickers; makes human trafficking a federal crime with severe penalties; and addresses coercive tactics used by traffickers to bind their victims in servitude.¹⁴

Under the TVPA, the federal government adopted a “victim-centered approach to address trafficking, combining anti-crime and human rights objectives.”¹⁵ According to the U.S. State Department, Office to Monitor and Combat Trafficking in Persons, adequate protection for victims is crucial. Without it, “efforts to address trafficking crimes are unlikely to be effective.”¹⁶

“[A]ny state legislation criminalizing human trafficking must address the complex needs of victims. State approaches should not be centered solely on law enforcement, but should instead provide a combination of prevention, prosecution, and protection for victims of human trafficking similar to the TVPA’s approach. If states do not take this approach, victims potentially lose significant rights and benefits that they would have been entitled to receive if their case had been prosecuted under the TVPA.”¹³

“At the core of the U.S. Government’s anti-trafficking efforts is the human rights principle that victims of trafficking and slave-like practices must be protected from further trauma. A government should provide efficient access to justice for these victims, if they so chose, and access to shelter, medical care, legal aid, psycho-social counseling, and assistance in integrating back into their original community or into a new community so that they can rebuild their lives. Such an approach strikes a careful balance between the security needs of the state and society’s need for the restoration of human rights to the victim.”¹⁷

Under the TVPA’s victim-centered approach, two main objectives are stressed: the need for the state to punish offenders and the need for society to care for the victim.¹⁸ Some best practices identified by the State Department to ensure adequate protection include:

- Governments should work proactively to identify trafficking victims. Without victim identification, adequate protection is impossible. Government agencies should

establish formal victim identification procedures and screen at-risk populations such as persons apprehended for violations of immigration laws, prostitution laws, and begging or labor laws. Victims of trafficking should not be expected to identify themselves; proactive investigative techniques – such as interviews in safe and non-threatening environments with trained counselors and appropriate language services – should be used to identify possible trafficking victims.

- Once identified, a suspected trafficking victim should be afforded temporary care as a victim of a serious crime. This could include shelter and counseling that allows potential victims to recount their experiences to trained social service counselors and law enforcement personnel at a pace with minimal pressure.
- Confirmed trafficking victims within the meaning of the TVPA should not be punished for conduct that was a direct result of being trafficked – such as not holding proper immigration documents or violation of prostitution, labor or begging statutes. Trafficking victims should not be detained in criminal detention facilities, except in extreme circumstances. They should be treated as crime victims.
- Confirmed trafficking victims should be encouraged to cooperate with law enforcement authorities' investigation into the crime committed against them. Furthermore, they should be encouraged to assist with the prosecution, if possible, of the persons that trafficked or exploited them.
- Under federal law, trafficking victims who are unwilling or unable to cooperate with a trafficking prosecution can be returned to their community of origin if the return is accomplished in a responsible manner, with preparations made in advance for the victim's safe return and reintegration. The TVPA stipulates that victims can be offered legal alternatives if going home would entail hardship or retribution.¹⁹

The TVPA authorized the President's Interagency Task Force (PITF), a cabinet-level task force charged with coordinating efforts to combat human trafficking. The PITF is chaired by the U.S. Secretary of State and meets at least once a year.²⁰ In 2003, the Senior Policy Operating Group (SPOG) was created to follow up on the PITF initiatives to combat human trafficking and to implement U.S. government anti-trafficking policies and guidelines. The SPOG meets quarterly.²¹

The TVPA was reauthorized in 2003 and 2005, and current reauthorization is pending in the U.S. Congress. The House version, H.R. 3887, was passed out of the House and referred to the Senate. The Senate companion bill, S. 3061, addresses concerns raised with the House bill. That version was passed out of the Senate Judiciary Committee July 31, 2008.²³

After passage of the TVPA in 2000, funding became available for federal human trafficking investigations and prosecutions. Over the next five years, 42 federally-funded task forces were created in the U.S. to combat human trafficking. The Bureau of Justice Assistance (BJA), which is a component of the Office of Justice Programs (OJP), U.S. Department of

"Multi-agency task forces are one of the many models implemented by the federal government for the purpose of bringing together federal, state, county and local law enforcement stakeholders to engage in collaborative problem solving activities... to enhance efforts by law enforcement in the identification and prosecution of human trafficking cases locally."²²

Justice (DOJ) implemented the Human Trafficking Task Force Initiative and began making awards to law enforcement agencies to help fund victim-centered human trafficking task forces in November 2004.²⁴ Five of these BJA task forces are located in Texas (Austin, Dallas/Fort Worth, El Paso, Houston and San Antonio).

The Office for Victims of Crime (OVC) partners with BJA to administer the Services for Trafficking Victims Discretionary Grant Program. The grants issued under this program fund anti-trafficking activities and enable recipients to identify, rescue and provide services to human trafficking victims.²⁵ The funded entities also work collaboratively with the BJA task forces. Trafficking victim service grant recipients in Texas are located in Austin, Dallas, El Paso, Houston and San Antonio.²⁶

Prosecutions at the federal level are handled by the Department of Justice and its United States Attorney's Offices. The Criminal Section of the DOJ's Civil Rights Division, in collaboration with U.S. Attorney's Offices nationwide, has principal responsibility for prosecuting human trafficking crimes. Within the DOJ's Criminal Division, the Child Exploitation and Obscenity Section takes the lead role in child sex trafficking and child sex tourism cases.²⁷

Human Trafficking Defined

By passing the TVPA, Congress provided the legal framework for human trafficking prosecutions. Key to prosecution is the definition of human trafficking under the TVPA:

*[T]he recruitment, harboring, transporting, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, slavery or forced commercial sex acts.*²⁸

Because of the complex nature of these crimes, many find it difficult to differentiate between human smuggling and human trafficking. It is also difficult to determine when smuggling becomes trafficking.²⁹ The "distinction between the two involves the individual's freedom of choice."³⁰ The Human Smuggling and Trafficking Center defines smuggling as:

*[T]he facilitation, transportation, attempted transportation or illegal entry of a person(s) across an international border, in violation of one or more countries' laws, either clandestinely or through deception, such as the use of fraudulent documents.*³¹

"Unlike smuggling, which is often a criminal commercial transaction between two willing parties who go their separate ways once their business is complete, trafficking specifically targets the trafficked person as an object of criminal exploitation. The purpose from the beginning of the trafficking enterprise is to profit from the exploitation of the victim. It follows that fraud, force or coercion all play a major role in trafficking."³²

Human smuggling is generally accomplished with the consent of the person being smuggled, typically with the person paying considerable money for help with illegally crossing the border. Smugglers are often referred to as “coyotes.”³⁴ Smuggling can become trafficking, as many persons who agree to pay for assistance entering the U.S. are then forced to provide additional funds, labor or services to the smugglers upon arrival into the U.S. Under U.S. Department of State guidelines, persons who are smuggled are criminals (for violating federal immigration law), while persons who are trafficked should be considered victims.³⁵ Many jurisdictions struggle with the balance between prosecuting those who have violated federal immigration law and protecting human trafficking victims.³⁶

“Human smugglers, often known as ‘coyotes,’ include not just those that physically transport the undocumented aliens, but also those in the chain that receive and launder the money for transporting the undocumented aliens and those that guard the undocumented aliens in the ‘stash houses,’ awaiting illegal transportation to all parts of the United States. Additionally, some of these coyotes are also involved in illicit drug trafficking.”³³

Caliber Associates, a consulting firm specializing in research and evaluation in the social and behavioral sciences, compiled a series of issue briefs (HHS Issue Brief) as part of a study on HHS programs serving human trafficking victims.³⁷ A 2008 HHS Issue Brief on the identification of human trafficking victims, law enforcement and service providers gave examples of victims who were “viewed first as undocumented or illegal immigrants and treated as criminals and subjected to deportation hearings.”³⁸

Victims of Trafficking

Human trafficking victims may be either domestic (U.S. citizens) or foreign-born (non-U.S. citizens). In 2003, Caliber Associates completed a needs assessment for service providers and trafficking victims that highlighted the means by which individuals become victims. Caliber reported that “traffickers often prey on impoverished individuals who are frequently unemployed or underemployed and who may lack access to social safety nets, such as women and children from certain countries and cultures.”³⁹

The 2008 HHS Issue Brief on the identification of human trafficking victims echoed Caliber’s findings, stating that “men, women, children of all ages, U.S. citizens, and legal residents can fall prey to traffickers, and there are many victims of labor trafficking in addition to sex trafficking.”⁴⁰ According to HHS, “all trafficking victims share common characteristics that make them vulnerable to traffickers.”⁴¹ Most often these victims come from “countries or communities with high crime rates, poverty, and corruption; lack opportunities for education; lack family support (e.g. orphaned, runaway/throw-away, homeless, family members collaborating with traffickers); and/or have a history of physical and/or sexual abuse.”⁴²

According to Caliber Associates, trafficked individuals are “deceived and duped through false promises of economic opportunities that await them in more affluent destination

countries, such as the U.S.”⁴⁴ After their arrival, victims are “held in slavery-like conditions and forced into prostitution, domestic service, or forced labor where they may be held in bondage, raped, beaten, and/or starved.”⁴⁵ Although some victims enter the country illegally with a smuggler’s help, some have the necessary documents to legally enter the U.S., but unknowingly rely upon traffickers for transportation and sponsorship. Others are kidnapped or sold and forced to come to the U.S. The traffickers are sophisticated in their efforts to keep the victims from escaping or seeking help, including non-violent methods, such as indebtedness or confiscation of victims’ documents. Traffickers also use manipulation, such as threats of violence against the individual and their loved ones.⁴⁶

“One of the largest forms of domestic sex trafficking in the U.S. involves traffickers who coerce women and children to enter the commercial sex industry...Recent cases have also demonstrated that labor trafficking of U.S. citizens occurs in locations such as restaurants, the agricultural industry, traveling carnivals, peddling/begging rings, and in traveling sales crews.”⁴³

A common misconception is the notion that human trafficking victims are all international victims. According to the Polaris Project, an organization based in Washington D.C. that provides comprehensive and community-based approaches to human trafficking prevention, the U.S. also has a large “domestic’ component of human trafficking for the purposes of both sexual and labor exploitation.”⁴⁷ A 2001 study by the University of Pennsylvania estimated that between 244,000 and 325,000 U.S. children and youth are “at risk’ of becoming victims of sexual exploitation, including as victims of commercial sexual exploitation (e.g. child pornography, juvenile prostitution, and trafficking in children for sexual purposes).”⁴⁸ Sexually abusing children for economic gain is referred to as commercial sexual exploitation of children (CSEC).⁴⁹ The dynamics of human trafficking, including victim demographics and the root causes, are also explored in more detail in the HHSC companion report.

Texas Human Trafficking Legislation

After passage of the TVPA in 2000, DOJ began encouraging states to pass uniform anti-trafficking laws that foster criminal prosecution, victim protection and prevention at the state level. The DOJ drafted a “Model State Anti-Trafficking Statute” as a guide for states seeking to enact legislation that would help reduce the crime.⁵⁰ This model legislation contemplates combined human trafficking efforts by local, state and federal authorities. The state law was not intended to replace federal law.

“[T]he federal government has prioritized human trafficking prosecutions and expects local law enforcement to become the ‘eyes and ears for recognizing, uncovering and responding to circumstances that may appear to be routine street crime, but may ultimately turn out to be a human trafficking case.”⁵¹

Later, DOJ introduced training programs that encourage state and local authorities to investigate and prosecute state law violations and provide critical assistance to federal

authorities. Federal authorities generally agree that local law enforcement officers are best positioned to discover human trafficking because of their familiarity with their communities and their ability to detect problems more readily than federal agents with larger jurisdictions. Local law enforcement can also partner with local non-governmental organizations (NGOs) to obtain social services for victims.

States have begun to institute state-level legislation to combat human trafficking. As of June 2008, 39 states had passed a human trafficking statute;⁵² which is up from 22 states at the same time two years ago.⁵³ Texas introduced a state human trafficking law in 2003, making Washington State and Texas the first two states to enact laws that criminalized human trafficking.⁵⁴ In the 78th Regular Session, Texas lawmakers enacted HB 2096, creating Penal Code §20A. Section 20A.01 established definitions for “forced labor or services” and “trafficking,” and §20A.02 outlined offenses and penalties.⁵⁵

“Potential benefits of state legislation criminalizing human trafficking include assisting prosecutorial efforts, identifying greater number of victims, and marshalling state resources to more effectively combat the problem. Further, criminalizing human trafficking at all levels of law enforcement sends a clear message to traffickers that their actions will not be tolerated anywhere in the United States.”⁵⁶

In 2007, during the 80th Regular Session, the Texas Legislature passed HB 1121,⁵⁷ SB 11,⁵⁸ and SCR 90⁵⁹ in an effort to enhance the state’s ability to combat human trafficking and to encourage prosecution at the state level. The same amendment to the Texas human trafficking statute appeared in both bills, with the only difference being the effective date. SCR 90 made technical corrections to SB 11. This report and the companion report issued by HHSC are a result of that legislation.

In the 80th Session, the Texas Legislature added new laws requiring some businesses to post informational notices where human trafficking victims might see them. SB 1287 required the posting of these notices in certain businesses that are licensed under the Alcoholic Beverage Code.⁶⁰ SB 11 and HB 1121 required that the national human trafficking hotline number be posted in overnight lodging establishments where crime has been prevalent. SB 11 allows a judge to issue an order authorizing the interception of wire, oral or electronic communications (wire tap) if the prosecutor can show

probable cause that the interception will provide evidence of human trafficking. HB 1121 allows judges to enter an affirmative finding that an individual is a “victim of human trafficking.” The bill analysis for HB 1121 indicates that victims will be less apprehensive about retribution from the trafficker as a result of this finding and thus, more likely to help the prosecution. HB 1551 allows a court to order the closure of an establishment that has been cited as a nuisance.⁶¹

With enhanced anti-trafficking efforts, Texas can send a clear signal to criminals who profit by exploiting innocent men, women and children. By raising awareness and modifying our laws and services, Texas will be better positioned to fight this modern day slavery.

Prevalence of Human Trafficking in Texas

Texas is considered a major hub for human trafficking into the U.S. According to recent estimates, one out of every five U.S. trafficking victims travels through Texas along Interstate 10.⁶² Nearly 20 percent of human trafficking victims found nationwide have been in Texas.⁶³ The DOJ *Report on Activities to Combat Human Trafficking, Fiscal Years 2001-2005* included El Paso and Houston in its list of “most intense trafficking jurisdictions in the country.”⁶⁴

State and federal authorities and social services providers working with human trafficking victims find it difficult to quantify the extent of human trafficking in Texas. The state currently lacks a systematic method for tracking the number of human trafficking cases, investigations and victims. Statistical analysis is made difficult because traffickers may be charged with other violations, like kidnapping or sexual assault, in lieu of a human trafficking charge, or may accept plea bargains with lesser penalties. These factors make the crime hard to track and report.

Texas is not alone. In a 2006 report on data collection and reporting, the U.S. Government Accountability Office (GAO) found that estimates of global human trafficking are “questionable” and doubted the accuracy of the estimates because of “methodological weaknesses, gaps in data, and numerical discrepancies.”⁶⁵ GAO also stated that the “U.S. government has not yet established an effective mechanism for estimating the number of victims or for conducting ongoing analysis of trafficking-related data that resides within various government agencies.”⁶⁶ GAO recommended researching a “mechanism to develop a reliable global trafficking estimate.”⁶⁷

In an OJP human trafficking grant programs audit released by the DOJ Office of Inspector General (OIG), auditors found that the programs “were effective in building capacities to serve victims of human trafficking,” but were ineffective in the following ways:

- Identifying and serving significant numbers of non-citizen trafficking victims;
- Ensuring that award amounts were consistent with the anticipated number of victims to be served; and
- Ensuring that service providers and task forces reported accurate performance data on victims identified and served.⁶⁸

Reasons cited by the OIG for inaccurate performance data included over-reporting, underreporting, and inconsistent reporting. The OIG recommendations included:

- Requiring the BJA task forces to report only actual trafficking victims identified, or report both actual and potential victims identified;
- Ensuring that OJP programs can support the trafficking victims reported as identified and served;
- Developing a system to ensure that performance data reported by the OJP

programs is accurate, grantees are meeting the performance goals, and the programs track the amount of grants funds used to assist victims of human trafficking; and

- Providing additional training and oversight of OJP programs.⁶⁹

Since the beginning of the OIG audit and the issuance of the OIG audit report, BJA has implemented a new system to track human trafficking. Law enforcement agencies receiving federal human trafficking grants from BJA are required to report on investigations and prosecutions of human trafficking under their grant requirements. In 2008, researchers at the Northeastern University's (NEU) Institute on Race and Justice in collaboration with the Urban Institute (UI) in Washington, D.C., launched a national Human Trafficking Reporting System (HTRS) for the DOJ, Bureau of Justice Statistics (BJS) to capture data from the BJA task forces.⁷¹

The HTRS is the first national human trafficking data collection and reporting system. The system collects information about human trafficking investigations that are investigated by law enforcement agencies participating in the BJA task forces to provide a standardized case management system. The task forces enter information on the number and characteristics of human trafficking investigations, arrests, prosecutions and sentences. Initially, BJA task forces were only asked to identify actual human trafficking victims identified, but now they are required to report both actual and potential victims identified. However, the data tracking protocol used to report these numbers is not used by every law enforcement agency. Only those that are participating in a BJA task force use the protocol, which results in an uneven and incomplete reporting structure.

“Standardized, reliable and routinely collected data measuring the number, characteristics and change in human trafficking incidents, investigations, arrests and prosecutions is necessary to meet the legislative reporting requirements and assess the success of human trafficking prevention and intervention strategies. Additionally, reliable data collection can help agencies improve their understanding of human trafficking and ultimately identification of offenders and victims within their local communities.”⁷⁰

HTRS data collection will run from January 1, 2008, to December 31, 2008. At the end of the data collection period, NEU and UI will provide the BJS with a final report on all data collected throughout the grant period, including lessons learned through the task force data reporting effort and recommendations for potential expansion of the program beyond task force agencies.⁷² A determination about HTRS' continued use is also needed. Texas BJA task forces began entering data in January 2008.

Human Trafficking Cases in Texas

Although human trafficking is known to exist in Texas, much of the information disseminated about the crime comes from data reported by the five BJA task forces and media reports. Some scenarios may not seem like human trafficking but, after further investigation, may prove otherwise. Smuggling and prostitution are two crimes in which

human trafficking may be overlooked and human trafficking victims are viewed as criminals and charged with a crime.

To provide the Legislature with a picture of the current human trafficking environment without compromising ongoing criminal investigations, the OAG compiled a sample of

“Many...point to recent popular media portrayals of human trafficking crimes and high profile cases as possible explanations for the lack of a comprehensive understanding of the crime of human trafficking and its victims. Specifically, the lack of focus on domestic victims (e.g. U.S. citizens or legal permanent residents), male victims, and labor trafficking (especially single victim domestic servitude cases) is recognized as a contributing factor to the misconceptions surrounding the crime.”⁷³

media reports over the last two years wherein human trafficking was alleged or where human trafficking conditions existed (See Appendix B). Not all of these cases resulted in trafficking charges or convictions. These reports provided the most accessible examples of potential violations around the state and the response mechanisms in place. These excerpts are adapted from articles found in local or national media outlets.

The enclosed media reports highlight the varying degrees of human trafficking, from a smuggling attempt that turned into human trafficking, to cases in which victims were kidnapped and forced to provide labor or services. However, the reports are skewed towards sex trafficking and international victims and may not portray the most accurate representation of human trafficking in Texas, including labor violations and cases involving male victims. The OAG has provided commentary regarding possible links to human trafficking and grouped the reports according to the victimization.

Methodology

Protocol

The Legislature asked the OAG to provide an analysis of the state's existing human trafficking laws. A cursory review of Texas laws would not provide the level of detail necessary to determine if the existing statutes adequately served human trafficking victims or provided the proper prosecutorial tools. Any analysis would be incomplete without seeking input from professionals who work with human trafficking victims and witnesses on a daily basis either through the investigative process or the delivery of services. To fulfill the charge by the Legislature, the OAG, along with HHSC, convened a workgroup of stakeholders to discuss issues regarding human trafficking in Texas and nationally.

The workgroup provided information to help the OAG and HHSC establish the scope of the reports and the process for collecting data. It recommended a phased approach to data collection that involved intense topical research and a statewide survey of law enforcement, service providers and policy makers. This data collection involved in part a survey intended to collect information on human trafficking from the different regions and organizations that assist human trafficking victims. The workgroup recommended focusing on enforcement activity undertaken by the five BJA task forces in Texas, including groups knowledgeable about human trafficking, authorities that have investigated or prosecuted human trafficking cases or organizations that have provided services to victims of human trafficking. By targeting officials in the BJA task force areas, the majority of professionals who work with human trafficking violations were surveyed and/or interviewed.

The workgroup also recommended using a third-party research entity to assist with data review, collection and analysis. The OAG and HHSC contracted with the University of Texas School of Social Work, Institute on Domestic Violence and Sexual Assault (IDVSA) to complete this task and draft a summary of the data collection protocol, process and results to submit to the OAG and HHSC. This IDVSA group had previously performed an evaluation of the Central Texas Coalition Against Human Trafficking (CTCAHT) in 2006 and was familiar with the issues. IDVSA was given the rights to all data to create their own report on human trafficking in Texas. This separate report is available through the IDVSA or the OAG upon request.

Several steps were undertaken to achieve the research goals. First, a complete analysis of relevant Texas law was completed. Second, Web-based surveys and in-person interviews were conducted with 138 individuals representing the following three groups: 1) direct service providers; 2) state agency policymakers; and 3) regional task forces on human trafficking. Details on the participants and the organizations they represent can be found in the IDVSA study. Researchers gathered data using a semi-structured questionnaire that queried about barriers and success factors concerning

relevant laws, victims' services and task force operations. Data was analyzed using thematic and content analyses and descriptive statistics. The OAG also gathered information from other individuals and sources not part of the IDVSA report to elicit additional statewide input.

Data Collection

Information gathered from human trafficking experts and other sources was used to analyze existing Texas statutes and other state and federal human trafficking laws, and to assess if services available to human trafficking victims are sufficient. The review focused on whether existing laws and services adequately provided assistance with prosecution, protection or prevention of human trafficking violations. The various sources utilized for the research and analysis are listed below.

Human Trafficking Workgroup

The OAG and HHSC convened a workgroup of human trafficking experts to provide guidance on human trafficking issues and perspectives from the field. The workgroup also provided input on the IDVSA report, including assistance with the survey instruments and questions. Members of the workgroup included representatives from the following agencies: OAG; HHSC, Refugee Affairs; CTCAHT; U.S. Attorney's Office, Western District of Texas; and IDVSA.

Study conducted by IDVSA

The OAG and HHSC contracted with IDVSA to conduct research for the legislative mandate, including a statewide evaluation of existing human trafficking laws and services. IDVSA also utilized this data to complete a separate report, "Human Trafficking in Texas: A Statewide Evaluation of Existing Laws and Social Services." IDVSA reported on the effectiveness of existing laws and social services in meeting the needs of human trafficking victims in Texas, and made recommendations to address efficiencies, shortcomings and improvements in Texas laws as they impact human trafficking victims and social services provided.

Human Trafficking Coalitions and Task Forces

The OAG attended meetings held by the five Texas BJA task forces to obtain a field perspective on human trafficking and responses in the various regions. The members included prosecutors, law enforcement officials, policy makers, victim assistance specialists and non-governmental organizations (NGOs). The OAG gathered input on protocols, inter-agency collaboration, investigations and resources.

Human Trafficking Research

The OAG reviewed articles, studies, reports and news items on human trafficking to

gain a better understanding of the nature of the crime, the issues and the efforts to combat the problem both nationally and statewide. IDVSA also conducted and included a thorough literature review as part of the human trafficking study. At the time the Legislature authorized this report, only a few regional studies had been conducted in Texas. No statewide report was available.

In 2004, the University of Houston Office of Community Projects, Graduate School of Social Work (UH) completed an assessment of Houston's services to victims of human trafficking with funding from a 2003 grant awarded by OVC to YMCA International Services' Trafficked Persons Assistance Program. In its report, "Needs Assessment: Human Trafficking in Texas," UH identified two key challenges with determining the scope of human trafficking in Houston: lack of identification of possible victims and the inability to accurately track victims without data collection systems.⁷⁴ The report also noted gaps in and barriers to services for trafficking victims. Services were provided, but "may be inaccessible due to cost, eligibility requirements, or language barriers."⁷⁵ Barriers included "limited resources, organization design particularly related to eligibility requirements and the difficulty in identifying victims."⁷⁶ The survey respondents indicated "collaboration and increased communication between organizations [were] a way to strengthen services in Houston."⁷⁷

In 2006, IDVSA completed an assessment of the CTCAHT with funding from a 2006 grant awarded by OVC to Refugee Services of Texas, Inc. (RST). In the evaluation, "Assessing the Needs of Human Trafficking Victims: An Evaluation of the Central Texas Coalition Against Human Trafficking," IDVSA addressed services delivery by the coalition and indicated that "CTCAHT's structure, communication, and use of resources should be considered a model for other coalitions striving to increase awareness about human trafficking and to provide essential victim services."⁷⁸ The report listed several recommendations for growth and improvement, such as maintaining a single point of contact for providing social services, institutionalized protocols, development of strategic plans for cases with multiple victims, special attention to services for minor victims of trafficking and amendment of Texas human trafficking laws.⁷⁹

The OAG reviewed reports from various entities for guidance on human trafficking at the national and state level. These included reports issued by policy making groups, institutions of higher education and federal agencies. In a Center for Women Policy Studies (CWPS) report card issued in 2007, CWPS conducted a state-by-state analysis of state legislatures' efforts to confront international trafficking of women and girls into the U.S.⁸⁰ Of the five areas addressed, Texas failed to receive a passing grade in three: victim services and protections, interagency task forces, and regulation of travel service providers.⁸¹ Texas received a "B-" for its criminal statute and an "A" for legislation regarding marriage brokers. However, this report was issued in May 2007, prior to the 80th Legislative Session's changes in human trafficking laws.

The DOJ Model State Anti-Trafficking Criminal Statute called for the states to issue individual reports on human trafficking.⁸² Our review of these reports provided a perspective of state-level responses to human trafficking and issues facing other states.

The review included reports issued by California, Colorado, Connecticut, Florida, Idaho, Kentucky, Maine, Minnesota, Ohio, Oklahoma, Washington and Wisconsin.⁸³ Since the passage of SB 11 and HB 1121 charging the OAG and HHSC with authoring their own reports, other nationwide and Texas-based studies have been initiated in or conducted across the state. These are summarized below:

- Shared Hope International received funding from the BJA to research the access to and delivery of services to domestic minor sex trafficking victims in 10 locations nationwide. Shared Hope is a non-profit organization located in Vancouver, Washington, that works with organizations worldwide to “prevent and eradicate sex trafficking and slavery through education and public awareness.”⁸⁴ Three of the studies were conducted in Dallas, Fort Worth and San Antonio. As of August 4, 2008, the San Antonio report was the only Texas report released.⁸⁵ In the San Antonio report, Shared Hope indicated gaps related to public awareness, training for first responders, resources for investigations, safe shelter, and appropriate services for minor victims.⁸⁶ The report also highlighted the conflict between the state human trafficking law and the TVPA with regard to minor sex trafficking victims.⁸⁷
- NEU, in collaboration with Arizona State University and Sam Houston State University, issued a report about the incidents of and response to human trafficking in the U.S.⁸⁸ Funding was provided by the National Institute of Justice (NIJ). Included in the study was information from the 42 BJA task forces, including the five located in Texas. The Houston task force was highlighted in a case study.⁸⁹

NEU surveyed approximately 3,000 state, county and municipal law enforcement agencies in the U.S. to measure the “current perceptions of local law enforcement about human trafficking and measure the frequency in which they investigate such cases.”⁹⁰ NEU presented several “noteworthy” findings:

- The majority of local law enforcement officers perceive human trafficking as rare or non-existent in their local communities.
- Law enforcement agencies nationwide have only minimally prepared to identify and investigate human trafficking.
- Law enforcement most often learns about cases of human trafficking during the course of other investigations.
- Agencies associated with federally-funded human trafficking task forces were more than twice as likely to file federal charges when compared to other non-task force agencies.
- Law enforcement agencies participating in federally-funded human trafficking task forces that investigated a case of human trafficking reported investigating many more cases on average than non-task force agencies.⁹¹

Legal Analysis

Fundamental to the Legislature’s charge was an analysis of Texas law in comparison to federal and other states’ laws, as well as input gathered from the workgroup and other

human trafficking experts. The analysis focused on whether or not existing law assisted in prosecution, protection and prevention of human trafficking violations. In a joint effort, the OAG and IDVSA reviewed existing laws from selected codes to make a determination about those most relevant for trafficking victims.⁹² A list of those laws is found in Appendix A of the IDVSA study. As charged by the Legislature, the OAG made recommendations for potential modifications to the law when applicable either in the Modifications Chart (See Appendix C), or in the Recommendations Section when further explanation was warranted (See Findings and Recommendations Section).

Human Trafficking Interviews and Surveys

The OAG conducted formal and informal interviews with service providers, victim assistance providers, law enforcement agents, prosecutors and policy-makers from around the state. Some individuals were not members of the five BJA task forces nor members of the OAG workgroup. These professionals provided insight on human trafficking victims encountered while conducting investigations, prosecuting cases or providing direct services. Policy-makers provided information on statewide and strategic responses to human trafficking. The OAG also contacted other resource agencies, prosecutors and law enforcement agencies for a series of informal meetings.

Human Trafficking Conferences

OAG staff attended human trafficking conferences to gather information on current trends and best practices in combating human trafficking nationally and at the state level.

- ***Bi-National Forum: Toward a Regional Multi-Disciplinary Approach Addressing Smuggling:*** Conference of Western Attorneys General, March 10-12, 2008.
- ***2008 Human Trafficking & Sexual Exploitation National Seminar:*** Law Enforcement Instructors Alliance, April 7-9, 2008.
- ***Human Trafficking: Working Together to End Modern-Day Slavery:*** 4th Annual El Paso Human Trafficking Conference, November 28, 2007.
- ***The NIJ Conference 2008:*** NIJ National Conference, July 21-23, 2008.
- ***Conference of Western Attorneys General 2008 Annual Conference:*** August 4-6, 2008
- ***5th Annual Austin Human Trafficking Conference:*** CTCAHT and the Austin Human Trafficking Task Force, August 25-26, 2008.
- ***Southwest Regional Law Enforcement Coordination Summit:*** September 4-5, 2008.

Analysis

Based on the research results gathered by the OAG through independent research and the contracted IDVSA data collection and analysis report, the OAG has made recommendations regarding laws that impact the statewide response to human trafficking. IDVSA collected and analyzed survey data and participant interviews using quantitative and qualitative methods, reported the findings, and made recommendations based on participant responses unless otherwise indicated. The OAG in turn has made recommendations for statutory modifications, which are found in the Modifications Chart (See Appendix C). Recommendations from the IDVSA study may or may not be reflected in the OAG final recommendations to the Legislature. However, the study provided baseline data about the prevalence, issues and challenges to working on human trafficking cases and with human trafficking victims around the state. The OAG provided contextual background to enhance the information collected by IDVSA.

The OAG supplemented the statewide survey with a series of questions and informal interviews with resource agencies around the state. Information was obtained from representatives from local law enforcement agencies in rural and urban areas; state and federal governmental agencies; legal aid; faith-based organizations; human trafficking service providers; professional associations serving law enforcement and prosecutors; national human trafficking policy groups; and educational entities.

Challenges and Limitations of the Report

A key challenge that impaired the preparation of this report was the mandate that the OAG conduct a comprehensive, statewide review of human trafficking in a limited period of time. The OAG utilized the expertise and resources of IDVSA to conduct a thorough review of the professional literature, to coordinate data collection and analysis, and supplemented that information by reviewing additional literature, laws, and reports on human trafficking in Texas and nationwide. The OAG attempted to avoid overlooking key stakeholders by focusing this initial review on the currently funded BJA task forces and NGOs addressing human trafficking in Texas. Although there are other resource agencies, law enforcement agencies and prosecutors' offices that are encountering and responding to human trafficking cases in Texas, information from those sources was gathered only through informal meetings and referrals from individuals interviewed for this report.

Presentations of Findings

The research revealed several themes that were common across the state and that affected all levels of human trafficking prosecution and prevention:

- The need for training permeates the entire cycle of human trafficking, from the early detection of the crime, investigation and subsequent prosecution, to the delivery of

services and ultimately to the prevention of the crime, and is vital for educating and cross-training all those working to assist victims of human trafficking.

- Human trafficking is often confused with human smuggling, and victims are often treated as criminals.
- Sex trafficking is often confused with prostitution, and victims are often treated as criminals.
- The state statute is rarely utilized to prosecute human trafficking violations.
- The perception exists that only foreign nationals become human trafficking victims, and there are significant incidents of domestic trafficking within Texas and between states.
- Collaboration among state and federal law enforcement agencies promote better prosecution, protection and prevention of human trafficking violations.

Supplemental information gathered from the resource agencies confirmed the IDVSA report's findings. These professionals provided additional insight into the response systems and assistance available for trafficking victims, and pointed out potential areas for improvement. Overall, these sources indicate that Texas has not presented a coordinated statewide response to human trafficking. Services are available for trafficked victims, but may not be readily accessible because of a lack of awareness. Texas has infrastructure in place that could serve trafficked victims on a statewide basis, but lacks the protocol and training for implementation. Victims are not securing state assistance recovering lost wages or being granted restitution at the state level. Finally, no solid evidence exists that shows that human trafficking victims are being adequately represented in any capacity, by an attorney, a guardian ad litem or an attorney ad litem. NGOs are assisting trafficked victims, but the potential exists for victims to go without help and without representation.

Many of the findings issued in this report are consistent with those made in other states and in published literature. The OAG recommendations are provided with each finding to address the gaps identified during the research, and, along with the Modifications Chart (See Appendix C), provide a blueprint to enhance anti-trafficking efforts and victim protections. The information is organized into the following sections:

- The Texas Response to Human Trafficking
- Identifying Human Trafficking in Texas
- Prosecuting Human Trafficking Violations
- Protecting Victims of Human Trafficking
- Preventing Human Trafficking in Texas

Findings and Recommendations

The Texas Response to Human Trafficking

With its vast international border, large population and immense size, Texas continues to be both a destination point for human trafficking victims and a major route for the transportation of victims nationwide. Combating human trafficking in Texas remains a constant challenge due to the geographic diversity of the state and the regionalized approaches to investigating criminal activity, prosecuting offenders, providing services and preventing human trafficking.

Texas is diverse in its response to human trafficking. The most populous regions of the state are served by federally funded task forces and all have had cases prosecuted in their jurisdictions. These regions may also serve smaller surrounding counties, but the extent of their participation in human trafficking efforts outside the major metropolitan areas is unknown. The other areas of the state range from little or no involvement with human trafficking violations to full-scale participation in investigations and prosecutions. Many areas are taking a proactive approach and are beginning to form multi-agency collaborations to address human trafficking locally. Other communities are more reactive, having encountered a human trafficking situation through other criminal investigations.

Jurisdictions that encounter human trafficking victims may not have adequate means to handle investigations and prosecutions, nor to provide adequate social services, particularly in rural communities. As indicated in the research, human trafficking cases are complex and resource-driven. If faced with a large group of victims, smaller jurisdictions may be too overwhelmed to prosecute human trafficking violations. In a May 2008 prostitution raid of two Beaumont spas, local investigators uncovered a potential human trafficking operation.⁹³ The Beaumont detectives were working with the Federal Bureau of Investigation (FBI), which has jurisdiction in international human trafficking cases, but noted that “they don’t have the kind of resources to dedicate to this kind of offense.”⁹⁴ Budgets are already stretched and priorities may be placed on other criminal priorities, such as drug enforcement and homeland security.

Funding for human trafficking efforts in Texas is largely provided through federal grants or other federal assistance. The U.S. Attorney General’s Annual Report to Congress attached to the HHSC report outlines federal programs within the DOJ, HHS, State Department, Department of Homeland Security, and U.S. Department of Labor (DOL) that provide services to victims or funding for other anti-trafficking efforts. Other victim service agencies and organizations across the state that are not “formed for the explicit purpose of serving only trafficking victims,” such as “domestic violence shelters, sexual assault clinics, human rights advocates, and/or refugee services,” provide services to victims of human trafficking in the regular course of business.⁹⁵ These programs do not

receive dedicated funding for trafficked victims, and the resources must be shared with other victim populations.

The same is true for law enforcement agencies and prosecutors' offices around the state who deal with human trafficking cases without additional funding. If federal funding is decreased or eliminated, it would have a detrimental effect on Texas' fight against human trafficking. In 2007, the 80th Legislature enacted HB 1751 and provided a funding mechanism for human trafficking grants for services and enhanced prosecutions. The funding stream for this bill is the subject of pending litigation, and therefore has not been made available for human trafficking efforts.⁹⁶

While Texas would further improve its anti-trafficking efforts, the state has made considerable progress over the last few years. Efforts to respond to human trafficking include: enacting human trafficking legislation; increasing human trafficking victim identification; prosecuting offenders; providing social services; increasing training and outreach; expanding prevention efforts; and researching human trafficking-related issues.

Identifying Human Trafficking in Texas

The U.S. government indicated in a 2003 report that the “government’s greatest challenge for the immediate future was to identify and bring forward more [human trafficking] victims.”⁹⁷ This statement still rings true today. In the 2008 HHS Issue Brief on identifying human trafficking victims, researchers noted challenges and barriers to identifying victims:

- Nature of the crime
- Awareness/understanding of the problem
- Perceptions of victims
- Resources
- Who identifies victims⁹⁹

“The most common and perhaps obvious challenge to identifying victims of human trafficking for those in the field is the hidden nature of the crime.”⁹⁸

Like many of its counterparts, Texas also faces these challenges. Although reports suggest that human trafficking is active in Texas, the extent of the problem statewide is relatively unknown.

The problem with identifying victims is two-fold. First, the detection and identification of victims by law enforcement, NGOs and other first responders is a major challenge. Second, the ability to quantify the number of victims is almost impossible with the current tracking and reporting systems in place.

Human trafficking victims in Texas are identified through different means depending on the region. Texas has five regions with BJA task forces that have dedicated resources to address human trafficking and to identify victims using a collaborative approach. These task forces are located in Austin, Dallas/Fort Worth, El Paso, Houston and San Antonio. In the regions without the BJA task forces, inter-agency collaborations may be in place; however, they are not the norm. Some areas are forming grassroots human trafficking coalitions, but they lack funding and dedicated resources.

Human trafficking victims are regularly discovered by local law enforcement authorities who are investigating other criminal activity, but these agencies do not always recognize

“For law enforcement professionals at the state and local level, perhaps the greatest challenge is learning to recognize trafficking cases and identify trafficking victims.”¹⁰⁰

potential human trafficking cases. In some instances, when training has been provided, human trafficking is identified and appropriate measures are taken to begin the investigation and to secure services for the victim. Human trafficking also may be uncovered as a result of joint efforts with federal agencies in the area, such as Immigration and Customs Enforcement (ICE) or the FBI. Providing victim services becomes difficult when the collaborative systems are not in place to handle a human trafficking case.

In some cases, service providers and NGOs, such as a faith-based organization or a domestic violence shelter, may be the first to come in contact with potential human

trafficking victims. A neighbor may notice and notify authorities that a house has unusually high traffic at odd times or that a person/housekeeper is seen only rarely.¹⁰¹ Tips may also be provided by Good Samaritans who report suspected wrongdoing to the national trafficking hotline.

Once a potential victim is identified in areas with a task force, a call is made to the point of contact (POC) for the task force. If the initial discovery is made by a service provider or NGO, law enforcement will need to be contacted. The POC begins the triage of the trafficking case, assessing the needs of both the victim and the responding agencies, and then begins the referral process, coordinating with the appropriate law enforcement agency (local or federal) and service providers. These referrals are usually immediate, often occurring within a few hours after rescue. In the areas with task forces, the majority of cases are referred to federal agencies to determine if a human trafficking investigation is warranted. In a report on law enforcement responses to human trafficking, NEU indicated similar results nationwide.¹⁰³ In areas without a task force, securing services may be more difficult without a referral framework in place.

“Law enforcement and service providers fear that many victims are falling through the cracks and going unnoticed. Those in positions to best identify victims may not realize it.”¹⁰²

Law enforcement agencies face unique challenges identifying foreign-born and domestic victims of human trafficking. In a 2008 article on identifying human trafficking in *The Prosecutor*, a publication of the National District Attorneys Association, the authors noted challenges faced by law enforcement when identifying trafficked victims.¹⁰⁴ When responding to foreign-born victims, law enforcement may encounter investigative roadblocks because of the following issues:

- Complex jurisdictional nature of trafficking cases which often involve international boundaries
- International evidence collection and a multitude of interpretation/translation issues
- Difficulty identifying trafficking victims
- Difficulty substantiating victims claims
- Resource-intensive nature of these cases
- Victims know little about the traffickers’ identity or the trafficking network
- Lack of victim cooperation¹⁰⁵

Because of the cases’ complexity and the resources needed, some of the cases are best addressed by federal law enforcement agencies; however, state and local agencies need to be prepared to initially uncover human trafficking cases during their ongoing investigations.¹⁰⁶

Victim identification also is limited by the misidentification of human trafficking victims as offenders. There is a common misconception across the state that human trafficking and smuggling are the same. This was true even in areas with the BJA task forces. Smuggling may lead to human trafficking, but without a full investigation, it may not be

detected. Victims are reluctant to report human trafficking for many reasons, including victims' fear of law enforcement and potential deportation, victims' fear of their traffickers or victims not knowing that they are victims of crime. Without proper training on the detection of human trafficking and without sufficient resources for investigations, human trafficking may go undetected. The victim will simply be deported, never having received critical services that are needed for recovery.

In January 2004, a federal judge in Harlingen sentenced Juan Carlos Soto to 23 years in prison for trafficking convictions.¹⁰⁷ He smuggled women from Honduras and El Salvador into the U.S. To pay off their smuggling debts, the women were forced to provide domestic work during the day and were prostituted at night. This case was almost prosecuted by the U.S. Attorney's Office as a routine smuggling case, but a prosecutor with trafficking experience reviewed the evidence and suggested a trafficking case be pursued.

When responding to U.S. victims, identification is still an issue as many of these victims remain virtually hidden until arrested.¹⁰⁹ Many prostitutes picked up in raids across the state may in fact be victims of human trafficking, particularly when the suspects are minors. These victims are treated as criminals. Once they make it through the criminal justice system, they are released back onto the street to perpetuate the cycle. Some state and local law enforcement have met this challenge and are responding very effectively by establishing special programs to address high-risk victims and by investigating the criminal operations behind the trafficking networks.¹¹⁰ In areas where there was training and awareness of these high risk victims, potential human trafficking victims were more frequently identified and given opportunities to escape their exploitation.

"The High Risk Victims unit within the Dallas Police Department was set up to handle any cases that involve children involved in prostitution, sexual abuse, and cases of repeat runaways. This specialized unit is trained in the dynamics of prostitution, and effective interviewing techniques for this population."¹⁰⁸

"When child-victims of commercial sexual exploitation come to the attention of authorities, the public often regards them as teenage prostitutes, but this is not an accurate description. Rather, when a minor, with few visible choices, sells sex at the hands of an exploitative adult, it is generally a means of survival. The term 'teenage prostitution' also overlooks the legal status of minors who have greater legal protections regarding sexual conduct because of their emotional and physical immaturity and the need to protect them from exploitative adults. Therefore, it is important that victims of child sexual exploitation are not mistaken for offenders."¹¹¹

Those interviewed for this study offered two different views of domestic minor victims. Some suggested that domestic minors are trafficked at least as much if not more than international victims, usually for prostitution. Another view suggested that these children were prostitutes seeking money for drugs and they were treated as criminals.

The research suggests the need for revisiting how law enforcement and prosecutors

view these cases. The article published by the National District Attorneys Association states that “instead of assuming that these cases involve illegal immigrants/prostitution defendants, law enforcement officers examine the circumstances surrounding the potential trafficking victim’s travel to this country, working conditions in this country, potential threats to the victim’s safety or the victim’s family back in the source country (trafficking networks are often associated with enforcers in the source country who might indeed threaten or harm the trafficking victim’s family) and autonomy of work/living choices.”¹¹³ The NDAA article also highlighted success stories where certain jurisdictions have “reframed their approach” and refocused the “prosecution efforts on the individuals and businesses controlling the sexual exploitation of minor victims.”¹¹⁴ Law enforcement agencies that are equipped to understand the intricacies of trafficking will be able to conduct a more thorough investigation and present cases suitable for prosecution.

“[T]he efforts of law enforcement and service providers across the country have resulted in several promising strategies and practices to address these challenges and increase the number of victims identified and helped. These come in the form of well-designed and delivered training and education, targeted outreach, better screening and interviewing, and the development and use of task forces, coalitions, and/or other multi-disciplinary teams that are working together to combat this crime.”¹¹²

The inability to quantify the extent and types of human trafficking statewide is also a challenge in the identification of victims. The OAG was asked on many occasions throughout the research phase to provide information on human trafficking incidents in Texas. Even with the extensive research and the statewide survey, the OAG cannot provide a definitive response. This crime remains hidden, complicated and difficult to define consistently.

The BJA task forces were able to provide more information about human trafficking in the regions served by the task forces. However, even this is a limited means of gathering information as it only represents activities from particular regions and not the entire state. Since conducting interviews, the OIG issued an audit that questions the reporting mechanisms in place for the task forces and the OVC grantees.¹¹⁵ The Dallas/Fort Worth and the Houston task forces, along with the OVC service providers in those areas, were included in the audit sample.¹¹⁶

The potential to discover these hidden victims is limited by the lack of awareness of the crime and the lack of resources to investigate and prosecute the offenses. Overall, the efforts to detect human trafficking are impeded by a lack of knowledge of the crime and of programs to assist victims, and the absence of a mechanism to capture the data about the prevalence and nature of the crime and the number of victims. However, in the areas with strong collaborative efforts, more victims were identified because there was a concentrated focus on the crime. Without sufficient information on the numbers of victims or potential victims, the coordination of statewide resources and human trafficking strategies may be hampered. Pinpointing the types of human trafficking, the potential victim population, and information on the trafficking operations will pave the

way for better allocation of funds and efforts.¹¹⁷

Finding 1: Human trafficking is a relatively new crime under state law, and many police officers, prosecutors and judges are not aware of the statute or how to identify the crime.

Human trafficking will remain a hidden crime if those in positions to recognize victims are not trained and the general public is not made aware of the crime. Training and outreach programs are crucial to providing adequate prosecution, protection and prevention. In Texas, training and outreach is provided by the five BJA task forces and the OVC victim service grant recipients to law enforcement, prosecutors, community organizations, faith-based organizations, first responders and other service providers. Under these grants, funding is made available for training and outreach opportunities.

“Critical to identifying victims is training and education to those agencies and individuals in positions to help identify victims of this heinous crime.”¹¹⁸

Educational institutions, law enforcement and human trafficking organizations also provide training opportunities around the state at conferences, symposiums and workshops. The Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) has developed classroom and online training modules on human trafficking. This year, Dallas hosted a national conference on human trafficking intended for law enforcement.¹¹⁹ These events help raise awareness and provide a forum to share best practices and lessons learned. The federal agencies providing funding for anti-trafficking activities and initiatives, including DOJ, BJA, OVC and Office of Refugee Resettlement (ORR), also provide technical assistance on human trafficking issues to local law enforcement, prosecutors and service providers as part of the grant process. This training enhances these organizations ability to identify, rescue and serve victims of human trafficking.¹²⁰ Training targeted specifically for law enforcement, prosecutors and the judiciary is handled through continuing education.

The OAG study reveals that many police officers are not aware of human trafficking in their areas because they have not been trained to identify the crime. Unless police officers are aware of the many facets of human trafficking and are trained to rely upon a victim-centered approach to investigating, victims may be prosecuted rather than helped.

The NDAA article on identifying human trafficking victims cited a multi-jurisdictional study indicating that “law enforcement officers in 11 of 12 cases failed to identify the victims as victims of trafficking (or victims at all) and failed to provide adequate safety measures.”¹²¹ The article also pointed out that “training would . . . provide assurance that these cases are critically analyzed from a trafficking perspective.”¹²² Through the interview process, the OAG found the majority of human trafficking victims were discovered using a victim-centered approach. One investigator reported that he could “stop with just the smuggling or the child prostitution, but if you dig a little deeper and ask the right questions, you might uncover a victim of human trafficking.”

Training will also help police officers develop cases for prosecution. The victim is the prosecution's prime witness and informant, but victims are typically reluctant to cooperate with an investigation because the trafficker has threatened the victim or victim's family. Many victims also have been instilled with a fear of the police. Law enforcement officers related that the victims often did not offer the full truth until after multiple interviews had taken place. Without proper training on the victim-centered approach, valuable information may be lost and victims may remain trapped by their traffickers.

Most of the police officers interviewed were members of the BJA task forces and had received training from federal law enforcement agencies or national law enforcement educational organizations. Some of these agencies acknowledged that they were often unable to differentiate between human trafficking and smuggling. Training will help law enforcement officers identify human trafficking, teach them effective questioning techniques, and inform them about tools that can assist with the development of the case.

The OAG study reveals that local prosecutors often use other statutes to prosecute suspected human trafficking cases because they were more familiar with those laws and could more easily prove a different violation. Training for judges, prosecutors, investigators and other related staff would likely increase human trafficking prosecutions brought under the new law. Regardless of which charges are pursued, the ability to recognize human trafficking is a key element in all anti-trafficking efforts.

"Armed with well drafted human trafficking, criminal sex or prostitution statutes, task forces to assist with intra-agency coordination and well-trained committed investigation/prosecution teams, a number of jurisdictions have begun to aggressively prosecute cases involving the trafficking of domestic victims, often minors, for sexual exploitation. The success of these teams requires a shift in the perception of the adolescents and young adults in these cases as victims of prostitution/trafficking rather than as defendants."¹²³

Recommendations:

1. Require a basic human trafficking and compelled prostitution education and training program, as well as a voluntary advanced education and training program for police. Include a focus on the state statute.
2. Allow the peace officers' training to be completed through a variety of media to accommodate the needs of the police officers and their departments.
3. Encourage judges, prosecutors, investigators and other related staff to take continuing education courses that include a human trafficking curriculum.
4. Develop collaborative human trafficking training and awareness programs with:
 - Peace officer associations
 - County and municipal government associations
 - Judicial organizations
 - Texas District and County Attorneys Association

Finding 2: Professionals who come into contact with potential victims may not be sufficiently knowledgeable to recognize human trafficking indicators.

The OAG found that human trafficking victims are not generally recognized, which is consistent with findings by other law enforcement and service agencies nationwide.¹²⁴ First responders and other organizations that come into contact with trafficking victims frequently lack proper training on victim identification using a victim-centered approach and appropriate service referrals. Once a victim is identified, assistance can help restore the victim, and if a victim cooperates with an investigation, it is more likely the trafficker will be successfully prosecuted by the state. Professionals likely to encounter these victims include:

- Legal Aid attorneys
- Social service providers
- Emergency services providers
- Crime Stopper program personnel
- Advocates for survivors of sexual assault, including Sexual Assault Nurse Examiners
- Promotoras (community health workers along the Texas-Mexico border who serve as liaisons between health care providers and patients)
- County and city health inspectors
- Social services eligibility staff, case workers, investigators and inspectors at state agencies: HHSC, Texas Department of Family and Protective Services (DFPS), Texas Department of Aging and Disability Services (DADS), Texas Department of Licensing and Regulation (TDLR) and Texas Workforce Commission (TWC)
- Health care professionals licensed or certified under Title 3, Occupations Code (including: dentists, nurses, doctors, pharmacists and other related health care providers)

Recommendations:

1. Provide training or awareness programs for professionals likely to come into contact with human trafficking victims.
2. Require first responders and certain health care workers to receive a basic training course on human trafficking issues.
3. Encourage outreach and seminars by state agencies to educate professionals and staff not currently required to take continuing education courses.

Finding 3: Texas does not have a comprehensive system to capture and report data on human trafficking.

Statistical reporting of human trafficking in Texas is most often conducted in conjunction with federal grant reporting. Most human trafficking prosecutions in Texas have involved one of the BJA task forces. These task forces report the number of

investigations, the number of defendants charged and the number of convictions. Nationally, DOJ reports that federal prosecutors have prosecuted 156 human trafficking cases, obtained 342 convictions and rescued more than 1400 victims from FY 2001 to FY 2007.¹²⁵ There is no corresponding reporting mechanism for cases tried under state law. The jurisdictions prosecuting or investigating human trafficking in non-task force regions may collect data on human trafficking; however, the information is largely retained at the local level. A handful of state agencies collect similar information, but none focus on human trafficking.

The Texas Judicial Council is required by statute and rule to collect data on criminal cases.¹²⁶ Data collection is administered by the Office of Court Administration (OCA). Human trafficking is not one of the case categories the district clerks are required to report. The Department of Public Safety (DPS) operates the Texas Uniform Crime Reporting program, which is designed to produce reliable crime statistics for law enforcement administration, operation and management. The offenses were selected for data collection based on their seriousness, frequency of occurrence and likelihood of being reported, and include murder, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, arson, family violence, hate crimes and crimes occurring at colleges and universities. Human trafficking is not one of the crime categories for which reporting is required, but a case may be documented as one of the other listed offenses.¹²⁷

The OAG's Crime Victims' Compensation Program (CVC) collects data about the payments provided to victims (and victims' families) who have been injured, received a substantial threat of harm, or have died as a result of criminally injurious conduct. CVC tracks information related to the specific crimes listed in statute that qualify as criminally injurious conduct. Under Texas law, human trafficking is not currently included in that category.

Once a foreign-born victim is certified by the federal government, the victim can qualify for services provided through the Refugee Program at HHSC. However, this tracking system does not include uncertified, deported or domestic victims. Under the victim service grant programs from OVC and the U.S. Conference of Catholic Bishops (USCCB), agencies track pre-certified victims by state. The USCCB also tracks the number of post-certified victims it serves.

Texas BJA task forces are capturing human trafficking information on the HTRS system discussed earlier in this report. This system will be used by the 42 BJA task forces nationwide. Information will be collected on a monthly basis beginning January 1, 2008, and continuing through December 30, 2008. NEU and the UI will issue a final report to BJS and make recommendations on the expanded use of the system. Reports from HTRS have the potential to provide reliable and detailed information on human trafficking in Texas. NEU and UI indicated that "a large proportion of human trafficking cases that have come to the attention of law enforcement have done so through agencies involved with one of these existing task forces."¹²⁸ HTRS captures data on incidents, suspects and victims using multiple variables such as type of trafficking

involved, gang affiliation, services provided, incident description, type of charges and interview information.¹²⁹

Capturing reliable, comprehensive information is not currently possible because of the lack of a program to collect uniform and accurate data. Without further study and the establishment of a reporting scheme, only estimates about human trafficking will be available.

Recommendations:

1. Convene a workgroup to further study and potentially establish a uniform crime data reporting scheme. Include representatives from federal, state and local levels of the following sectors:
 - Prosecutors
 - Law Enforcement
 - Health Professionals
 - Service Providers
 - HHSC
 - DFPS
 - DOL
 - TWC
 - Texas Alcohol and Beverage Commission
 - NGOs
2. Determine what information needs to be collected (e.g., investigations, prosecutions, social services and number of victims) and who will collect/maintain the information.
3. Consider acquiring a system to capture and report human trafficking data.

Finding 4: Task forces and other collaborative efforts help identify, detect, prosecute and prevent human trafficking.

The BJA task forces have resources devoted to human trafficking investigations, prosecutions, training and outreach. Task force members can quickly identify a potential victim during an investigation or while providing services because the members are both trained to recognize the signs and know how to seek help. In the HHS Issue Brief on identifying victims of human trafficking, the researchers indicated that law enforcement acknowledged the creation of task forces and “special units focused on human trafficking within police departments [aids] in the identification of cases and victims.”¹³⁰

The OAG found that prosecutions were more frequent in cities with BJA task forces. These task forces applied a collaborative approach to human trafficking cases. The NGOs helped stabilize victims, who were therefore able to assist authorities with the investigative and prosecutorial efforts. Collaboration during the investigation phase ensures sufficient evidence was gathered for successful prosecutions. The study found that prosecutors should be brought into a potential human trafficking investigation as early as possible, especially if the case will be jointly pursued by local and federal agencies. The federal court system has different procedural and evidentiary

requirements than the state system and it is therefore often necessary for federal staff to file certain documents.

The OAG study's conclusion comports with a 2008 NEU nationwide study of law enforcement responses to human trafficking. As part of the study, NEU examined multi-agency task forces throughout the U.S. as compared to law enforcement agencies not participating in task forces. NEU cited a recent review of human trafficking prosecutions that "suggested that actions taken by local law enforcement at the beginning of a trafficking investigation can prove crucial to the ultimate success or failure of future efforts to pursue the case."¹³¹ The researchers noted three findings:

- Law enforcement agencies participating in federally-funded task forces have identified and investigated more human trafficking cases than non-task force agencies.
- On average, task force agencies made more human trafficking arrests than non-task force agencies.
- Law enforcement agencies participating in task forces were more likely to identify trafficking suspects who were formally charged. Cases worked up by task force members were twice as likely to result in federal charges.¹³²

It is important to develop relationships between law enforcement and social services providers before human trafficking victims need assistance. A 2003 article on collaborations in *The Police Chief*, the official publication of the International Association of Chiefs of Police, observed that "law enforcement could learn about human trafficking from service providers who have been working with victims of human trafficking for several years, and officers could then train each other about the TVPA and working with victims of trafficking."¹³³ Police officers can offer their investigative expertise to social workers. As a result, service providers learn the type of information authorities need to investigate and prosecute wrongdoing.

A complex and multi-dimensional crime, human trafficking is one in which victims "present characteristics and needs that overlap and can fit into many areas of service including immigration, legal, health, and/or mental health services."¹³⁵ Because many service agencies have a specific area of expertise, the agencies "collaborate and piece services together to best meet the numerous needs of trafficking victims." Because of their proximity, state and local agencies working with NGOs are best suited to collaborate on the provision of services for victims. This "cooperation between federal and state government agencies and the NGOs that serve this population is vital for the well-being of trafficking victims."¹³⁶ Respondents indicated that

"Service providers can assist in working with the victim to make a statement or to prepare the victim to be a better witness. Mental health advocates can help victims work through their trauma so they can move forward with their lives. Service providers can also assist a victim with time-consuming tasks such as finding housing, obtaining health care, accessing mental health services, and applying for federal and state benefits, leaving law enforcement time to focus on the prosecution of the case."¹³⁴

human trafficking operations may also have ties to other organized criminal activity such as drug smuggling. Inter-agency efforts by federal and state authorities responsible for investigating other criminal activity or performing other inspections provide additional intelligence and enhance the anti-trafficking efforts.

Through consistent training and outreach, strengthened investigations and prosecutions and the provision of services, task forces are uniquely situated to aid with the prevention of human trafficking. By targeting human trafficking operations and prosecuting ring leaders, task forces are eliminating potential traffickers.

Recommendations:

1. Continue to support the operation of the five BJA task forces.
2. Create a statewide human trafficking task force that includes federal, state and local law enforcement agency representatives, as well as representatives from relevant social service agencies and non-governmental organizations.
3. Consider cooperative efforts in cities or areas without BJA task forces.
4. Develop joint programs where training and technical assistance are provided by the BJA task forces for other non-task force areas or regions.

Prosecuting Human Trafficking Violations in Texas

Texas was one of the first states to introduce legislation criminalizing human trafficking. Introduced in 2003 and amended in 2007, the state statute is relatively new and largely untested. Several bills introduced during the 80th Legislative Session focused on enhancing the prosecution of human trafficking offenders and the protection of human trafficking victims. Although the Texas statute has elements found in the federal law, it does not share its federal counterpart's exact language or structure.

“Human trafficking is best understood as a collection of crimes bundled together rather than one single criminal event. Investigating and prosecuting human trafficking requires complex law enforcement activities, an understanding of the dynamics of human trafficking in all its permutations (sex trafficking, labor trafficking, trafficking of both foreign born and/or domestic victims), a complex jurisdictional analysis, familiarity with federal, state, local and nongovernmental resources and collaboration with multiple organizations at all levels.”¹³⁷

Texas relies heavily on federal resources to prosecute human trafficking violations. Most cases prosecuted in Texas are brought by the U.S. Attorney's Office or the DOJ's Civil Rights Division under the federal statute. Texas has had a state law in place since 2003, but state prosecutors are still widely using the “piecemeal approach.”¹³⁸ Of the prosecutors interviewed, the greatest use of the state law came from the Dallas and Fort Worth area. The state law is rarely used for a variety of reasons. Prosecutors seem hesitant to bring cases under the state statute because the burden of proof for the requirement of force is too great, or because they are unfamiliar with the statute. By charging the offender with another crime, the prosecutors believed a conviction was more likely. Unfortunately, this approach may not capture the seriousness of the crime.

Other states face similar challenges with state-level anti-human trafficking laws. The 2008 study by NEU indicated similar findings nationwide, stating that “survey respondents were asked about state charges as well as federal charges; however, at the time of the study most jurisdictions did not have state human trafficking laws in place, and only eight agencies reported filing charges for state human trafficking violations.”¹³⁹ A recent article in the Seattle-Post Intelligencer identified the challenges that Washington State is facing.¹⁴⁰ The article noted that even though Washington enacted state legislation five years ago, prosecutors have yet to obtain any convictions. Among the identified challenges facing police and prosecutors was: “not recognizing trafficking victims when they encounter them, instead seeing victims of other crimes such as sexual assault.” The former state representative who sponsored the Washington law stated that the organized crime component was effectively ignored when trafficking victims are treated as sexual assault victims – likely because the victims are not comfortable identifying their oppressors. Further, when the victims are not identified as human trafficking victims, they are not eligible for services and benefits. A former U.S. Congressman and State Department ambassador-at-large on modern slavery was quoted about the use of the state statutes in the 33 states that have

enacted human trafficking legislation. He indicated that there were almost no convictions and that “part of the problem is that the laws require proof that sex traffickers used force, fraud or coercion.”

“Without specific state trafficking provisions, prosecutors instead must use multiple offenses and prove element of these crimes . . . Ultimately, a piecemeal approach to prosecuting human trafficking cannot address the gravity of the crime as a whole. State legislation specifying human trafficking as an offense could more effectively punish the root and heart of the problem.”¹⁴¹

Human trafficking investigations are also very time consuming and require considerable manpower. In a recent panel presentation on commercial sexual exploitation of minors at the NIJ national conference, experts estimated that human trafficking investigations took an average of 200-280 days.¹⁴² Federal assistance was more readily available for these long-term investigations, and if federal resources are expended, the case will likely be handled by the U.S. Attorney’s Office.

Although the majority of prosecutions have been successful, using the federal law as the sole approach may not be in the best interest of human trafficking victims long-term. Historically, human trafficking was largely seen as a federal matter because of its close relationship with

immigration-related issues. However, federal assistance may not always be available to handle human trafficking investigations and prosecutions, especially if funding is limited and federal priorities change. The State must be ready to take a significant role in fighting human traffickers by providing a framework of investigative and prosecutorial tools that will achieve human trafficking convictions and other enforcement to disrupt criminal enterprises. The potential for additional victims in multiple cases always looms as a possibility. Without adequate state laws and resources in place, Texas faces the risk of human traffickers escaping punishment for their crimes.

Finding 1: The Texas human trafficking law is not being utilized on a widespread basis in Texas.

Federal agencies are encouraging states to pass laws that combat human trafficking. The purpose of the model law proposed by the DOJ was to ensure that states could introduce legislation containing all the elements necessary to prove human trafficking. More closely aligning state law with federal law gives victims the same protections and benefits available at the federal level.¹⁴³ Throughout their interviews, Texas prosecutors and law enforcement indicated they would like the ability to bring human trafficking charges against defendants who prostitute minors— without having to prove force, fraud or coercion. Under the federal statute, the elements of force, fraud and coercion do not need to be proven when a case of sexual exploitation involves a minor.

The OAG was unable to determine the number of cases that have not been prosecuted because of the current law’s reporting requirements. Many cases of human trafficking are not identified as such and therefore are prosecuted under a different violation. In other cases, offenders may take a plea bargain and the case is therefore categorized

differently. Many victims live in fear of law enforcement and/or their trafficker, and therefore prosecutors find it difficult to convince a victim to be the primary witness in a case. In addition, there is no mechanism for tracking prosecutions that have not occurred. The few prosecutors who responded to the survey as having used the state law interpreted it in different ways. Many of the local prosecutors explained that the state law was difficult to use because it required the proof of force, fraud or coercion and they found prosecuting a different criminal offense to be a more effective means of enforcement.

Overall, the OAG received conflicting reports about the usefulness of the current human trafficking statute. Some prosecutors indicated they thought the human trafficking statute was useful in its current form and others stated that because of the 2007 changes, they will not utilize it. The OAG has provided the 2003 and 2007 versions of the law for reference (See Appendix D). The Texas House Criminal Jurisprudence Committee is pursuing the following interim charge and also may be able to address issues with the statute: "Research the problems associated with human trafficking and determine the need for additional penalties."¹⁴⁴

Recommendations:

1. Add a criminal provision for commercial sexual exploitation of a person less than 18 years of age as a per se violation of the human trafficking statute. This provision would remove force, fraud or coercion in cases involving minors.
2. Convene a task force of investigators and prosecutors who have been involved with human trafficking cases to determine the best way to proceed with changes under the statute, and to share intelligence about trafficking organizations.
3. Review recommendations from the Texas House Criminal Jurisprudence Committee interim report on human trafficking.

Finding 2: Texas statutes need to be strengthened to enhance prosecutions and to meet the needs of victims.

Although law enforcement authorities in Texas will continue to pursue federal charges for certain human trafficking cases, the framework needs to be in place to ensure seamless human trafficking prosecutions occur at the state level as well. State level prosecutions do not prohibit international human trafficking victims from accessing federal benefits through the certification process. However, the elements of a state law must be sufficient to meet the standards laid out in federal law. The two jurisdictions need to complement each other to handle all prosecutions. If prosecutors are to be encouraged to use state law to pursue human traffickers and to close down operations that create conditions for human trafficking, enhancements of Texas law are needed. Specific recommendations for statutory changes are made below in Findings 2A-2F.

Finding 2A: Discouraging child sex tourism is key to reducing the demand for sex trafficking.

Child sex tourism is an international problem and fuels the demand for the sexual exploitation of children. Criminals pay tour operators and travel agencies to arrange trips to foreign countries, where they engage in sexual activity with minors. Federal law criminalizes this practice. DOJ and other anti-trafficking organizations have encouraged states to enact laws regulating the organizations or individuals responsible for arranging the trip and facilitating sex tourism.¹⁴⁷ Texas does not regulate or license travel agents or tour operators. If a person travels to another country and is prosecuted for engaging in sex with a minor, there is no deterrent to the travel agent who knowingly facilitated that trip.

18 U.S.C. § 2422 prohibits enticing or coercing a person to travel across a state or international boundary in order to engage in prostitution or other unlawful sexual activity and carries a 20 year maximum sentence.¹⁴⁵

18 U.S.C. § 2423 prohibits arranging or facilitating, for financial gain, another person's travel to engage in illicit sexual conduct and carries a 30 year maximum sentence.¹⁴⁶

In 2007, Washington State passed a law prohibiting promoting travel for the purposes of sexual conduct with minors. An offense is committed if a person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor.¹⁴⁸ Hawaii and New York have similar laws on sex tourism.¹⁴⁹ Texas currently does not have a statute similar to the federal law or the above-mentioned states' laws. Thus, prosecutors lack a specific statute prohibiting travel company operators from arranging sex tours.

Children in our state, country and the rest of the world are vulnerable to predators and criminals who profit from sexually abusing children. Existing Texas law does not criminalize travel agencies and tour operators that promote this unacceptable activity. As a result, prosecutors currently lack the authority to adequately hold wrongdoers accountable.

Recommendations:

1. Define and criminalize "child sex tourism" in the State of Texas.
2. Prohibit the promotion and arrangement of travel for child sex tourism.
3. Promote joint law enforcement efforts between the State of Texas and the federal government of the Republic of Mexico, neighboring Mexican states and other countries to combat human trafficking in general and child sex tourism specifically.

Finding 2B: Texas lacks a state statute prohibiting the transport of human trafficking victims, which limits state and local law enforcement agencies' ability to investigate and prosecute criminals who move victims from one location to another for their financial benefit.

The current version of the unlawful transport statute, Texas Penal Code § 20.05, targets criminals who transport individuals in a manner that endangers the individual.¹⁵⁰ Risk of injury or death is a required element of the offense. Thus, the law's injury or death requirements could be removed to provide law enforcement an additional tool with which to fight traffickers. Prosecutors indicated that under the 2003 human trafficking statute, convictions could be obtained by proving movement. Evidence proving transport may include hotel receipts, credit card receipts and other corroborating data. One assistant district attorney mentioned that more statutory elements are required to prosecute under the current human trafficking statute, which has curtailed use of the amended law.

To facilitate human trafficking prosecutions, transport could be defined as: (1) moving from one location to another; or (2) arranging the movement from one location to another of a person for financial benefit. Another element would be a suspect's efforts to conceal the unlawful intent from law enforcement or the individual being moved. This law would need to incorporate some likelihood that the transported individual be forced to render labor or services.

Recommendations:

1. Amend Penal Code to create a facilitation of human trafficking offense.
2. Amend Penal Code § 20.05 to eliminate the "showing of a substantial likelihood that the trafficked individual will suffer serious bodily injury or death" requirement.

Finding 2C: Human traffickers are often tried or charged with other crimes carrying lesser penalties than those provided in Penal Code Chapter 20A.

Research indicates that human trafficking is not always charged at the state level and that prosecutors pursue other violations of the Texas Penal Code. Sections commonly used for human trafficking prosecutions range from Class C misdemeanors to first degree felonies. These crimes range from obscenity to sexual performance by a child. Human traffickers may avoid higher penalties when charged under a different statute. Human trafficking is a serious offense against humanity and penalties should fit the crime. Experts interviewed for this study indicated that stiffer penalties are needed. The seriousness of trafficking in persons, and its recent proliferation, warrants that the penalties for the aforementioned statutes should be reviewed and their penalties enhanced when merited. The most appropriate group to study this issue would include

the prosecutors who use these statutes daily, including the prosecutors who have used the human trafficking statute.

Recommendations:

1. Study the range of penalties for violations of other Penal Code sections used in connection with the human trafficking statute.
2. Propose modifications to the Penal Code that would allow for enhancements to existing statutes in human trafficking cases.
3. Review recommendations from the Texas House Criminal Jurisprudence Committee interim report on human trafficking.

Finding 2D: Over the past several years, asset seizure and forfeiture have been effective tools and resources for law enforcement agencies.

Law enforcement uses asset seizure and forfeiture to dismantle criminal enterprises. Importantly, law enforcement agencies can convert funds or forfeited property to provide supplemental financial resources for investigations and prosecutions. Organized criminal operations are often connected to human trafficking rings; the sale of human beings is almost as profitable as the drug or gun trade. The State Department has indicated that human trafficking carries “virtually no risk of prosecution.”¹⁵¹ Caliber Associates noted that “the crime of human trafficking in persons offers international organized crime syndicates a low-risk opportunity to make billions in tax-free profits by exploiting a system of seemingly unlimited supply and unending demand for a relatively low cost.”¹⁵² Proceeds from trafficking operations may be funneled into business fronts such as massage parlors or manufacturing plants, or the funds may be transmitted overseas to countries with limited financial crime enforcement.

Recommendations:

1. Make all offenses under Penal Code §20A qualify as offenses subject to asset forfeiture and thereby subject to the provisions of Code of Criminal Procedure, Chapter 59.
2. The Lieutenant Governor issued an interim charge instructing the Texas Senate Criminal Justice Committee to review Chapter 59, Code of Criminal Procedure. If the committee recommends defining how the proceeds of forfeited assets are distributed, victims’ restitution may be appropriately added to the distribution formula.

Finding 2E: Texas has no enforcement authority over businesses convicted of human trafficking.

Certain businesses in Texas may knowingly engage in human trafficking by forcing individuals into labor or services. Despite the seriousness of the crime, a company convicted of human trafficking still may be permitted to conduct business in Texas under current law. If the “controlling person” of the business is convicted of human trafficking because he or she influenced, directed or caused human trafficking in the business, the “controlling person” is not held responsible and may be allowed to reorganize the business or claim bankruptcy to avoid financial penalties. Texas Health and Safety Code, §242.0021 defines “controlling person” as a person that has the ability, acting alone or in concert with others, to directly or indirectly influence, direct or cause the direction of the management, expenditure of money or policies of an institution or other person.¹⁵³ The section also describes persons and entities that are included in the definition of controlling person.

There is no mechanism for informing the Secretary of State’s Office (SOS) about a defendant’s final conviction for human trafficking. Yet, existing law allows the SOS to order the dissolution or reorganization of the business.

Recommendations:

1. Amend Texas statutes to hold a corporation, partnership, limited liability company or controlling person responsible if a company or its employee, acting for the company, is convicted of human trafficking. These remedies would be in addition to any other criminal penalties that apply.
2. Define “controlling person” of a business engaged in human trafficking.
3. Provide for notice by prosecutor’s office to the SOS within 60 days of final conviction.
4. If the business is dissolved, the state should revoke any license, permit or prior approval granted to it by any state agency. If the business is dissolved, the company assets should be subject to forfeiture.

Finding 2F: Texas does not have a civil statute to pursue cases of organized human trafficking.

Currently, only criminal remedies are available in Texas for prosecuting a case of human trafficking. The ability to pursue cases against human traffickers could be expanded by creating a civil remedy. A civil racketeering statute would allow the state or a victim to collect damages for injury resulting from criminal activity, such as human trafficking.

Arizona prosecutes human traffickers based on this mechanism and has passed a state civil racketeering statute.¹⁵⁴ It allows an action to be filed by a person or the attorney general on behalf of an individual sustaining injury to his person, business or property

as a result of racketeering, or to prevent, restrain or remedy racketeering. Racketeering has a lengthy definition in the Arizona statute, which includes kidnapping; extortion; trafficking in explosives, weapons or stolen property; obscenity; sexual exploitation of a minor; prostitution; money laundering; and smuggling human beings. These violations include many of the underlying crimes that are elements of the Texas human trafficking statute. According to Arizona officials, the Arizona experience has been that the civil racketeering statute has been successful in dismantling criminal enterprises engaged in human trafficking. Such a statute would allow state officials to more effectively partner with federal law enforcement agencies in enforcing laws against human trafficking.

The Arizona statute allows for the recovery of treble (triple) damages, court costs and attorneys' fees, and it allows for forfeiture of property held by a person or enterprise that was gained or maintained through a racketeering violation. The law has a seven-year statute of limitations, and the standard of proof is the preponderance of evidence. Comparatively, the Texas Civil Practices and Remedies Code §16.0045 provides for a five year statute of limitations for sexual assault, aggravated sexual assault or continued sexual abuse of a young child or children. A civil action against human traffickers authorized by this section would not limit any other previous or subsequent criminal action under state or federal law. Civil remedies provided under this title would be supplemental and not mutually exclusive.

Recommendations:

1. Create a state civil racketeering statute, which could be used to seek civil remedies, including injunctive relief, forfeiture of assets and damages against organizations that engage in human trafficking.
2. Include in the statute a seven-year statute of limitations to cases filed against human traffickers, as well as provisions making clear that the remedies under the statute are supplemental, and not intended to supplant or replace potential criminal prosecution for human trafficking, and allowing the state to recover damages from wrongdoers on behalf of victims of human trafficking.

Finding 3: Restitution benefits human trafficking victims by replacing lost wages and expenses incurred by victims.

Restitution for victims is important because crime is not merely a violation of state law, but rather is an assault upon an innocent victim.¹⁵⁵ There has been discussion in the past few years about mandatory restitution in Texas. Although ordinary defendants may have limited resources in many cases, prosecutors have identified human traffickers who purchased cars, homes, jewelry and other luxury items with money resulting from forced labor or services of victims. Restitution can help restore some of the financial loss suffered by the victim. A 2006 report on restitution in Texas by the Crime Victims' Institute, Criminal Justice Center, Sam Houston State University, highlighted the goals of restitution, namely "it restores victims by providing financial and psychological benefits" and can address "both the victim's financial loss and the victim's sense of

injustice.”¹⁵⁶ The authors also noted that:

*“Criminals have long paid their debts to the state through fines and confinement. Fairness dictates that the same criminals pay debts to victims to repair the harm they have caused.”*¹⁵⁷

Texas has not fully addressed restitution for victims of human trafficking under state law. Specific recommendations regarding restitution are made in Findings 3A-3D.

Finding 3A: Restitution to victims of human trafficking is not mandatory under state law, but is mandatory under federal law.

Under Texas law, crime victims’ restitution is discretionary. The Code of Criminal Procedure, article 42.037, provides that restitution *may* be paid to victims for any expenses they incur as a result of the crime and courts also have the discretion to order offenders to pay the Compensation to Victims of Crime Fund (emphasis added).¹⁵⁸

Typically, victims of human trafficking who incur medical or other expenses are under-compensated or not compensated at all. Although the victims may pursue a lost wage claim with Texas Workforce Commission (TWC), that process does not guarantee they are paid for their work.

The victims may be eligible for reimbursement from CVC for certain crime-related expenses. Any expenses not recovered from another source are appropriate for the court’s restitution order. Human trafficking is very profitable, and traffickers often have valuable assets that can be seized and forfeited. It can be difficult for victims to collect restitution. Currently, law enforcement agencies cooperating in a case distribute convicted criminals’ assets among their agencies. A portion of the proceeds from a defendant’s forfeited property could assist human trafficking victims while the defendants are institutionalized and not paying restitution. Also, a portion of proceeds from trafficker assets could be set aside to support agencies that assist victims or to help create assistance programs specifically designed to assist victims with unique needs (e.g., human trafficking victims).

Recommendations:

1. Require defendants to pay restitution to their victims under the state human trafficking statute, as well as provide the state the authority to seek and collect damages on behalf of human trafficking victims under a civil racketeering statute.
2. Include unpaid wages in the restitution amount if the wages have not been recovered through the TWC. The Texas Labor Code and the federal minimum wage requirements should be used as a default amount when calculating wages.
3. Include other costs incurred by the victim as a result of the offense, including: medical services relating to physical, psychiatric or psychological care; physical and occupational therapy or rehabilitation; necessary transportation, temporary

- housing and child care expenses; and attorney's fees.
4. The Lieutenant Governor issued an interim charge instructing the Texas Senate Criminal Justice Committee to review Chapter 59, Code of Criminal Procedure. If the committee recommends defining how the proceeds of forfeited assets are distributed, victims' restitution may be appropriately added to the distribution formula.

Finding 3B: Human trafficking victims qualify for certain benefits funded by state and federal governments that are not reimbursed by any other source.

Under federal law, international victims of human trafficking cannot receive services funded by governmental grants until the victim is certified by HHS. The victim must cooperate with law enforcement to be recommended for certification. Federal law enforcement agencies must submit paperwork to begin the certification process. Reports indicate that the investigation and submission of the certification documents could average eight months or more. Once signed and submitted by federal law enforcement agencies, certification completion at HHS only takes a few days to process. These grant funds are administered through NGOs. Once certified, an international victim qualifies for an array of programs, including food stamps and Medicaid. The certification process does not apply to U.S. citizens. Domestic victims must qualify for state services and programs through the eligibility process for Medicaid, food stamps, State Children's Health Insurance Program (SCHIP) and Temporary Assistance for Needy Families (TANF).

After rescue, victims often need housing, food, clothing and medical attention. Foreign-born human trafficking victims are tracked by refugee status while domestic victims are tracked through the state programs eligibility system. Further study would be required to see how easily HHSC could generate a report detailing expenditures and services provided to a victim. If the report is economically feasible, it could be provided to the prosecutor for presentation to the court when determining restitution.

If the victim does not qualify for HHSC services, he or she may qualify for services paid for by CVC. The OAG tracks all funds paid by the Compensation to Victims of Crime Fund on behalf of the victim. By law, this fund is the payer of last resort and can only compensate for services not covered by any other program or insurance.¹⁵⁹ The Texas Legislature decided that defendants should be held responsible for reimbursing the Fund and have left it to the court's discretion to order restitution to be paid to the Fund. Social services provided by the state are funded with general revenue or other available federal funds. The state does not have a mechanism under which criminals repay state programs for services rendered to victims.

Recommendations:

1. Study the possibility of an HHSC report calculating the cost of state benefits

provided to human trafficking victims. If the report is feasible, consider mandating that criminals reimburse the state for services provided to victims. The recovered restitution should be appropriated to the agency that incurred costs for the services.

2. HHSC and OAG should assess the amount of assistance received by the victim at the time of sentencing and provide this information to the prosecution team for presentation to the court.
3. If the Texas Senate Criminal Justice Committee recommends a change in Code of Criminal Procedure, Chapter 59, consider allocating portion of the proceeds from an asset forfeiture sale to victims' restitution.

Finding 3C: Restitution that remains unpaid at the time of the expiration date of probation or parole is rarely recovered by the victim or the state.

Texas provides for restitution liens in the Code of Criminal Procedure, Arts. 42.22 and 42.037.¹⁶⁰ The Legislature has prioritized restitution payments to be paid in the following order: (1) victim; (2) Compensation to Victims of Crime Fund; and (3) others named in the court order. The legal obligation of a parolee or probationer to pay restitution is only effective for the length of the parole or probation unless a motion to adjudicate has been filed prior to the expiration date.

When restitution is ordered, if a victim wants to file a restitution lien, they must work with the district attorney to complete the process. In many jurisdictions, victims must pay a fee to get the abstract filed with the county clerk's office. The lien is effective for 10 years and can be renewed on or before the 10th anniversary of the date the lien was filed. If not renewed, the lien will expire on its 10th anniversary or on the date the defendant satisfies the judgment creating the lien, whichever comes first.

Federal law, 18 U.S.C. § 3613(c), states that restitution imposed for certain violations results in a lien in favor of the U.S. on all property and rights to property of the person fined (as if the liability was a liability for unpaid taxes).¹⁶¹ The lien arises on the entry of judgment and continues for 20 years plus the period of incarceration or until the liability is satisfied, remitted, set aside or terminated. In the *OVC Attorney General Guidelines for Victim and Witness Assistance*, restitution enforcement is addressed.¹⁶² To "guarantee enforcement to the fullest extent of the law," the guidelines state "a lien should be filed by the U.S. in all cases where restitution is ordered and not immediately paid."¹⁶³

Recommendations:

1. Require that convicted traffickers pay restitution to their victims after completing their community supervision.
2. Require a prosecuting attorney prepare an abstract and record the judgment with the county clerk's office within 30 days of sentencing.

3. Allow for a 20-year lien against the defendant for the unpaid portion of the restitution to the victim of human trafficking.

Finding 3D: Texas has no uniform system for tracking or reporting the collection of restitution or other debts owed to government agencies or victims.

Each county collects the restitution owed in that specific county. If a defendant owns property in another county, and the property is sold, the victim might not have knowledge of these other assets available to satisfy restitution. Under the current system, the victim would need to file a lien in every county in which the defendant may have property. Every county receiving restitution payments from a probationer or parolee records the information locally. The county will forward restitution to the victims named in a court order and try to locate victims when necessary. However, if the county is unable to locate a victim, they hold the restitution until the victim is located. After five years, the unclaimed restitution is forwarded to the Comptroller of Public Accounts who deposits it in the Compensation to Victims of Crime Auxiliary Fund. Documentation accompanies the financial transfer to the Comptroller so that victims can later claim their restitution.

A court may order the offender to pay fines and fees, which are handled and tracked locally. Money from these fees is distributed to both counties and the state, including the Compensation to Victims of Crime Fund. Fines and fee revenue may fund investigations, prosecutions or benefits for victims. Tracking and collecting these dollars would help the state and local governments to better manage their budgets and to provide adequate services. Currently, the Office of Court Administration (OCA) provides training to local jurisdictions on collection procedures and best practices.

Recommendations:

1. Consider implementing a statewide uniform tracking system that would monitor payments to probation and parole officers, payments for restitution ordered to the state, and other funds owed by the defendant as a result of the crime.
2. Legislation enacting such a system should designate a specific agency as the monitor, should contemplate sufficient staffing, and should provide adequate resources for staff training.

Finding 4: The majority of resources in Texas dedicated to anti-trafficking efforts are available from federal agencies.

The OAG study revealed that many human trafficking cases continue to be prosecuted at the federal level because of the investment in anti-trafficking efforts by the federal government through the five BJA task forces in Texas. Many cases are more appropriate for federal prosecution because the case involves interstate commerce or

multi-state jurisdiction, foreign-born victims who wish to return to their country of origin, or the federal agencies have more resources in the area. Without federal task force funding, Texas would be unable to continue its current anti-trafficking efforts. When a case involves one victim, or if the elements do not meet certain federal thresholds, the federal authorities may not pursue it. That is when the state must step in. However, the process for referring a case from one jurisdiction to another is often complicated. Although federal districts extend beyond the cities with task forces, very few cases have been brought forth from the rural areas of Texas. Human trafficking cases are considered difficult and take a long time to investigate and prosecute.¹⁶⁴

Many local law enforcement agencies do not have the budget or manpower to keep a human trafficking unit fully staffed. Local prosecutors already have the ability to request assistance from the OAG. The OAG typically provides assistance with the investigation and prosecution of criminal cases when there are insufficient resources at the local level to proceed. The OAG does not have specific authority or a specialized unit to assist with human trafficking cases at this time.

Recommendation:

Create a statewide human trafficking task force that would be comprised of representatives from federal, state and local law enforcement agencies, as well as representatives from relevant social service agencies and non-governmental organizations.

Protecting Victims of Human Trafficking in Texas

Victims of human trafficking are often held in captivity and subjected to horrendous abuse on a daily basis. Deprived of basic necessities, these victims may find themselves living in deplorable conditions and unable to escape. Once removed from human trafficking situations, these victims require immediate and long-term assistance. Housing and medical care are immediate needs. Some victims are not able to work because they lack documentation and must remain secluded for their protection. Others are challenged to overcome the fear of their trafficker. To protect these victims, the state must first be able to identify the victims and remove them from the trafficking situation, and then be able to provide resources to protect them, help them recover and regain self-sufficiency.

HHSC's companion report and the IDVSA report provide an overview of the current services for trafficked victims in Texas. The HHSC report describes in greater detail the services available for trafficked victims at the federal and state level. Generally, Texas continues to provide protection for victims in collaboration with federal agencies. In some instances, the victims are covered under federal programs (e.g., international victims).

In its 2007 *Final Report and Recommendations*, SPOG identified services available to domestic and international victims of trafficking (See Appendix E).¹⁶⁶ Many services and benefits are victim-specific and are available based on the age and the citizenship of the victim.¹⁶⁷ As highlighted in a 2007 Texas Comptroller Report on Immigration, government-sponsored benefits for undocumented immigrants are typically determined by federal restrictions on spending.¹⁶⁸ Federal law prohibits providing benefits to non-citizens (TANF, Medicaid) except for basic services like emergency health care and public education for minors.¹⁶⁹

Human trafficking victims usually need basic services like housing, medical care, legal services and transportation. When services are not available through a government agency, services are usually provided by NGOs. These organizations may be funded by federal agencies, state agencies or private donations. In many areas, these services must be coordinated very carefully to ensure that resources are available to serve victims and are readily accessible, usually through collaboration among law enforcement and NGOs. In areas where task forces are in place, regular collaboration allows for more efficient delivery of services.

“The needs of trafficking victims are often distinct, severe and extensive. Trafficking victims are assaulted, intimidated, and isolated while forced into prostitution, domestic service, or other labor situations. Exposure to these conditions can give rise to complex medical, psychological, immigration, legal or social service needs that are not only intensive but also potentially long-term. Security risks can also arise within the trafficking context, as victims are involved in the investigation and prosecution of trafficking cases.”¹⁶⁵

One of the significant challenges reported statewide was finding emergency shelter and long-term housing for human trafficking victims. Many communities rely on domestic violence shelters to provide short-term housing for victims. However, this is not always an ideal solution. Human trafficking victims' needs differ from those required by other victim populations. These victims also bring with them a different set of safety concerns that may place the shelter staff and other residents at risk. Domestic violence victims typically "are running from one perpetrator, trafficking victims may be running from a whole network of organized crime."¹⁷⁰ Respondents reported incidents wherein traffickers persuaded a victim to divulge the location of the shelter, only to show up later and convince victims to leave.

Finding an adequate and secure shelter is especially problematic when the victims are minors. In a 2007 HHS Issue Brief on residential facilities for minor victims of domestic sex trafficking, researchers looked at residential programs and facilities currently providing services for domestic minor victims.¹⁷¹ The researchers identified several challenges to serving the minor population as identified by law enforcement and health and social services providers:

- Difficulty identifying victims
- Lack of understanding of domestic trafficking
- Inadequate services
- Safety concerns¹⁷²

"In the case of runaway and homeless shelters and drop-in centers, the location was often known to the trafficker. In fact, several sites reported cases of traffickers recruiting girls outside the facilities, or in some cases, girls being sent into the shelter to recruit other girls. Not all programs were equipped to handle these situations."¹⁷³

In the report, a provider indicated that "shelter providers are not trained to serve [the minor] population," and instead are "equipped for runaways; not trafficking victims."¹⁷⁴ Respondents also raised safety concerns raised for the staff and residents.

The researchers also found that only four residential facilities specific to the female

domestic sex trafficking victims were operational nationwide. These programs included Girls Educational and Mentoring Services (GEMS) Transition to Independent Living (TIL) program, Standing Against Global Exploitation (SAGE) Safe House, Children of the Night, and Angela's House.¹⁷⁵ Members of the Dallas/Fort Worth task force echoed similar challenges and also indicated that they had issues with domestic minor victims being placed in certain facilities without parental consent, which is not always easily obtained.

As indicated by interviewees, space is often limited in women's shelters and priority may be given to domestic violence victim. Housing options are also scarce for male victims. Some shelter services are available for unaccompanied international minors through programs offered by ORR, but these are limited. Details about these programs are provided in the companion report by HHSC.

In Texas, law enforcement and NGOs fill the gap by securing community resources. One task force reported collaborating with another BJA task force to secure shelter in their city to ensure the safety of the victim. This is often a labor-intensive process even with solid inter-agency relationships in place. The Houston task force reported in a meeting that they are working on a housing solution for trafficking victims by establishing a secure facility to house the victims. It is still unclear if minors will be housed in the facility due to regulatory and other requirements.

The needs of international victims are compounded by their immigration status. In the five areas where the BJA task forces operate, federal grants provide funding for services for international victims while they have no other means of support. These services range from assistance with housing to medical services to transportation. The federal focus has been on international victims and the majority of services are geared to this population. For some programs, eligibility for services has been limited to international victims. Only recently has the federal focus expanded to include cases of domestic trafficking. Through responses from NGOs on service delivery to victims of human trafficking, SPOG identified differences that “may exist in practice,” although “empirical data were not provided to support or refute these statements.”¹⁷⁶ Their input with regard to treatment of domestic and international victims had two themes:

- Some NGOs report a belief that domestic victims tend to be perceived and treated more as criminals (prostitutes or juvenile delinquents) than as victims.
- Domestic victims may be less likely to have access to intensive case management services than international victims have.¹⁷⁷

Additionally, through a 2007 project funded by the DOJ, Shared Hope International is working with 10 Human Trafficking Task Forces nationwide on the problem of domestic minor sex trafficking. The project is designed to provide “task forces and the larger community in which they work with tools to increase identification of domestic minor sex trafficking victims and improve access to and delivery of services to those victims in accordance with the Trafficking Victims Protection Act of 2000.”¹⁷⁸ As of August 4, 2008, six reports were available.¹⁷⁹

All the research has suggested that providing assistance to minors is complicated by guardianship and immigration status, and by the proper identification of these minors as victims instead of offenders. The research overwhelmingly indicates that the population appears to be underserved, with many service providers and NGOs unaware that these children could potentially be victims of human trafficking.¹⁸⁰ These victims are particularly vulnerable if there is no family member available to provide a safe environment. Most of the services require considerable efforts by NGOs and law enforcement, and it often takes many days to ensure proper placement and resource coordination.

Finding 1: Young human trafficking victims find themselves involved in the legal system without someone to represent their best interests.

Guardians ad litem and attorneys ad litem can help a minor understand the legal process and meet the obligations required by the court. A guardian ad litem is an individual the court authorized to represent the interests of the minor and act on behalf of the minor.¹⁸¹ This may include making medical and legal decisions regarding the minor or enrolling the minor in school. An attorney ad litem performs the same duties, but also acts as a legal representative in court.¹⁸² Research indicates that legal services were being provided to minor victims of human trafficking through NGOs. Most of the NGOs receive federal funding to provide legal services to foreign-born victims, but that funding is limited. The OAG did not find a similar program that focused on domestic youth who have been victims of human trafficking. One investigator interviewed for the study related that “for every international victim we see, there are ten domestic victims of trafficking.”

If the young victim is foreign-born and has no family in the U.S., the judge will normally appoint a guardian ad litem if the charges brought against the minor are greater than a misdemeanor. A juvenile probation officer would be appointed for any child convicted of a misdemeanor.

Often domestic human trafficking victims are teenage girls who have run away from home repeatedly. When parents no longer respond to assist their children, the courts and police classify these chronic runaway girls as “throw-aways.” These “throw-away” children are those whose parents or guardians will not let them live at home and who no longer take an interest in their support or well-being.¹⁸³ Courts appoint ad litem to serve these minors in certain situations, such as detention hearings. However, the duration of the ad litem’s appointment is often limited to one hearing, and does not provide for long-term care for these victims (such as case management). When asked what remedies would address the needs of these minors, a police sergeant said appointing a guardian ad litem and a DFPS caseworker for each of the “throw-aways” would help remove domestic minors from human trafficking situations.

Recommendations:

1. More study is needed to examine various funding mechanisms that could compensate guardians ad litem and attorneys ad litem for providing legal services to minor victims of human trafficking.
2. Study the long-term appointment (18 months) of a guardian ad litem or attorney ad litem if the victim of human trafficking is younger than 16 years of age and classified as a chronic runaway.

Finding 2: Pursuing earned but unpaid wages for human trafficking victims is rare or non-existent.

Victims of human trafficking are forced to work and often paid very little or not at all. A victim can incur a debt to the trafficker in a variety of ways. In its 2003 assessment of trafficking victims' needs, Caliber Associates identified problems victims encounter when paying smuggling fees.¹⁸⁴ Whether a person arranged to be smuggled into the U.S. for a certain price or entered the country legally with a sponsor, after arrival, the person or his family is informed that the price of transport became higher and, until the new debt amount was paid, the victim will not be released. The traffickers may provide food, shelter and clothing, and then add those costs to the debt the victim owes to the trafficker. Some traffickers get victims addicted to drugs and add the cost of the drugs to the debt as well. The immigrant becomes a trafficking victim when forced into labor or services to satisfy the debt. Domestic runaway children are vulnerable without shelter or food and when approached by someone willing to help them, they become vulnerable to a trafficker and a similar debt.¹⁸⁵ Ultimately, the debt cannot be satisfied by a victim of trafficking. Specific recommendations on pursuing wages are made below in Findings 2A-2C.

Finding 2A: The Texas Workforce Commission has limited authority to pursue unpaid wages.

The federal Fair Labor Standards Act (FLSA) requires employees to be paid a minimum wage and additional compensation for overtime work.¹⁸⁶ The DOL Wage and Hour Division (WHD) enforces U.S. laws concerning minimum wage, overtime and child labor provisions. When FLSA unpaid wage cases are investigated by the DOL, federal restrictions limit the department's investigations to businesses that gross more than \$500,000 per year, or that engage in interstate commerce. If the DOL finds a case with multiple locations or that involves interstate commerce, which is often identified through the movement of workers across state lines or credit card transactions, the WHD has the ability to link these multi-site proceeds to reach the threshold \$500,000.

Cases that fall below the \$500,000 threshold or cases that do not involve interstate commerce do not automatically fall within the Texas Workforce Commission's (TWC) jurisdiction. In addition, there is no mechanism for DOL to notify or refer a case to TWC. The commission initiates a case only after a wage claim against the employer is filed by an employee. If the victim does not file a wage claim, TWC is not aware of the issue and cannot pursue it. If the case is filed, TWC can investigate the case for non-payment of wages, overtime and unemployment insurance. Under current law, if a foreign-born trafficking victim is no longer in the country, either as a result of repatriation or a deportation proceeding that did not take into account their status as a trafficked victim, and has not filed a wage claim, there are no consequences for the employer who withheld wages or underpaid an employee; and the victim remains unpaid.

Recommendations:

1. Authorize TWC to pursue cases of unpaid wages referred to them by the DOL.
2. Develop a mechanism for TWC to receive referrals from federal agencies.
3. Fines collected by TWC related to human trafficking cases should be deposited in the TWC fund for further investigations and prosecutions of similar cases.
4. As currently practiced with non-citizen workers, TWC should encourage cooperation of trafficking victims to file a wage claim, whether or not they stay in the U.S.

Finding 2B: The TWC is not always able to collect unpaid wages for workers.

TWC uses several tools to investigate employers and recoup funds for workers. However, employers sometimes evade this enforcement and workers do not get paid. Chapter 58 of the Texas Property Code allows workers to file a lien against an employer for unpaid wages.¹⁸⁷ However, a worker's lien must be filed within 30 days of incurring the indebtedness. For a human trafficking victim, this is an unrealistic timeframe. Most victims are held captive for several months or years and could not file a lien, even if they had the knowledge of the law. Victims would benefit from additional time to file liens. The extended deadline could apply to cases wherein the judge has made a finding of human trafficking under the Code of Criminal Procedure or the Family Code, or where the victim has been certified as a human trafficking victim under federal law.

Recommendations:

1. Amend the Property Code to allow victims of human trafficking additional time to file liens for lost wages based on "good cause" or another appropriate standard determined by the Legislature.
2. Require the prosecuting attorney to file an abstract of lien with the county clerk if the court makes a finding that the claimant is a victim of human trafficking.

Finding 2C: Most victims and service providers are not aware of the wage claim process.

Human trafficking victims are entitled to receive compensation for their labor and services. This may occur at the federal or state level, depending on the facts of the case as described above. Service providers, typically NGOs, assist rescued victims with housing, medical issues, working with law enforcement and filing governmental forms. However, NGOs are not trained to help victims file wage claims with TWC. Improving this process would also help authorities determine the amount of unpaid wages that are due to the victim. The OAG found no evidence that wage claims were being filed at the state level by or on behalf of human trafficking victims.

Recommendation:

Continue outreach by TWC to educate staff, law enforcement, prosecutors and victim service providers who may help human trafficking victims file wage claims.

Finding 3: Human trafficking victims are not specifically listed in Chapter 56 of the Code of Criminal Procedure.

Crime Victims' Rights are specified in Chapter 56 of the Code of Criminal Procedure.¹⁸⁸ This includes, among other provisions, the Victims Bill of Rights and the Crime Victims' Compensation Act. Currently, human trafficking victims are not specifically listed in the definitions under Subchapter A and human trafficking violations are not listed in Subchapter B. Human trafficking victims fall into the other categories listed in the two subchapters based on the other related crimes of sexual assault, kidnapping and assault. Classifying human trafficking victims into other categories both creates misleading statistics about the seriousness of the crime and prevents victims from receiving services targeted specifically for this unique crime.

Recommendations:

1. Include human trafficking victims in the definitions of a victim under article 56.01 of the Code of Criminal Procedure.
2. Include human trafficking, Penal Code § 20A, in the definition of criminally injurious conduct under article 56.32 of the Code of Criminal Procedure.

Finding 4: Human trafficking victims do not have a dedicated pseudonym form that provides additional protection by ensuring their names are not disclosed in public files or records.

It is vital that victims feel secure after being rescued from a human trafficking situation. Victims of human trafficking often fear for their own safety and that of their families. If they feel threatened or vulnerable, they are less likely to cooperate with the investigation and prosecution of the trafficker. The Texas Code of Criminal Procedure, Chapter 57 and Chapter 57B, provide for a pseudonym form for victims of sexual assault and family violence.¹⁸⁹ The police are trained to carry and offer the forms to the victims. This form is currently not available for all victims of human trafficking, only those who are victims of sexual assault or domestic violence.

Recommendation:

Expand the Code of Criminal Procedure to include Chapter 57C, authorizing the use of a pseudonym form for victims of human trafficking.

Finding 5: Funding for victim services is a major concern.

Human trafficking was only recently added to Texas law and services that specifically address this population are not always readily available. Human trafficking victims need assistance immediately after their rescue, and long-term help to regain self-sufficiency. The federal government is primarily responsible for victims who fall under the TVPA protection umbrella. Some federal funds for non-governmental services are restricted to foreign-born victims. Before foreign-born human trafficking victims are certified, they cannot work and do not qualify for government programs. Federal grant money is used for most needs after rescue, but unless victims can receive counseling and language assistance, their chances for successful recovery are very limited. After certification, the victims are given work permits and can become self-supporting. The NGOs that care for foreign-born victims prior to certification are often limited in their funding per victim and many can not meet victims' basic needs. Safe housing was listed as a top priority. Without it, these victims may be forced to return to their native country without helping in the prosecution, or even worse, return to the trafficker and face additional abuse.

When the TVPA was reauthorized in 2003 and 2005 it provided additional funding to combat trafficking involving U.S. citizens; however, the funding is limited.¹⁹⁰ The most recent U.S. Attorney General's report on trafficking recommended additional actions relating to domestic trafficking, including "ensuring that U.S. citizen victims are as vigorously identified, protected, and assisted as foreign nationals, including sufficient case management" and "ensuring child victims of severe forms of human trafficking (both foreign and U.S. citizen) are provided access to services and benefits regardless of their ability to assist law enforcement."¹⁹¹

When resources are not available at the federal level, the state and local government and NGOs are left to provide for the victims. Without proper coordination among the state and local agencies, services may be duplicated or not utilized. Finding a balance that provides for all victims regardless of the crime is a challenge. Texas must be resourceful to find adequate ways to pay for the needs of these victims.

Recommendations:

1. Develop grants or funding streams to assist local governments and NGOs with providing services to these victims.
2. Secure funding or mechanisms to provide shelters or transitional housing for human trafficking victims to address their specific needs.
3. Secure ways to fund programs, through fines and fees of human traffickers or restitution.
4. Study the coordination of the provision of services statewide and include local and state government and NGOs.

Preventing Human Trafficking in Texas

Much focus has been placed on efforts directed at preventing human trafficking. The federal government made prevention one of its top priorities in the TVPA. Texas has responded to the call to eliminate human trafficking by prosecuting offenders to deter future violations, participating in task forces, training and outreach programs to increase awareness, and other efforts aimed at ending the supply of and demand for potential victims.

Texas continues to pursue prosecutions of human trafficking violations, primarily at the federal level. These prosecutions provide deterrence from future violations and remove offenders from situations where they can harm more victims. Task force participation ensures authorities use a collaborative approach to ending human trafficking and providing technical assistance. These task forces are critical to the prosecution, protection and prevention of human trafficking violations.

Increased awareness of both federal and state laws will encourage people who might sense that something is wrong to report trafficking crimes. Outreach programs addressing awareness, increasing reporting and rescuing victims will lead to the prosecution of traffickers and reduce the possibility of a new victim becoming prey to the trafficker. NGOs receiving grant funds from OVC are required to conduct training and outreach to their local communities. The numbers of people educated through this method are steadily increasing and some organizations are utilizing “training the trainer” programs to spread the word.

The U.S. Department of Health and Human Services continues to fund the Rescue & Restore public awareness campaign and the Immigration and Customs Enforcement Agency issued a new public service announcement in multiple languages. HHS also continues to provide funding for the 14 Rescue & Restore coalitions across the state.¹⁹² HHS maintains the National Human Trafficking Resource Center to provide national training and technical assistance, in addition to operating a national hotline (1-888-3737-888). HHS has also started a pilot program to identify trafficking among unaccompanied alien children; and a domestic notification pilot program that provides suspected U.S. citizen trafficking victims with information regarding the benefits and services for which they may be eligible simply by virtue of their citizenship.¹⁹³

Efforts to reduce the supply of potential victims include anti-smuggling initiatives. Two Texas Senate Committees– the Committee on International Relations & Trade and the Committee on Transportation & Homeland Security– are examining the following interim charge: “Study and make recommendations to stem the tide of illegal immigration, drug trafficking, and human smuggling, and to reduce the criminal activities within the border region.”¹⁹⁴ Reducing incidents of smuggling will reduce the number of possible victims of human trafficking.

At the federal level, efforts to prevent trafficking also may impact Texas by ending the supply of and demand for potential victims. The State Department is involved in international efforts to reduce trafficking. It works with the International Labor Organization (ILO) to provide technical assistance to foreign governments, workers' organizations and employer organizations with the development and implementation of effective strategies to prevent labor exploitation.¹⁹⁵ ICE maintains a "global perspective" on human trafficking and looks at the "full scope of the criminal enterprise."¹⁹⁶ ICE targets "recruiters, brokers, document providers, travel agencies, corrupt officials, smugglers and businesses engaged in criminal activities at source and transit countries," and "works with foreign law enforcement partners to target the many bank accounts, wire transfers and funding mechanisms that fuel the criminal enterprise."

Prevention efforts that effectively combine training, outreach, investigation, prosecution and victim assistance will help in the fight against human trafficking. Additional research may provide the data necessary to focus prevention efforts more effectively. Texas has taken the first steps to fight human trafficking and to end the victimization, but the journey has just begun. To be effective, steps must be taken to end the supply of and demand for human trafficking victims. Sustained and targeted efforts to eradicate the sources and the conditions that fuel human trafficking are still needed.

Finding 1: Funding is needed for local law enforcement agencies to continue fighting human trafficking.

Funding for these anti-human trafficking initiatives varies across the state. Primary funding for areas with task forces has been federal. Local law enforcement agencies have applied for and been granted federal funds through the BJA to assist in the investigation and prosecution of human trafficking cases. If these federal funds are reduced or eliminated, identifying these victims, preventing trafficking and prosecuting offenders will be greatly reduced. In areas without task forces, funding is dependent on the local budget. Money is not always available for additional specialized units. The cost of local police is increasing every year, and agencies are looking to streamline operations and reduce costs. One respondent indicated that a local audit of the police department recommended abolishing the human trafficking unit to save money, but the unit was spared because it was funded by the BJA. A more stable funding stream is needed to assist local law enforcement in addressing the human trafficking cases in their areas.

Recommendation:

Evaluate funding possibilities for local law enforcement agencies to qualify for state funding in the event federal funds are unavailable.

Finding 2: Stronger anti-smuggling efforts reduce the likelihood of persons becoming human trafficking victims and increase the possibility of human trafficking detection.

Although not all persons who are smuggled become human trafficking victims, reducing the number of people transported across the border also reduces the pool of possible victims. With additional efforts targeting smuggling, the potential to uncover human trafficking organizations is increased. In June 2008, the U.S. Border Patrol and Governor Rick Perry announced a partnership to meet the challenge of smuggling at the border.¹⁹⁷ In an initiative dubbed “Texas Hold ‘Em,” Governor Perry directed the Texas DPS to work with Border Patrol to revoke the commercial drivers licenses of anyone convicted of felony smuggling.¹⁹⁸ In July 2008, U.S. Senator John Cornyn introduced federal legislation “to close a federal loophole that provides tougher penalties for commercial vehicle operators who smuggle narcotics than those who smuggle humans.”¹⁹⁹ This past year, the DOJ also announced that 29 additional prosecutors would be sent to Texas to prosecute drug and human smuggling violations.²⁰⁰

As identified earlier in the report, the Texas Senate Committees on International Relations & Trade and Transportation & Homeland Security are also reviewing smuggling efforts in interim charges.

Recommendations:

1. Continue efforts to prevent smuggling across Texas borders.
2. Review recommendations from the Texas Senate committees’ interim reports on smuggling.

Finding 3: Texas lacks a coordinated state level grant program for human trafficking prevention projects.

HB 1751, passed during the 80th Legislative Session, also provided for grants for human trafficking programs. However, the funding mechanism for these grants was the subject of litigation at the time of this report.²⁰¹ Grants for training, primary prevention and victim assistance will aid prevention efforts and provide resources to help victims avoid conditions that leave them vulnerable to traffickers.

Recommendations:

1. Evaluate funding mechanism for grant programs.
2. Coordinate efforts by different agencies to consider grant funding for human trafficking projects.

Conclusion

“For prosecutors and investigators, human trafficking cases can pose daunting challenges. Failure to recognize trafficking victims, inadequate resources to adequately investigate or prosecute, victims who are unwilling or too frightened to cooperate, insufficient statutory frameworks, complex jurisdictional analysis and lack of training are potential pitfalls for law enforcement professionals trying to respond to the incidence of trafficking within their communities. Despite these challenges, the existence of human trafficking in our communities demands an appropriate institutional response.”²⁰²

As more victims fall prey to human traffickers, the importance of the legislative mandate to complete this report is further magnified. The federal government has responded to this crime with the passage of the TVPA and the provision of anti-trafficking resources. State-level responses must also rise to the challenge. Texas has criminalized human trafficking and devoted local and state resources to human trafficking investigations, prosecutions and victim protection.

Many challenges still remain as Texas prepares to provide a comprehensive response to human trafficking. First, additional review of state law is needed to enhance state-level prosecutions and to provide more legal tools as law enforcement attempts to dismantle criminal enterprises that engage in human trafficking. Second, to increase victim identification and rescue and to encourage criminal prosecutions, professional training on human trafficking is essential for all levels of government, law enforcement, NGOs and first responders. Third, prevention efforts must be maintained to help end the

supply of and demand for trafficked victims. Finally, even as improvements and enhancements to existing laws and social services for victims are implemented, continued study will be necessary to find additional solutions and legal tools that will further improve the State’s fight against human trafficking.

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- ⁹² Eleven codes were identified as most relevant to victims for the purposes of this report: Alcoholic Beverage Code, Business and Commerce Code, Civil Practice and Remedies Code, Code of Criminal Procedure, Family Code, Government Code, Health and Safety Code, Human Resources Code, Labor Code, Occupations Code, and the Penal Code.
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Acknowledgments

Appreciation must be expressed to the Texas Legislature for recognizing the need for an analysis of human trafficking and for directing the study. This report serves to raise awareness of the issue of human trafficking, the difficulty in prosecuting traffickers, and to recommend legal changes to combat this egregious crime in our state. The Office of the Attorney General and the Health and Human Services Commission convened a workgroup to assist with research and expertise in the area of serving victims of human trafficking. The OAG Human Trafficking Workgroup consisted of:

Health and Human Services Commission

- Caitriona Lyons, Refugee Program Coordinator, Family & Community Services

Office of the Attorney General

- Eric J.R. Nichols, Deputy Attorney General for Criminal Justice
- Stacey Napier, Deputy Attorney General for Government and External Affairs
- Herman Millholland, Chief, Crime Victim Services Division
- Don Clemmer, Chief, Criminal Prosecutions Division
- Steven Todd, Assistant Attorney General, Criminal Prosecutions Division
- Sharon Pruitt, Assistant Attorney General, Juvenile Crime Intervention
- Denise Donnelly, Legislative Liaison, Intergovernmental Relations Division
- Kaye Woodard-Hotz, Project Manager, Crime Victim Services Division
- Dr. Jennie Barr, Interim Director Sexual Assault Prevention and Crisis Services, Crime Victim Services Division
- Lisa Voyles, Regional Coordinator, Crime Victim Services Division
- Susan Hatch, Regional Coordinator, Crime Victim Services Division
- Pete La Fuente, Assistant Chief, Criminal Investigations Division
- Dave Torsiello, Captain, Criminal Investigations Division
- Adam Sierra, Sergeant, Criminal Investigations Division
- Bruce Koch, Sergeant, Criminal Investigations Division
- Mark Hanna, Jr., Law Clerk, Intergovernmental Relations Division
- Leighton Schubert, Law Clerk, Intergovernmental Relations Division

Refugee Services of Texas, Inc., Austin

- Kate Roche, Central Texas Coalition Against Human Trafficking, Chairperson

U.S. Department of Justice

- Kathi West, Victim Witness Coordinator, U.S. Department of Justice, U.S. Attorney's Office

University of Texas, School of Social Work, Institute on Domestic Violence and Sexual Assault

- Dr. Noel Busch-Armendariz, PhD, LMSW, MPA, Director
- Karen Kalergis, Associate Director
- Laurie Cook-Heffron, LMSW, Project Coordinator
- Carolee Smith, Intern
- Julia Longoria, Legal Research Graduate Assistant

Appendices

Appendix A: Acronym Glossary

Appendix B: Media Reports

Appendix C: Modifications Chart

Appendix D: Texas Human Trafficking Law

Appendix E: SPOG Summary of Services

Appendix F: Additional Resource List

Appendix A: Acronym Glossary

ACF	Administration for Children and Families, U.S. Department of Health and Human Services
BJA	Bureau of Justice Assistance, U.S. Department of Justice, Office of Justice Programs
BJS	Bureau of Justice Statistics, U.S. Department of Justice, Office of Justice Programs
CJCAT	County Judges and Commissioners Association of Texas
CLEAT	Combined Law Enforcement Associations of Texas
CPWS	Center for Women Policy Studies
CSEC	Commercial Sexual Exploitation of Children
CTCAHT	Central Texas Coalition Against Human Trafficking
CVC	Texas Crime Victims' Compensation Program
DADS	Texas Department of Aging and Disability Services
DFPS	Texas Department of Family and Protective Services
DPS	Texas Department of Public Safety
DOJ	U.S. Department of Justice
DOL	U.S. Department of Labor
FBI	Federal Bureau of Investigation
FLSA	Fair Labor Standards Act
GAO	U.S. Government Accountability Office
GEMS	Girls Educational and Mentoring Services
HB	House Bill
HHS	U.S. Department of Health and Human Services
HHSC	Texas Health and Human Services Commission
HTRS	Human Trafficking Reporting System, Bureau of Justice Statistics, U.S. Department of Justice
ICE	Immigration and Customs Enforcement, U.S. Department of Homeland Security
IDVSA	Institute on Domestic Violence and Sexual Assault, University of Texas, School of Social Work,
NDAA	National District Attorneys Association
NEU	Northeastern University, Institute on Race and Justice
NGOs	Non-governmental Organizations
NIJ	National Institute of Justice, U.S. Department of Justice, Office of Justice Programs
OAG	Texas Office of the Attorney General
OCA	Office of Court Administration
OIG	Office of Inspector General, U.S. Department of Justice
OJP	Office of Justice Programs, U.S. Department of Justice
ORR	Office of Refugee Resettlement, U.S. Department of Health and Human Services, Administration for Children and Families
OVC	Office for Victims of Crime, U.S. Department of Justice, Office of Justice Programs
PITF	President's Interagency Task Force
POC	Point of Contact
RST	Refugee Services of Texas, Inc.
SAGE	Standing Against Global Exploitation
SB	Senate Bill
SCHIP	State Children's Health Insurance Program
SCR	Senate Concurrent Resolution
SOS	Texas Secretary of State
SPOG	Senior Policy Operating Group
State Department	U.S. Department of State
TANF	Temporary Assistance for Needy Families
TCLEOSE	Texas Commission on Law Enforcement Standards and Education
TDCAA	Texas District and County Attorneys Association
TDLR	Texas Department of Licensing and Regulation
TJCJA	Texas Justice Court Judges Association
TIL	Transition to Independent Living Program
TMPA	Texas Municipal Police Association
TVPA	Trafficking Victims Protection Act
TWC	Texas Workforce Commission
UI	Urban Institute
USCCB	United States Conference of Catholic Bishops
UH	University of Houston
US	United States
WHD	Wage and Hour Division, U.S. Department of Labor

Appendix B: Media Reports

International: Sale of Children for Illegal Adoptions

“Mexico arrests 2 in baby buying case” (Monterrey, Mexico and Harlingen, May 2008)

A husband and wife from Harlingen, Texas, were arrested in northern Mexico and accused of buying babies in Mexico to sell to U.S. couples for a profit. The investigation of the child trafficking ring began when a woman reported her granddaughter missing and in the custody of one of the suspects. When police arrested the couple, they found them with the baby and a notebook with a list of other babies possibly sold in illegal adoptions. The Mexican and U.S. authorities are working to locate any additional children.

Note: The black market sale of children for adoptions occurs around the world and involves children from all nationalities. The children may either be sold by a parent or kidnapped by the trafficker. Foreign adoptions are legal in most countries, but usually not for profit.

International Business Times. May 28, 2008. “Mexico Arrests 2 in Baby Buying Case.” Retrieved July 10, 2008, from <http://www.ibtimes.com/articles/20080528/mexico-police-arrest-2-accused-of-buying-babies.htm>.

International: Domestic Servitude

“Houston Woman Pleads Guilty to Forced Labor Charges” (Sugarland, April 2008)

A Sugarland woman pleaded guilty to holding an Indonesian worker in forced domestic servitude for five years. The worker escaped the woman’s home by climbing out of a window. The domestic worker was originally employed by the woman in Malaysia and brought to the U.S. on a temporary visitor’s visa. Court papers indicate that the worker did not realize she was headed to the U.S. until she arrived. The worker was forced to work under fear of serious harm with almost no compensation. In five years, she was paid approximately \$320. The defendant was sentenced to a year in prison, required to pay \$72,676 in restitution to the victim, and will most likely be deported upon release from prison.

Note: Human trafficking often remains hidden. The victim worked for the family for many years and was not detected. Threat of deportation is a common way to keep a person in domestic servitude. Cases involving single or few victims often do not come to the attention of law enforcement or elicit full prosecution by criminal justice personnel.

Reuters. April 3, 2008. “Houston Woman Pleads Guilty to Forced Labor Charges.” Retrieved July 9, 2008, from <http://www.reuters.com/article/pressRelease/idUS238341+03-Apr-2008+PRN20080403>; and *Houston Chronicle*. Cindy George. April 4, 2008. “Woman Gets Prison, Fine for Rights Abuse/Servant Forced to Work 5 Years for about \$420.” Retrieved July 9, 2008, from http://www.chron.com/CDA/archives/archive.mpl?id=2008_4543466.

**“Woman receives \$10,000 fine, four years probation in slave trial”
(Edinburg, May 2006)**

A Texas couple paid a “coyote” \$250 to smuggle two Guatemalan women into Hidalgo County in November 2004. The smuggled women said they were promised \$125 a week after they paid off the smuggling fee. The women said that there was no pay and that the defendant threatened to report them to immigration and police if they tried to leave. The wife received a \$10,000 fine and received four years probation. The husband was cleared.

Note: This was the first conviction of human trafficking in Hidalgo County under state law. Although the victims were willingly brought to the U.S., after arrival the traffickers threatened them and forced them to provide domestic services with no compensation. The conviction was a victory; however, the sentence was significantly light as the defendant received no jail or prison time.

McAllen Monitor. May 9, 2006. “Woman Receives \$10,000 Fine, Four Years Probation in Slave Trial.”

**“Husband and Wife Sentenced for Forced Labor Involving 12 Year Old Girl”
(Waco, March 2006)**

A Blum couple smuggled a 12 year-old girl into the U.S. from Mexico and forced her to work in their home. Initially, the girl was brought over to help care for the couple’s children. In return, the girl’s mother would receive \$50 a month for her services. After she arrived, the girl was physically abused, forced to sleep on the floor and was not paid for the work. She was also told that she would be harmed or jailed by police if she tried to escape. The defendants each pleaded guilty to one charge of forced labor and one charge of bringing a person into the U.S. illegally to work. The husband was sentenced to two years and nine months in prison and the wife was sentenced to seven years in prison. The couple was ordered to pay the girl \$28,821 in restitution, the amount calculated by the federal officials to compensate the girl for her work at the minimum wage rate of \$5.15 an hour.

Note: The victim was brought to the country illegally to work. The traffickers kept the child in deplorable conditions and she and her family were taken advantage of because of their economic hardships. She was only found after local law enforcement responded to a reported drug overdose at the defendant’s residence. The victim has since returned to family members. The restitution judgment as ordered in this case is a useful mechanism to ensure victims receive compensation for their services from the offenders.

U.S. Department of Justice. May 3, 2006. “Husband and Wife Sentenced for Forced Labor Involving 12 Year Old Girl.” Retrieved July 11, 2008, from http://www.usdoj.gov/usao/txw/press_releases/2006/Maddox.pdf.

International: Sex Trafficking

“Prostitution case suspects could be victims of human trafficking” (Beaumont, May 2008)

Two spas were closed for violating licensing provisions and code violations for massage parlors. The case was being investigated by the county attorney, county sheriff and fire marshal. Two women from China were arrested and charged with prostitution. Law enforcement was working with the FBI to determine if the case involves human trafficking.

Note: Although the women said they were not forced into prostitution, it is common for a victim of human trafficking to protect their captor because of fear of retribution or fear of deportation.

Beaumont Enterprise. Sarah Moore. May 11, 2008. “Prostitution Case Suspects Could Be Victims of Human Trafficking.” Retrieved July 9, 2008, from http://www.beaumontenterprise.com/news/prostitution_case_suspects_could_be_victims_of_human_trafficking_06-24-2008_17_31_27.html.

“Man Sentenced to 10 Years for Role in San Antonio Sex-Trafficking Ring” (San Antonio, March 2008)

A San Antonio man was sentenced to 10 years in prison for his role in a sex trafficking ring that involved at least one minor. He pled guilty to transporting undocumented immigrants for commercial advantage and private financial gain, and to a separate count of sexual trafficking of a minor. He and four other defendants conspired to bring girls from Mexico to work as “escorts.” The girls were initially smuggled into the U.S. from Nuevo Laredo, and brought to the San Antonio area to work as non-sexual escorts.

Once in San Antonio, they were sold into prostitution and told that it would take five years to pay off their smuggling debt. The victims were told they would be killed if they tried to escape. The girls were shuttled between three locations and forced to dance, disrobe and have sexual relations with customers. Prosecutors said the defendants were setting up a prostitution operation and the girls became sexual slaves.

Note: Even if a victim has agreed to be smuggled into the country, he or she does not consent to the sexual abuse and exploitation that follows. This case was investigated by special agents with ICE and investigators with the Bexar County Sheriff’s Office. Assistance was provided by local law enforcement and the prosecution was handled by the U.S. Attorney’s Office and the Civil Rights Division of the DOJ.

Reuters. March 12, 2008. “Man Sentenced to 10 Years for Role in San Antonio Sex-Trafficking Ring.” Retrieved July 10, 2008, from <http://www.reuters.com/article/pressRelease/idUS254182+12-Mar-2008+PRN20080312>; and *Express News.* Guillermo Contreras. June 2, 2007. “Details Emerge in Human Trafficking Case in San Antonio.” Retrieved July 11, 2008, from http://www.mysanantonio.com/news/metro/stories/MYSA060207.01A.human_trafficking_folo.35909ae.html.

International: Minor Sex Trafficking/Commercial Sexual Exploitation of Children

“Girl says she was kidnapped, used as sex slave/Mother and son charged with kidnapping and sexual assault” (Jacinto City, March 2008)

A 16-year-old girl from Mexico called 911 and reported she was being held against her will and sexually abused. A few months prior, she had been smuggled into the U.S. from Mexico without the knowledge of her family. Upon her arrival she was held in a bedroom with a padlock on the door, bars on the window, and large dogs in the yard. She was sexually and physically abused at the home and other locations. When one of her captors fell asleep, the girl was able to call 911 on his phone and the police located her by cell phone coordinates. The captors, a mother and her son, were arrested and charged with aggravated sexual assault of a child and aggravated kidnapping.

Note: This case highlights the plight of those smuggled into the country and are sexually exploited upon arrival. Although human trafficking is an element in this incident, the prosecution charged the offender with other crimes.

Houston Chronicle. Ruth Rendon. March 13, 2008. “Girl Says She was Kidnapped, Used as Sex Slave/Mother and Son Charged with Kidnapping and Sexual Assault.” Retrieved July 10, 2008, from http://www.chron.com/CDA/archives/archive.mpl?id=2008_4530267.

Domestic: Minor Sex Trafficking/Commercial Sexual Exploitation of Children

“Affidavit Points to ‘Program for Sex’ (Vermont and San Antonio, July 2008)

A 12 year-old Vermont girl was first reported missing and later found dead after she had been solicited by her uncle to join a sex ring called “Breckenridge.” Another juvenile involved in the sex ring indicated to police that she had been having sex with the uncle since she was nine years old and also had sexual relations with a San Antonio man. The San Antonio man was the former step-father of the deceased girl. Both men have been arrested and charged with aggravated sexual assault against a minor.

Note: The investigation also focused on interstate travel for the purposes of illicit sexual conduct and enticing minors to engage in prostitution or sexual acts. The elements in this case describe a situation that could be seen as a domestic sex trafficking.

WPTZ-TV. July 1, 2008. “Affidavit Points to ‘Program for Sex.’” Retrieved July 10, 2008, from <http://www.wptz.com/news/16759307/detail.html>.

***“FBI, DOJ, and NCMEC Mark Five-Year Anniversary of Innocence Lost”
(Dallas and Houston, June 2008)***

The FBI, DOJ, National Center for Missing & Exploited Children (NCMEC) and state and local law enforcement coordinated “Operation Cross Country,” a five-day national enforcement against criminals engaged in domestic trafficking of children for prostitution. The operation took place in 16 cities, including Dallas and Houston, and led to the recovery of 21 children nationwide. The investigation focused on rescuing the children and identifying the organized networks that target and traffic children. The operation targeted truck stops, motels, casinos and the Internet where children are prostituted.

The operation is part the “Innocence Lost National Initiative” which was created in 2003 through a collaboration of the FBI, DOJ and NCMEC. Innocence Lost investigations have recovered 433 children and more than \$3 million in forfeited assets since its inception in 2003 in the U.S.

Note: In many cases, child prostitutes are often treated, charged and prosecuted as criminals. In reality, the children are victims of human trafficking, forced into prostitution and treated as commodities for sale or trade. The federal human trafficking law is designed to protect these children.

Federal Bureau of Investigations. June 25, 2008. “FBI, DOJ, and NCMEC Mark Five-Year Anniversary of Innocence Lost.” Retrieved August 19, 2008, from <http://www.fbi.gov/pressrel/pressrel08/innocencelost062508.htm>.

***“Delay in Texas child sex case”
(Mineola, June 2008)***

Six adults have been charged with aggravated sexual assault of a child for exploiting five children at an East Texas swingers club. The children, ages 5-7, were drugged and forced to perform sex shows in front of 50–100 people every week. The investigation began after two of the children commented to their foster mother about their activities. The first two defendants were found guilty earlier this year and sentenced to life in prison. A third defendant’s trial was set to begin June 30, 2008.

Note: Although the children in this case were commercially sexually exploited, which is automatically human trafficking under federal law, Texas law does not have the equivalent provisions for children involved in sex trafficking. These defendants were charged with aggravated sexual assault of a child.

MSNBC. June 23, 2008. “Delay in Texas Child Sex Case.” Retrieved July 10, 2008, from <http://www.msnbc.msn.com/id/25318577/>.

***“Police: 15-year-old worked as a stripper, prostitute at Houston nightclub”
(Houston, June 2008)***

A spa owner was charged with money laundering, compelling a minor into prostitution, sexual performance of a child, and aggravated promotion of prostitution after a 15 year-old girl admitted to a doctor that she was pregnant by a client at the spa. She also told investigators that she had been working as a stripper and a prostitute at the spa.

Note: This case provides another example of the commercial sexual exploitation of children. In cases of domestic minor sex trafficking, children need specialized case management to keep them from returning to the cycle of child prostitution.

KHOU. Vincente Arenas. June 12, 2008. “Police: 15-year-old Worked as a Stripper, Prostitute at Houston Nightclub.” Retrieved July 10, 2008, from http://www.khou.com/topstories/stories/khou080611_tj_teenstripper.22e1144c.html#.

***“Dallas police find teen prostitute, seize \$28K in cash”
(Dallas, May 2008)***

A 15-year-old reported to the police that she was forced into prostitution. She told police that she got tired of working for the pimp and he tried to persuade her not to go to the police. The pimp gave her \$28,000 in cash but she went to the police anyway. The girl is reportedly a runaway from Laredo and was placed in a facility that helps minors who have become prostitutes.

Note: Children forced into prostitution are often runaways; often lured into staying with their pimps through fear or after becoming addicted to drugs. The Dallas Police Department maintains a high-risk victims and trafficking unit in the community directed at protecting these vulnerable children.

Dallas Morning News. Rebecca Lopez. May, 29, 2008. “Dallas Police Find Teen Prostitute, Seize \$48K in Cash.” Retrieved July 9, 2008, from <http://www.dallasnews.com/sharedcontent/dws/news/city/dallas/stories/052908dnmetteen28K.438f5ea2.html> .

***“Police: Teen pimp lures girls into illegal sex”
(Dallas, March 2008)***

A 13-year-old was arrested at a local nightclub where she was allegedly bringing other young girls to dance and to serve as prostitutes. Investigators said the 13-year-old lured other girls to the club, enticing them with the promise of money and even forcing some of them to dance and sell their bodies for sex. The 13-year-old was arrested and charged with compelling prostitution. According to the report, she and others like her may be runaways forced into prostitution.

Note: In many cases children are luring other children into the world of prostitution. The children involved are typically runaways or have problems at home. Once befriended by another child, they are exploited sexually by the pimps and traffickers. Child victims may be arrested and prosecuted before or in lieu of their traffickers or ‘customers/clients.’ The children find it hard to leave the cycle of prostitution.

WFAA-TV. Rebecca Lopez. March 25, 2008. “Police: Teen Pimp Lures Girls into Illegal Sex.” Retrieved July 10, 2008, from http://www.wfaa.com/sharedcontent/dws/wfaa/latestnews/stories/wfaa080324_wz_teenpimp.2278d8a4.html.

**“3 teens accused of heading FW prostitution ring”
(Fort Worth, January 2008)**

Investigators say teenage gang members in Ft. Worth forced five victims, ages 13 to 16, into prostitution. A 15-year-old girl, “the enforcer,” helped male members of a gang brutalize runaway teenage girls until they agreed to become prostitutes. The victims were allegedly beaten and some were gang-raped in front of the other girls. When one girl tried to leave, the gang threatened to kill her parents. Gang members got the girls high on drugs, and then walked them through an apartment complex and charged \$50 to \$60 for sex. Two defendants, a 17-year-old and 19-year-old, were charged with trafficking of a person. The 19-year-old was also charged with engaging in organized criminal activity and aggravated kidnapping. The other two defendants are minors and were also arrested for forcing a teen into prostitution.

Note: In an update on the case, the three teenagers reached a plea agreement and were sentenced to the Texas Youth Commission. Each admitted to one count of compelling prostitution. The other charges, including human trafficking, were dropped.

WFAA-TV. Darla Miles. January 16, 2008. “3 Teens Accused of Heading FW Prostitution Ring.” Retrieved July 11, 2008, from http://www.wfaa.com/sharedcontent/dws/wfaa/latestnews/stories/wfaa080114_mo_prostitutionring.226e0ecd.html; and WFAA-TV. Darla Miles. January 5, 2008. “FW Police Rescue Girl, 14, Forced into Prostitution.” Retrieved July 11, 2008, from http://www.wfaa.com/sharedcontent/dws/wfaa/latestnews/stories/wfaa080104_lj_miles.d160bd6.html; and *Ft. Worth Star Telegram*. Alex Branch. May 29, 2008. “Suspected Teen Pimps Reach Plea Agreements.” Retrieved July 11, 2008, from <http://www.star-telegram.com/804/story/671766.html>.

**“Beaumont Native Sentenced to Lengthy Prison for Sex Trafficking of Minors”
(Beaumont, May 2007)**

A Beaumont native was convicted in the first case of harboring minors for commercial sex brought in the Southern District of Texas, and was sentenced to more than 21 years in prison. The defendant’s activities involved harboring two minor victims for commercial sex and three other minors for other illegal activity. The defendant had recruited two runaways, ages 15 and 14, by lavishing them with attention and affection. They had been living on the streets for some time when the defendant approached them. The defendant enticed them into prostitution and the victims turned over all the money they made to him.

Note: Runaways are often coerced into a life of prostitution by criminals who prey upon their vulnerabilities. Many child prostitution cases may involve victims of human trafficking. With proper training, investigators may be able to uncover these hidden victims.

U.S. Department of Justice. May 2, 2007. “Beaumont Native Sentenced to Lengthy Prison for Sex Trafficking of Minors.” Retrieved July 11, 2008, from <http://www.usdoj.gov/usao/txs/releases/May2007/070502-Anderson.htm>.

Appendix C: Modifications Chart

Statute	Does the law address the needs of the victim or witness?	Summary	Modification that would address a need of the victim or witness
Alcoholic Beverage Code			
§ 106.15. Prohibited Activities by Persons Younger Than 18.	No	Prohibits anyone under the age of 18 to dance for benefit. It also prohibits the licensee from inducing anyone under 18 to dance for benefit.	Amend to include dancing "for" a person as one of the prohibited activities.
Civil Practice & Remedies Code			
The analysis included a review of the Civil Practice & Remedies Code. However, most laws were generally available for all participants, not specifically for human trafficking victims, and were not listed separately in this chart. If laws were of additional value or a modification is suggested, then the law is included.			
§ 16.0045. Five-Year Limitations Period.	Yes	Provides a 5 year statute of limitations on personal injury claims arising from sexual assault, aggravated sexual assault, and continuous sexual abuse of young child or children.	Expand to include Human Trafficking as described by § 20A, Penal Code.
§ 41.008. Limitation on Amount of Recovery. (Damages)	Yes	Provides limits for exemplary damages in certain cases. Exclusions include certain felonies committed knowingly or intentionally.	Expand to include Human Trafficking as described by § 20A, Penal Code.
§125.0015. Common Nuisance.	Yes	Requires a person who maintains a multi-unit residential property to attempt to abate habitual criminal activity. Suit may be brought by either a private or public individual.	Expand to include the following offenses in the list of activities that define a common nuisance: Sexual Performance of a Child as described by § 43.25, Penal Code; Employment Harmful to Children as described by § 43.251, Penal Code; and Human Trafficking, as described by § 20A, Penal Code.

Statute	Does the law address the needs of the victim or witness?	Summary	Modification that would address a need of the victim or witness
Code of Criminal Procedure			
Art. 2.25. Reporting Certain Aliens to Federal Government.	Yes	Requires a judge to report to federal government if undocumented person is convicted of a felony (or placed on deferred adjudication).	In addition, allow the judge to make an affirmative finding that the person is a victim of human trafficking.
Art. 7A.01-Art. 7A.07. Protective Order for a Victim of Sexual Assault.	Yes	Provides the mechanism for protective orders to prevent interaction/contact between victim of sexual assault and the offenders, and includes restrictions on offenders and warnings for violations.	Add human trafficking as category under Chapter 7B. Protective Order for a Victim of Human Trafficking. Model the language after Chapter 7 and Chapter 7A.
Art. 42.0191. Finding Regarding Victims of Trafficking or Other Abuse	Yes	Allows for the affirmative finding that the conduct being prosecuted was committed by a victim of human trafficking or by a person assisting with the prosecution of the case.	Include a tracking and reporting provision.
Art. 42.037. Restitution.	Yes	Provides for restitution to a victim or to the compensation to victims of crime fund if money has been paid to a victim.	Add requirement for restitution to the state for services and benefits received by a human trafficking victim prior to the date of sentencing.
Art. 42.0371. Mandatory Restitution for Kidnapped or Abducted Children.	Yes	Provides for restitution to a victim under the age of 17 for the cost of rehabilitation, including medical, psychiatric and psychological care. May also be enforced by the state.	Require mandatory restitution to the state for services and benefits received by a human trafficking victim prior to the date of sentencing. Add Human Trafficking in new Art. 42.0372. Mandatory Restitution for Victims of Trafficking. Model after Art. 42.0371.
Art. 42.12. Deferred Adjudication; Community Supervision. (Section 5)	Yes	Allows for the affirmative finding for a defendant being placed on community supervision that the conduct being prosecuted was committed by a victim of human trafficking or by a person assisting with the prosecution of the case.	Include a tracking and reporting provision.
Art. 42.21. Notice of Release of Family Violence Offenders.	Yes	Requires notice to the victim before releasing a person convicted of a family violence offense.	Add human trafficking as a new category under Art. 42.211. Notice of Release of Human Traffickers. Model after Art. 42.21.

Statute	Does the law address the needs of the victim or witness?	Summary	Modification that would address a need of the victim or witness
Art. 42.22. Restitution Liens.	Yes	Provides victims and the state with a restitution lien to secure restitution. The liens are good for ten years and may be refiled until the restitution is paid.	Include payment to the state for services and benefits received by a human trafficking victim prior to the date of sentencing. Amend to allow for 20 year liens similar to federal statute.
Art. 56.01-Art. 56.93. Rights of Crime Victims.	Yes	Provides the rights afforded crime victims in the criminal justice system and outlines the benefits available under the Crime Victims' Compensation Program.	Add human trafficking as a violation that would qualify harmed victims to receive compensation from the victims of crime fund. Provide training on human trafficking to providers assisting crime victims and include information on available community resources.
Art. 57.01- Art. 57.03. Confidentiality of Identifying Information of Sex Offense Victims.	Yes	Provides the process for creating a pseudonym for victims of sexual assault to be used in all public files and records related to the offense.	Add human trafficking as a category under Chapter 57C. Confidentiality of Identifying Information of Human Trafficking Victims. Model the language after Chapter 57 and 57B.
Art. 57B.01- Art. 57B.05. Confidentiality of Identifying Information of Family Violence Victims.	Yes	Provides the process for creating a pseudonym for victims of family violence to be used in all public files and records related to the offense.	Add human trafficking as a category under Chapter 57C. Confidentiality of Identifying Information of Human Trafficking Victims. Model the language after Chapter 57 and 57B.
Chapter 59. Forfeiture of Contraband.	Yes	Allows property that is contraband to be subject to seizure and forfeiture and provides the procedures.	Amend statute to qualify offenses under § 20A, Penal Code for forfeiture under this chapter.
Art. 62.001. Definitions. (Sex Offender Registration Program)	Yes	Provides the offenses requiring registration as a sex offender.	Amend (5) to include § 20A, Penal Code, if the actor committed the offense or engaged in conduct that promotes forced labor or services of a sexual nature.

Statute	Does the law address the needs of the victim or witness?	Summary	Modification that would address a need of the victim or witness
Family Code			
§ 51.10. Right to Assistance of Attorney; Compensation.	Yes	Provides for the representation by an attorney for children in juvenile proceedings.	Appoint an attorney for a period of time that would ensure a minor victim of human trafficking has an adult to represent him/her. Longer than for hearing only. Create grants to assist with the cost of the attorney.
§ 51.11. Guardian Ad Litem.	Yes/No	Provide for the appointment of a guardian ad litem to protect the interests of the child in certain cases.	Appoint a guardian ad litem for a period of time that would ensure a minor victim of human trafficking has an adult to represent him/her. Longer than for hearing only. See language in 51.10 (at every stage of proceedings). Funding for the cost of the guardians ad litem needs further study.
§ 54.01. Detention Hearing. (Judicial Proceedings-Juvenile Justice Code)	Yes	Requires the judge at the detention hearing to order legal counsel or a guardian ad litem if no parent or guardian is present. Authorized dispositions include: referral to an agency other than juvenile court; brief conference with the child and his parents; or referral for services.	Amend to allow the judge to appoint a guardian ad litem for a child victim of human trafficking that is not going to be detained in a detention facility. See 51.11.
§ 54.031. Hearsay Statement of Child Abuse Victim. (Judicial Proceedings-Juvenile Justice Code)	Yes	Provides for the admissibility of certain statements by child abuse victims.	Expand to include Human Trafficking as described by § 20A, Penal Code.
§ 82.010. Confidentiality of Application. (Protective Orders)	Yes	Prohibits disclosure of an application until after the date of service of notice or the date of the hearing on the application.	Amend § 82.010 to apply to all counties, not only counties with a population of 3.4 million or more.

Statute	Does the law address the needs of the victim or witness?	Summary	Modification that would address a need of the victim or witness
§ 261.001- § 261.410. Investigation of Report of Child Abuse or Neglect.	Yes	Provides the procedures for reporting abuse or neglect and lists persons responsible for making report. Also provides immunities for good faith reports and penalties for failure to report.	Add elements to training that would assist the public and professionals in recognizing victims of human trafficking and would assist in the referral of victims to appropriate services.
Government Code			
§ 23.101. Primary Priorities.	Yes	Outlines the preferential scheduling given to hearings of certain violations of the Penal Code.	Expand to include Human Trafficking as described by § 20A, Penal Code.
§ 41.008. Record. (Office of Prosecuting Attorney)	Yes	Requires each District Attorney and County Attorney to keep records of all actions or demands prosecuted or defended and all proceedings held in relation to the attorney's acts.	Request data on cases involving human trafficking for comprehensive tracking system.
§ 81.114. Attorney Instruction Related to Guardianship.	Yes	Outlines guidelines by which attorney represents parties in guardianship cases or serve as court-appointed guardian, prohibiting stereo-typing and requiring the attorney to recognize the individual needs of each client.	Ensure lawyers who serve as guardians ad litem are required to go through awareness training. Also provide training on special issues (sexual assault, human trafficking and domestic violence).
§ 411.042. Bureau of Identification and Records. (DPS)	Yes	Requires DPS to collect data on the number and nature of offenses reported or known to have been committed in the state and legal steps taken, and other information useful in the study of crime and administration of justice, including statistics on family violence.	Modify requirement to include a statistical breakdown on cases involving human trafficking (violations of § 20A, Penal Code).
§ 420.051. Advocates for Survivors of Sexual Assault. (Sexual Assault Prevention and Crisis Services)	Yes	Requires advocates who deal with survivors of sexual assault to take a training course in sexual assault.	Add elements to training that would assist the public and professionals in recognizing victims of human trafficking and would assist in the referral of victims to appropriate services.

Statute	Does the law address the needs of the victim or witness?	Summary	Modification that would address a need of the victim or witness
§ 508.149. Inmates Ineligible for Mandatory Supervision.	Yes	Provides that an inmate is not eligible for mandatory supervision if the inmate was convicted of certain first degree felonies of the Penal Code. These offenses include Aggravated Kidnapping (20.04) and Indecency with a Child (21.11).	Expand to include Human Trafficking of a minor as described by § 20A, Penal Code.
§ 508.187. Child Safety Zone.	Yes	Establishes as a condition of parole a child safety zone for certain releasees.	Amend (a) to include § 20A , Penal Code, if the actor committed the offense or engaged in conduct that promotes forced labor or services of a sexual nature and the victim is a minor.
§ 508.322. Releasee Restitution Fund. (Parole and Mandatory Supervision)	Yes	Establishes a restitution fund consisting of restitution payments by defendants on parole or mandatory supervision and provides for payments to victims.	Include restitution payment to the state for services and benefits received by a human trafficking victim prior to the date of sentencing.
Health & Safety Code			
Program benefits and services may not be available for all human trafficking victims, but if it is available to any victim then yes is marked. Benefits and services may be available for domestic victims of human trafficking but not available to international victims of human trafficking, unless they have received certain immigration status from the federal government. Eligibility restrictions apply.			
§ 107.001- § 107.009. Health Disparities Task Force.	Yes	Establishes a Health Disparities Task Force to assist the Health and Human Services Commission (HHSC) with issues on access to health services. The task force shall investigate and report on issues related to health access disparities among racial, multicultural, disadvantaged, ethnic and regional populations.	Add a component to review disparities in health care services for victims of human trafficking. Add elements to training that would assist the public and professionals in recognizing victims of human trafficking and would assist in the referral of victims to appropriate services.
§ 107A.001- § 107A.003. Office for the Elimination of Health Disparities.	Yes	Establishes an office for the elimination of health access disparities among racial, multicultural, disadvantaged, ethnic and regional populations.	Add a component to review disparities in health care services for victims of human trafficking. Add elements to training that would assist the public and professionals in recognizing victims of human trafficking and would assist in the referral of victims to appropriate services.

Statute	Does the law address the needs of the victim or witness?	Summary	Modification that would address a need of the victim or witness
§ 112.001- § 112.014. Border Health Foundation.	Yes	Establishes foundation to help secure funding for border health clinics.	Add a component to fund training that would assist the public and professionals in recognizing victims of human trafficking and would assist in the referral of victims to appropriate services.
§ 145.0095. Issuance of License for Certain Facilities Prohibited.	Yes	Allows for the denial of a renewal license of a tanning facility if the owner or operator has been convicted of: Sexual Offense (Penal Code § 21), Public Indecency (Penal Code § 43) or Engaging in Criminal Activity (Penal Code § 71.02).	Amend (3) to include § 20A (Trafficking of Persons), if the actor committed the offense or engaged in conduct that promotes forced labor or services of a sexual nature.
Human Resources Code			
Program benefits and services may not be available for all human trafficking victims, but if it is available to any victim then "yes" is marked. Benefits and services may be available for domestic victims of human trafficking but not available to international victims of human trafficking, unless they have received certain immigration status from the federal government. Eligibility restrictions apply.			
§ 22.022. Residency Requirements.	Yes/No	Allows delivery of services to legal residents of the United States or the State of Texas, unless otherwise allowed by law.	Services may be available for certain domestic victims of human trafficking but not available to certain international victims of human trafficking, unless they have received certain immigration status from the federal government. Eligibility restrictions apply.
§ 31.0322. Victims of Family Violence.	Yes	Allows HHSC, the Texas Workforce Commission, and the Title IV-D agency to adopt procedures under which requirements relating to financial assistance and related services, including time limits, child support enforcement, paternity establishment, work activity and residency, may be waived or modified for certain individuals who are victims of family violence.	Expand to include Human Trafficking as described by § 20A, Penal Code.

Statute	Does the law address the needs of the victim or witness?	Summary	Modification that would address a need of the victim or witness
§ 61.031. Continuing Study. (Texas Youth Council)	Yes	Requires the Texas Youth Commission to carry on a continuing study of the problem of juvenile delinquency and to focus public attention on special solutions to the problem.	Include programs aimed at high-risk youths (child prostitutes) and include training for recipients of grant that would assist professionals in recognizing victims of human trafficking.
§ 61.042. Referrals from Federal Court.	Yes	Allows TYC to enter into agreements with the federal government to accept children from the federal court for an agreed compensation.	Ensure that federal agencies are aware the juvenile defendants can be detained at the state level. (Federal law enforcement indicated in our study that they did not have facilities for minors.) This would promote prosecution, especially of gangs engaging in human trafficking.
Labor Code			
§ 51.014. Hazardous Occupations. (Employment of Children)	Yes	Provides that the Texas Workforce Commission (TWC) may by rule declare an occupation to be hazardous.	Ensure that typical human trafficking occupations are included in list, including sexually oriented businesses.
§ 51.032. Defense to Prosecution. (Employment of Children)	No	Provides a defense to prosecution for a person employing a child who does not meet the minimum age requirement for a type of employment that the person relied in good faith on an apparently valid certificate of age presented by the child that showed the child to meet the age requirement for that type of employment.	Consider higher standard than good faith if situation involves human trafficking or employment in sexually oriented businesses.
§ 51.033. Administrative Penalty. (Employment of Children)	Yes	Provides for an administrative penalty up to \$10,000 for persons violating child employment laws.	Consider higher penalty for persons found to be in violation of human trafficking law or enabling child prostitution, or for persons allowing child employment in sexually oriented businesses. Also consider amending subsection (r) to allocate some of the fine to programs assisting victims of human trafficking/high risk children or to provide additional TWC staff to assist with investigations.

Statute	Does the law address the needs of the victim or witness?	Summary	Modification that would address a need of the victim or witness
§ 51.034. Injunction: Attorney General's Action. (Employment of Children)	Yes	Allows the attorney general to seek injunctive relief against an employer who repeatedly violates the requirements established regarding the employment of children.	Ensure that typical human trafficking occupations are included in list, including sexually oriented businesses.
§ 61.053. Bad Faith; Administrative Penalty. (Payment of Wages)	Yes	Provides for an administrative penalty up to \$1,000 for persons violating payday laws.	Consider higher penalty for persons found to be in violation of human trafficking law or enabling child prostitution, or for persons allowing child employment in sexually oriented businesses. Also consider providing some of the fine to programs assisting victims of human trafficking/high risk children.
§ 62.154. Domestic Employment. (Minimum Wage)	No	Exempts from this chapter persons under domestic employment.	Consider some level of regulation in this field or consider an exception if person is found to be in committing the offense of Human Trafficking as defined in § 20A, Penal Code.
§ 92.001-§ 92.031. Temporary Common Workers.	Yes	Provides for the regulation of employers using temporary common workers, including obtaining a license and prohibiting deductions from pay not authorized by state or federal law.	Consider requiring posting a notice for human trafficking hotline when a license is required.
§ 201.064. Domestic Service.	No	Exempts services performed as domestic services in certain cases.	Consider some level of regulation in this field or consider an exception if person is found to be in committing the offense of Human Trafficking as defined in § 20A, Penal Code.
§ 201.078. Service by Nonresident Alien Agricultural Worker.	No	Exempts services performed by nonresident alien agricultural services in certain cases.	Consider some level of regulation in this field or consider an exception if person is found to be in committing the offense of Human Trafficking as defined in § 20A, Penal Code.

Statute	Does the law address the needs of the victim or witness?	Summary	Modification that would address a need of the victim or witness
Local Government Code			
Title 7. Regulation of Land Use, Structures, Businesses, and Related Activities.	Yes	Allows local municipalities to regulate certain activities.	Add elements to training that would assist the public and professionals in recognizing victims of human trafficking and would assist in the referral of victims to appropriate services.
§ 363.151. District Responsibilities. Limitations on Expenditures. (Crime Control and Prevention Districts)	Yes	Allows local municipalities to create crime control and prevention programs.	Add elements to training that would assist the public and professionals in recognizing victims of human trafficking and would assist in the referral of victims to appropriate services.
Occupation Code			
§ 51.302. Amount of Penalty. (Texas Department of Licensing and Regulation)	Yes	Allows an administrative penalty not to exceed \$5,000 per day for violations.	Consider higher penalty for persons found to be in violation of human trafficking law or enabling child prostitution, or for persons allowing child employment in sexually oriented businesses. Also consider providing some of the fine to programs assisting victims of human trafficking/high risk children.
Penal Code			
§ 20A.01-§ 20A.02. Trafficking of Persons.	Yes	Outlines actions constituting trafficking in persons and provides classification of offenses.	Amend statute to create a per se violation of human trafficking without regard to issues of force, fraud or coercion.
§ 20.05. Unlawful Transport.	Yes	Makes a person criminally liable for transporting an individual for pecuniary benefit.	Amend statute to create a violation for the facilitation of human trafficking to eliminate the requirement of showing substantial likelihood that the trafficked individual will suffer serious bodily injury.

Appendix D: Texas Human Trafficking Law

2003 Chapter 20A. Trafficking of Persons	2007 Chapter 20A. Trafficking of Persons
As passed by HB 2096, 78th Legislative Session, 2003	As amended by SB 11 and HB 1121, 80th Legislative Session, 2007 Penal Code, Section 20A
<p>§ 20A.01. Definitions In this chapter:</p> <p>(1) "Forced labor or services" means labor or services that are performed or provided by another person and obtained through an actor's:</p> <p>(A) causing or threatening to cause bodily injury to another;</p> <p>(B) restraining another in a manner described by Section 20.01(1); or</p> <p>(C) withholding from another the person's:</p> <p>(i) government records;</p> <p>(ii) identifying information; or</p> <p>(iii) personal property.</p> <p>(2) "Traffic" means to transport another person or to entice, recruit, harbor, provide, or otherwise obtain another person for transport by deception, coercion or force.</p>	<p>§ 20A.01. Definitions In this chapter:</p> <p>(1) "Forced labor or services" means labor or services, including conduct that constitutes an offense under Section 43.02, that are performed or provided by another person and obtained through an actor's:</p> <p>(A) causing or threatening to cause bodily injury to the person or another person or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer bodily injury;</p> <p>(B) restraining or threatening to restrain the person or another person performing or providing labor or services to believe that the person or another person will be restrained;</p> <p>(C) knowingly destroying, concealing, removing, confiscating, or withholding from the person or another person, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or another person, the person's actual or purported:</p> <p>(i) government records;</p> <p>(ii) identifying information; or</p> <p>(iii) personal property;</p> <p>(D) threatening the person with abuse of the law or the legal process in relation to the person or another person;</p> <p>(E) threatening to report the person or another person to immigration officials or other law enforcement officials or otherwise blackmailing or extorting the person or another person;</p> <p>(F) exerting financial control over the persons or another person by placing the person or another person under the actor's control as security for a debt to the extent that:</p> <p>(i) the value of the services provided by the person or another person as reasonably assessed is not applied toward the liquidation of the debt;</p> <p>(ii) the duration of the services provided by the person or another person is not limited and the nature of the services provided by the person or another person is not defined; or</p> <p>(iii) the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred; or</p> <p>(G) using any scheme, plan, or pattern intended to cause the person to believe that the person or another person will be subjected to serious harm or restraint if the person does not perform or provide the labor or services.</p> <p>(2) "Traffic" means to transport, entice, recruit, harbor, provide, or otherwise obtain another person by any means.</p>

2003 Chapter 20A. Trafficking of Persons	2007Chapter 20A. Trafficking of Persons
As passed by HB 2096, 78th Legislative Session, 2003	As amended by SB 11 and HB 1121, 80th Legislative Session, 2007 Penal Code, Section 20A
<p>§ 20A.02. Trafficking of Persons</p> <p>(a) A person commits an offense if the person knowingly traffics another person with the intent that the trafficked person engage in:</p> <ul style="list-style-type: none"> (1) forced labor or services; or (2) conduct that constitutes an offense under Chapter 43. <p>(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:</p> <ul style="list-style-type: none"> (1) the offense is committed under Subsection (a) (2) and the person who is trafficked is younger than 14 years of age at the time of the offense; or (2) the commission of the offense results in the death of the person who is trafficked. <p>(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections</p>	<p>§ 20A.02. Trafficking of Persons</p> <p>(a) A person commits an offense if the person:</p> <ul style="list-style-type: none"> (1) knowingly traffics another person with the intent that the trafficked person engage in forced labor or services; or (2) intentionally or knowingly benefits from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services. <p>(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:</p> <ul style="list-style-type: none"> (1) the applicable conduct constitutes an offense under Section 43.02 and the person who is trafficked is younger than 18 years of age at the time of the offense; or (2) the commission of the offense results in the death of the person who is trafficked. <p>(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.</p>

Appendix E: **SPOG Summary of Services**

Summary of Services Available to Victims of Trafficking*

Both international and domestic victims of human trafficking are eligible for services to help them recover from their ordeal and rebuild their lives. The Senior Policy Operating Group (SPOG) Subcommittee on Domestic Trafficking prepared this chart to outline the types of services available to domestic and international trafficking victims. The report concluded that both domestic** and international victims of human trafficking are largely eligible for the same benefits and services.

SERVICE	AGENCY	DOMESTIC VICTIMS	DOMESTIC VICTIMS	DOMESTIC VICTIMS	DOMESTIC VICTIMS	INTERNATIONAL VICTIMS	INTERNATIONAL VICTIMS
		CITIZEN & ADULT	RESIDENT & ADULT	CITIZEN & MINOR	RESIDENT & MINOR	ADULT	MINOR
Child Nutrition Programs	USDA	N/A	N/A	Yes	Yes	N/A	Yes
Food Stamp Program	USDA	Yes	Yes, after a five-year waiting period	Yes	Yes, after a five-year waiting period	Yes	Yes
Women, Infants and Children (WIC)	USDA	Yes	Yes	Yes	Yes	Yes	Yes
Refugee Cash and Medical Assistance	HHS-ACF	No	No	No	No	Yes	Yes
Temporary Assistance for Needy Families (TANF)	HHS-ACF	Yes	Yes, after a five-year waiting period	Yes	Yes, after a five-year waiting period	Yes	Yes
Health Screenings	HHS-CDC	Yes	Yes	Yes	Yes	Yes	Yes
Medicaid	HHS-CMS	Yes	Yes, after a five-year waiting period	Yes	Yes, after a five-year waiting period	Yes	Yes
State Children's Health Insurance Program (SCHIP)	HHS-CMS	N/A	N/A	Yes	Yes, after a five-year waiting period	N/A	Yes
Health Resources and Services Admin. (HRSA) Programs	HHS-HRSA	Yes	Yes	Yes	Yes	Yes	Yes
Substance Abuse and Mental Health Services Admin. Programs	HHS-SAMHSA	Yes	Yes	Yes	Yes	Yes	Yes
Public Housing Program	HUD	Yes	Yes	Yes	Yes	Yes	Yes
Tenant-Based Vouchers	HUD	Yes	Yes	Yes	Yes	Yes	Yes
Victims of Crime (VOCA) Emergency Funds	DOJ-Civil Rights	Yes	Yes	Yes	Yes	Yes	Yes
Emergency Witness Assistance	DOJ-Civil Rights	Yes	Yes	Yes	Yes	Yes	Yes
Victim Rights and Services	DOJ-Civil Rights	Yes	Yes	Yes	Yes	Yes	Yes
Witness Protection	DOJ-Civil Rights	Yes	Yes	Yes	Yes	Yes	Yes
OVC Services for Trafficking Victims Discretionary Grant	DOJ-OVC	No	No	No	No	Yes	Yes
VOCA Victim Assistance/Compensation	DOJ-OVC	Yes	Yes	Yes	Yes	Yes	Yes
One-Stop Career Centers & Job Corps	DOL	Yes	Yes	Yes	Yes	Yes	Yes

*Based on outlines submitted by agencies participating in the SPOG Subcommittee on Domestic Trafficking

**According to the SPOG report, domestic victims are both U.S. citizens and immigrants who become lawful permanent residents.

Appendix F: Additional Resource List

State Reports

- **California:** “Human Trafficking in California: Final Report” (2007)
http://safestate.org/documents/HT_Final_Report_ADA.pdf
- **Colorado:** Available in pdf from the OAG.
- **Connecticut :** “Trafficking in Persons Council: Annual Report” (2008)
<http://www.cga.ct.gov/pcsw/Trafficking/2008%20trafficking%20annual%20report.pdf>
- **Florida:** “Florida Responds to Human Trafficking” (2003)
<http://www.cahr.fsu.edu/the%20report.pdf>
- **Idaho:** Available in pdf from the OAG.
- **Kentucky:** “Human Trafficking in Kentucky” (2007)
<http://cdar.uky.edu/VAW/docs/Human%20Trafficking%20in%20Kentucky.pdf>
- **Maine:** “Final Report of the Human Trafficking Task Force” (2006)
<http://mainegov-images.informe.org/legis/opla/humtraffinrpt.pdf>
- **Minnesota:** “Human Trafficking in Minnesota: A Report to the Minnesota Legislature” (2006)
http://www.dps.state.mn.us/OJP/cj/publications/Reports/2006_Human_Trafficking.pdf
- **Ohio:** “Human Trafficking and Modern Day Slavery in Ohio” (2006)
http://www.polarisproject.org/index.php?option=com_content&task=view&id=50&Itemid=69
- **Oklahoma:** “Report of the Task Force on Oklahoma Illegal Immigration Issues” (2007)
http://www.oksenate.gov/publications/issue_papers/public_safety/ITFReport.pdf
- **Washington:** “The Report of the Washington State Work Group on Human Trafficking” (2005)
http://www.cted.wa.gov/CTED/documents/ID_2700_Publications.pdf
- **Wisconsin:** “Hidden in Plain Sight: A Baseline Survey of Human Trafficking in Wisconsin” (2008)
ftp://doafpt04.doa.state.wi.us/doadocs/Human_Trafficking_Report_Final.pdf

Federal Resources

- U.S. Department of Health and Human Services
<http://www.hhs.gov/>
- U.S. Department of Homeland Security
<http://www.dhs.gov/index.shtm>
- U.S. Department of Justice
http://www.usdoj.gov/whatwedo/whatwedo_ctip.html

- U.S. Department of Labor
<http://www.dol.gov/>
- U.S. Department of State
<http://www.state.gov/g/tip/>
- National Institute of Justice
<http://www.ojp.usdoj.gov/nij/topics/crime/human-trafficking/international-discussions.htm>
- Office of Victims of Crime
<http://www.ojp.usdoj.gov/ovc/publications/infores/tip.htm>

Policy groups

- **Center for Women Policy Studies:**
“Report Card on State Action to Combat International Trafficking” (2007)
<http://www.centerwomenpolicy.org/documents/ReportCardonStateActiontoCombatInternationalTrafficking.pdf>
- “Resource Guide for State Legislators: Model Provisions for State Anti-Trafficking Laws” (2006)
<http://www.centerwomenpolicy.org/pdfs/TraffickingResourceGuide.pdf>
- **Polaris Project:**
“Model Comprehensive State Legislation to Combat Trafficking in Persons” (2006)
<http://www.polarisproject.org/images/docs/Model-Comprehensive-State-Legislation.pdf>
- “Top 15 Problem Areas in State Bills on Trafficking in Persons” (2006)
<http://www.polarisproject.org/images/docs/Top%2015%20Problem%20Areas%20in%20State%20Bills%20on%20Trafficking.pdf>
- **Shared Hope International:**
Assessments from 10 U.S. locations where the DOJ has funded task forces for human trafficking.
http://www.sharedhope.org/dmst/task_force_map.asp

