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Policing Human Trafficking: Cultural Blinders and Organizational Barriers

By
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and
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Since 2000, the federal government and all fifty states have passed laws that criminalize the trafficking of persons for labor and commercial sex. To date, relatively few human trafficking cases have been identified, investigated, and prosecuted by local criminal justice authorities. Using data from case records and qualitative interviews with police, prosecutors, and victim service providers in twelve counties, we discuss the challenges local police face in identifying cases of human trafficking. We find that the culture of local police agencies and the perceptions of police officials about human trafficking do not support the identification of a broad range of human trafficking cases. Since local definitions of human trafficking are still evolving, police focus on sex trafficking of minors, which they perceive to be the most serious problem facing their communities. Reluctance to differentiate between vice and sex trafficking minimizes the problem of human trafficking and makes labor trafficking seem largely nonexistent.

Keywords: sex trafficking; labor trafficking; policing; police investigations

The Victims of Trafficking and Violence Prevention Act (TVPA 2000) and antitrafficking laws in all U.S. states now provide tools and resources to state and local police to help them identify and assist human trafficking victims and prosecute offenders. Despite significant legislative advances, there have been few

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official cases of human trafficking, raising questions about the empirical grounds upon which these laws were passed.

Estimates of the extent of human trafficking victimization vary widely. They are calculated from different data sources and the rigor of the research upon which they are based is often questionable (Gozdziak and Collett 2005; Tyldum 2010). Critics of U.S. human trafficking policy commonly conclude that estimates are overblown, citing the disparity between the predicted estimates of victims and the actual number of victims identified by the police (Markon 2007; McDonald 2004; Weitzer 2011). For example, the International Labour Organization (ILO) estimates 1.5 million victims of forced labor and human trafficking are in the United States, Canada, and Western Europe (ILO 2012), but the U.S. Department of Justice reports only a few hundred victims who are identified and assisted by law enforcement annually (U.S. Department of Justice 2011).

Previous research suggests that local police and sheriffs are woefully unaware of human trafficking and commonly lack the training necessary to investigate these crimes (Farrell, McDevitt, and Fahy 2010; Gallagher and Holmes 2008; Newton, Mulcahy, and Martin 2008; Wilson, Walsh, and Kleuber 2006). The cases that the police do identify differ from the types of human trafficking reported by victim service providers. For example, although more than 80 percent of the victims identified by law enforcement working on federally funded antitrafficking task forces between 2007 and 2010 were victims of sex trafficking (Banks and Kyckelhahn 2011; Kyckelhahn, Beck, and Cohen 2009), data from the victim service providers in these same task forces indicate that “64 percent of the victims served by OVC-funded service providers were identified as victims of labor trafficking only, 22 percent as victims of sex trafficking only, and 10 percent as victims of both labor and sex trafficking” (Banks and Kyckelhahn 2011, 7). While there are some important differences in the mandates of police and victim service providers, these differences suggest the cases these two groups identify may represent different realities of trafficking victimization in local communities and raise questions about the reasons for such discrepancies.

In this article, we examine police accounts of how human trafficking cases are actually identified. The term “identification” refers to the way cases come to the attention of law enforcement and are classified as human trafficking offenses as opposed to other types of crime with similar elements, such as prostitution. We find that the culture of local police agencies and the perceptions held by police officials about human trafficking prevent the police from seeing a broad range of

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human trafficking cases. Local definitions of human trafficking are new and still evolving. Although the police recognize the potential for both sex and labor trafficking to occur in their community, they focus their efforts on sex trafficking of U.S. minor victims, whom they perceive to be the most vulnerable and publicly supported victims. The responsibility for the identification and investigation of trafficking is delegated to investigators in vice or child exploitation units who are trained to identify traditional forms of prostitution and commercial sexual exploitation of minors. These investigators employ routine vice tactics to identify human trafficking cases that are not particularly successful at identifying victims and make labor trafficking seem largely nonexistent. We suggest strategies to improve identification of human trafficking more broadly.

Methodology

The data for this study were collected as part of a project funded by the National Institute of Justice to examine the challenges of investigating and prosecuting human trafficking in a targeted sample of twelve U.S. counties (Farrell et al. 2012). Although the sample is not nationally representative, it includes a diverse range of communities and police agencies throughout the county. Data were collected from the case records of 140 closed human trafficking cases, and interviews were conducted with 166 individuals: police (90), prosecutors (29), victim service providers (40), and other court officials or legislators (7). The goal of the study is to understand how human trafficking cases are identified and the challenges agencies face in investigating and prosecuting these cases in communities with varied resources and legal contexts.

Data sources

Few local agencies have experience investigating human trafficking cases. As a result, randomly selecting counties for inclusion in this study would not have captured sites with enough cases or experience upon which to draw conclusions. Instead we used a nonprobability, purposeful sampling design, employing a multistage cluster sampling approach. We categorized states by the type of human trafficking laws that had been enacted as of 2007.¹ The legislation categories include *comprehensive legislation*, defined as laws that criminalize trafficking and include at least two additional elements that could enhance identification of cases (such as victim benefits and services, state task force, or research commission/report or mandated training); *basic legislation* that only criminalizes trafficking or criminalizes trafficking and includes only one additional provision to enhance identification of case; and states *without legislation*. Organizing states based on their human trafficking law in 2007 allowed sufficient time for cases to be closed or fully adjudicated before data collection.

We identified the total number of police investigations of human trafficking cases in every county in the United States since 2000, as reported in publicly

available sources.² We selected four counties with at least ten closed human trafficking investigations in each of the three state law categories (comprehensive, basic, none). Care was taken in choosing the final sample to ensure regional variation.³ To examine the influence of federal resources on local identification of human trafficking, we selected half of our sampled counties from states with federally funded multiagency human trafficking task forces and half from states without such task forces. The primary law enforcement agency in each county in our final sample was selected for study.

Data were collected between July 2010 and September 2011. At this time police agencies did not have a standardized way to classify human trafficking incidents, such as a Uniform Crime Report (UCR) code.⁴ As a result, we relied on police agencies to identify all their investigations that included some evidence of human trafficking. We coded information from the investigative files of 140 human trafficking cases including how the case came to the attention of law enforcement and the details of the initial investigation.⁵ For each case, we also collected information about victims and suspected perpetrators, evidence, charging, court events, adjudication, and sentencing. To understand how local officials identified, investigated, and prosecuted these cases, we conducted 166 in-depth interviews with police, prosecutors, service providers, and other court officials with involvement in the studied cases.⁶ Nearly all the interviews were conducted in person. Each interview lasted between one and two hours.

Analytic strategy

Descriptive and bivariate statistics were employed to illustrate the basic characteristic of the cases in our sample. Interviews were transcribed and the text was coded and analyzed using QSR-NVivo 9, a qualitative data-analysis software package. We developed a series of codes that represented both predetermined themes derived from concepts found in the existing literature on police operations and culture, and emergent themes based on concepts that arose from the interviews themselves. Themes around case identification were then analyzed within and across cases and study counties to identify differences that could be attributed to a single case or study county. Analytic memos were used to explore key themes in more depth. Interviews with police, prosecutors, and victim service providers suggest that perceptions police hold about the crime of human trafficking, the culture of police operations, and the structures established by the police to identify and respond to such crimes affect the types of cases that are identified. The findings described below are organized around these themes.

Police Perceptions of Trafficking: Uncertain and Evolving Definitions

State and federal human trafficking laws are new. The first state antitrafficking laws were passed in 2003 in Washington and Texas, and some states did not pass

legislation until after 2010 (e.g., Massachusetts, South Carolina, West Virginia, and Wyoming). As with all new crime laws, the specific elements necessary to establish a *prima facie* case of human trafficking are unclear until tested in court. As one victim service provider we interviewed noted, "The state law is young, not easy to navigate, confusing, and requires evidence that prosecutors and police are not used to getting." Nationally, there is confusion about what constitutes human trafficking under new laws (Kandathil 2005). Despite the term *trafficking*, the definition of human trafficking in federal law and most state laws is premised on the denial of a person's liberty as opposed to their actual movement. A person commits human trafficking when they recruit, harbor, transport, provide, or obtain a person for labor or commercial sex through the use of force, fraud, or coercion. The federal law and some state laws further specify that if the victim engaging in a commercial sex act is under the age of 18 it is not necessary to prove the elements of force, fraud, or coercion. Some early human trafficking laws required transportation by deception or fraud, though most have been amended to drop transportation requirements in line with the federal definition (Polaris Project 2006).

Interviews with police and prosecutors illuminated a number of areas of uncertainty in the enforcement of human trafficking laws, including confusion about how to define specific elements of the crime such as coercion and the necessity of proving movement of the victim. Interviewees struggled to determine whether victims consented to acts freely or whether consent was obtained through force. The distinction between exploitive labor practices and human trafficking was particularly unclear. Labor trafficking victims themselves struggle to define their experiences as human trafficking. A detective explained why victim uncertainty about how to classify their experience confuses police efforts to determine whether exploitive labor practices rise to the level of human trafficking.

It's an easy case if someone is chained in the basement, but how far does involuntary servitude go? We really struggled with that. Besides the fact that there's a lot of undocumented labor going on in the U.S., that you gotta earn a living wage so that you can eat, right? So it's the degree that is involuntary [that] is hard to prove. Victims don't come in with this vocabulary and they don't know to say, "Well, I was working involuntarily for this person and by fraud, he brought me from such and such a country." They don't talk that way. They don't know that is what they need to prove. Sometimes they don't even know they are a victim.

When police and the community do not understand what human trafficking is, they do not prioritize its identification. Police leaders talked candidly about the difficulties of devoting resources to human trafficking investigations unless members of their community started to complain about the problem. "If people from the community don't think trafficking is a problem, then the police are not going to make it a priority," one leader said. Other leaders expressed the difficulty of prioritizing human trafficking investigations when the cases that were identified did not reflect popular images of the crime. A prosecutor noted, "Sometimes people say, 'that's not human trafficking. I picture sex slaves being shipped over

from some foreign country and held at gunpoint.” Cases identified in this study often involved U.S. citizens and did not always involve overt physical force or physical restraint to keep victims in servitude, complicating law enforcement efforts to justify investigative resources.

Police in our sample dealt with the ambiguity in defining human trafficking by focusing their efforts on the behavior that they thought the public would agree was most harmful—the victimization of prostituted persons, particularly domestic minors. The cases identified by law enforcement in our sample reflect interpretations that human trafficking is primarily sex trafficking. Eighty-five percent of the cases identified by law enforcement agencies in this sample were classified as sex trafficking cases. These sex trafficking cases largely involved victims who were U.S. citizens (89 percent), and about half (55 percent) of the victims were minors. The few labor trafficking cases identified in this sample most commonly involved foreign adult victims.

Legal framing explains some of law enforcement’s attribution of human trafficking as sex trafficking. Some early state antitrafficking legislation narrowly defined trafficking as sex trafficking or included language limiting the crime to exploitation occurring in prostitution (Polaris Project 2006). Today, the federal antitrafficking laws and most state laws define both sex and labor trafficking offenses, but human trafficking continues to be legally conflated with prostitution and sexual exploitation. Some states have strengthened traditional laws against promoting or compelling prostitution offenses by adding language about sex trafficking into these criminal codes or reclassifying these offenses as sex trafficking.⁷

Legal definitions aside, the decision to focus on sex trafficking was often strategic. As the supervisor of a unit receiving federal funding to combat trafficking explains,

To go back in time, when we started our task force our purview was labor and sex both, but we made a decision. Given where our office is, crime victims, and who we know, we kind of ended up focusing on sex trafficking. Part of it was we were just struggling to figure out what we were all about. Part of it was strategic in that we wanted to get some attention and we knew that that [sex trafficking] would get us better attention.

Police officials spoke with pride about their success reframing the problem of human trafficking as exploitation and prostitution—terms they believed officers and the public could understand. As one chief noted, “Sometimes when you say human trafficking people get confused and it seems like this big thing that is hard to understand, but not if you talk about it as things that people have seen for a long time, you know, prostitution.” Another chief clarified how departmental trainings helped to dispel a myth that trafficking was about foreign victims. “I think already here we’ve clearly challenged the assumptions that the victims of human trafficking literally have to be trafficked from some place far away. We’ve broken through that and we recognize that this is really a new way to confront the problem of prostitution.”

The identification of sex trafficking cases involving children was particularly prioritized across sites. A supervisor in one study site explained how their decision to target sex trafficking of minors resulted in praise for the unit. "The press was really good to us on this one. I mean, when this thing all came down, the press did a fantastic job of reporting it, ... People care about kids." In another site, the unit commander explained that he made a conscious decision to focus investigative resources on the sexual exploitation of children because these investigations were supported by the public. "The blogs and the papers go on about how it's [prostitution] two consenting adults and just a waste of time. But nobody seems to get on their horse when we talk about rescuing kids who are being commercially sexually exploited. So I said, 'You know what? That's what we're going to focus on, juvenile prostitution.'" Under their federal grant, this unit also has the responsibility for investigating sex trafficking cases that involve adults and cases of labor trafficking, but the majority of their cases involve minors.

Conversely, the police do not think the public supports labor trafficking investigations because the victims who are often undocumented migrants, adults, and men are perceived as unsympathetic. As one detective explained,

A lot of it has to do with the country's stance on immigration. People look at these people [potential victims] and say, "Well, they're not victims. They just need to get them out of the country. They're illegals." And a lot of these people feel victimized. They're like, "They're taking jobs." I don't think you're getting a lot of sympathy for the labor trafficking. You know? People are like, "Well, if they come in the country illegally, too bad. ... It's a risk they've got to take. So tough."

A detective in another agency explained that his officers were reluctant to investigate cases involving male victims; "Some guys I know, they'll identify something and they won't deal with it, saying it's not worth my time. If this is male-related a lot of guys wouldn't touch it."

Human trafficking is a new and evolving concept. In a time of ambiguity about what human trafficking is, police leaders and their investigators have defined human trafficking as sex trafficking and prioritized the investigation of cases they perceive the public to support.

Reliance on Traditional Investigative Strategies and Practices

The police develop norms and routines to help guide the expectations and actions in different types of criminal investigations. Detectives generally know what will happen in the course of an investigation and can anticipate the responses that will be needed based on past experience and expertise shared by others in their investigative unit. Routines are particularly important in helping the police to navigate circumstances where facts and legal definitions are ambiguous (Bittner 1967; Crank 2004). Investigating newly defined crimes, where investigators have less experience, such as human trafficking, requires the police to develop new

expectations and employ different tactics. In the sites we studied, the police failed to see human trafficking because they relied on practices and routines developed for the investigation of other, more traditional crimes.

Human trafficking cases are inherently difficult to identify and investigate. Human trafficking victimization commonly takes place out of sight of the police or other watchful guardians with incentives to report a crime. Police interviewees expected that traffickers would keep victims hidden from the public and limit their communication. A detective describes an example of the tactics that a farm owner engaged in labor trafficking used to keep victims hidden. "The farms are wired off and in the middle of nowhere. The traffickers have complete control over victims. Any kind of surveillance is just not going to be fruitful at all." Police also expected that consumers of trafficked services, who may be the only people that victims have contact with other than their traffickers, contribute to the hidden nature of human trafficking. These individuals are often engaged in illegal behavior themselves or benefit from goods and services provided by the trafficked person. As a result, they have incentives to keep the illicit activity hidden.

The police also did not expect trafficking victims to report their victimization to the police. As one detective noted, "Nobody calls us and says, 'Hello. My name is ___ and I'm a victim of trafficking. Please help me.' It doesn't happen." Victims are fearful of seeking help or reporting their victimization to the police. An investigator explains how victims' vulnerability and trust in the trafficker deters them from reporting their victimization even in situations where they are fearful:

In most of our investigations, you've got a cooperating victim. "I got held up." "Someone shot me." "My house got broken into." "They stole my car." ... In sensitive crimes ... you have victims that are more or less, even though we know they're not really, cooperating with the assailant; they are emotionally invested in the assailant somehow. Trusting the assailant. Even as they are being traumatized, they also can't figure a way out of their predicament. That somehow they deserve what is happening to them, that somehow it's right even though it violates their instincts about what's right and wrong.

Victims sometimes denied their victimization because they were embarrassed about things they were forced to do. In some cases trafficking victims were too fearful of law enforcement to report victimization. Domestic sex trafficking victims have commonly been arrested and charged with crimes in the past. They have little reason to believe that their interaction with the police when they report human trafficking victimization would be different. These fears are not unwarranted. In many of the cases we reviewed, victims were arrested for prostitution numerous times before the trafficking situation was recognized.

Some trafficking victims do not report to the police because they fear retribution by the trafficker. We found evidence of this fear in the cases we reviewed. In sex trafficking cases that involved American victims, traffickers sometimes lived in or had connections in the same community where the victim and his or her family lived. Violence or threats of violence were also common in these cases. For foreign national victims, the traffickers were often the only connection a victim had to U.S.

society. Isolation increased victim dependence on the trafficker and made it difficult for the victims to contact the police. In the cases we reviewed, foreign nationals commonly incurred a significant debt to a smuggler or recruiter in exchange for assistance entering the country, without knowledge that they would end up in a trafficking situation. These victims perceived their status as that of a person in the country illegally, not as a victim; consequently, they feared the police would not help them. Like the experience of U.S. citizen victims, fear of deportation was not irrational. In roughly one-third of the cases we reviewed, at least one victim was detained by immigration authorities before being recognized as a victim.

The police also report that human trafficking victims have vulnerabilities that hinder their ability to report victimization. Runaway children, for example, are often fearful that law enforcement agents will return them to their homes or a residential facility, and thus avoid contact with law enforcement (Finkelhor, Wolak, and Berliner 2001). Similarly, victims with disabilities are less likely to know their own rights, are often dependent on abusers, and are unlikely to be perceived as credible by law enforcement (Petersilia 2001). Physical, cognitive, and emotional disabilities can prevent victims from escaping a trafficking situation and getting to a place to report trafficking; they can also affect their perceived credibility once they do report their victimization to authorities. Immigrant victims also face language barriers that impede their ability to contact the police or effectively communicate the circumstances to the police.

Despite these challenges, the police we studied did not investigate human trafficking cases differently than other traditional crimes. Without an investigative culture tailored to the unique challenges of human trafficking cases, police instead identified cases reactively and utilized traditional vice strategies that are not well suited to identify labor trafficking or hidden victims of trafficking.

Reactive investigations

The use of reactive strategies to identify cases is rooted in a lack of prioritization of human trafficking within local agencies and their communities. As discussed earlier, the police narrowly define human trafficking and devote minimal resources to its identification. Despite recognition that human trafficking victims are unlikely to come to the police to seek help, the human trafficking cases we reviewed came to the attention of the police through tips (39 percent) or victims or their family members self-reporting victimization (13 percent). Reactive approaches were particularly common in the few labor trafficking investigations we reviewed, 65 percent of which came to the attention of law enforcement from a tip, including anonymous tips from the community about suspicious situations and information from service providers and other government agents who had contacts with potential victims.

Detectives we interviewed believed there was little they could do to proactively find human trafficking cases; instead, they waited for victims to come forward to police or to other service providers who could make referrals to the police. While policing has traditionally been reactive (Goldstein 1990), specialized investigators are expected to identify patterns and develop intelligence to identify crime

problems (i.e., to be proactive). Yet human trafficking investigators in the sites we studied were focused on investigating those cases that were reported by the public or referred by other officers. One detective described his department's reactive approach to human trafficking investigations, particularly in contrast to other specialized investigations: "Down here we are extremely reactive. That makes me uncomfortable because in our gang world we are extremely proactive." While gang investigators in his agency developed intelligence about gang activities and networks, human trafficking investigators were "simply taking cases that roll[ed] into our lap."

The police are more likely to investigate sex trafficking as opposed to labor trafficking because they rely on tips and respond to calls from the public instead of building intelligence and proactively investigating potential venues of human trafficking. Describing conditions on farms in local areas where the police believe labor trafficking may be occurring, one detective clarifies why his investigators continue to focus on domestic minor sex trafficking: "It would be great to have folks go out and dig into those [labor trafficking cases], but we don't have the resources. We have more leads than we can handle on sex trafficking so that is where we stop."

Victim service providers sometimes recognized that police lacked proactive investigatory strategies. As one victim service provider said, "The police do not do proactive law enforcement investigations. They're reactionary to complaints or 911 calls. They're trying to catch up with the crime that's already been reported." Some victim advocates noted that although there were various efforts made within the community to learn about and provide services to community members who might be at risk, police were not involved with these efforts. One provider suggested that structured partnerships were needed in her community to connect the police with those who are likely to come into contact with and recognize victims of human trafficking. In her words, "They really need those community partners—the medical industry, the mental health industry, the shelters, the servicing groups, the homeless groups—all those groups, to understand trafficking. So when they run across a possible victim they can refer those forward [to law enforcement]."

In addition to lacking a starting point for investigations, police interviewees lamented that they were often unable to build the intelligence in human trafficking cases necessary to conduct proactive investigations in the future. Once a victim, particularly a child victim, was identified as being actively exploited, the police felt they had an obligation to immediately remove the victim from the situation. Raids or other tactics to extricate victims from a situation of exploitation alerted perpetrators to the fact that they were being monitored by the police. Such tactics made it difficult to set up longer-term undercover operations, conduct surveillance, or develop the type of intelligence needed to understand trafficking networks and operations.

Reliance on traditional vice investigation strategies

When police did proactively identify human trafficking cases, they commonly utilized vice investigation strategies, such as stings in known brothels or

undercover officers responding to online prostitution advertisements such as those on Craigslist or backpage.com. In 27 percent of the sex trafficking cases we reviewed, the location of victimization was classified as being “over the Internet.” In most of these cases the commercial sex act occurred in a residence or hotel room, but the Internet facilitated the advertisement and procurement of the trafficked person. The Internet also facilitated police identification of the victimization. Police in our study sites commonly reviewed online prostitution advertisements to identify people who look like minors. The police also look for suspicious telephone numbers or listings of persons suspected to be at risk for trafficking.

Even when the police encountered potential human trafficking victims through vice investigations, they did not know how to properly identify trafficking victimization and build a human trafficking case. A victim service provider explained that despite human trafficking training and participation in interagency human trafficking task force meetings, the vice investigators in his jurisdiction did not know how to gather the evidence necessary to identify the elements of human trafficking.

They [vice investigators] don't know how to use the TVPA. They don't know how to work with our federal partners and build a case properly. They're still operating off of the old system with this new knowledge and trying to make something work. They've sat in our [task force] meetings in front of me saying, “If we would build our case properly it would be a human trafficking case.” And I'm thinking, “Why don't you? What's the deal?” And the deal is time and complication and effort to build it properly. It's real easy just to throw her in jail, let her bail out on a misdemeanor, as opposed to bringing down a ring organization.

As a result, sex trafficking victims who do come to the attention of the police are sometimes misclassified as street-walkers or prostitutes, and the human trafficking investigation falls apart.

Investigators also acknowledged that a vice approach to trafficking would result in the identification of only sex trafficking cases. As one vice detective noted, “You may have labor trafficking going on, but we're missing it. Most of our trafficking that we see is little girls that are runaways that are getting exploited by some schmo. Our vice unit will expose a lot more of that.” Detectives in this agency identified human trafficking through routine vice investigations such as undercover operations in known areas of prostitution activity. Undercover operations are a common practice for vice investigators (Hamilton and Smykla 1994). The police will uncover some victims who are working in areas of prostitution that are traditionally patrolled by vice investigators, but people being victimized in nontraditional commercial sex venues or labor trafficking are not uncovered through vice operations.

Notably, police in this sample did not actively look for labor trafficking cases. The investigation of workplaces or other sites that would be at risk for exploiting workers was not part of the normal routine of police investigations. Without victims coming forward to report victimization, the police do not know where to start. A detective explained,

The hard part is we know it's here. It may not be whip and chain kind. More like the "Let me hold your passport and you're going to work in my restaurant for five years until you pay off your bill." But until that individual comes forward and says, "I need some help," we just don't have a starting point. We can't go and investigate every restaurant in town.

The regulation and inspection of workplaces is not a duty of the local police. The police depend on intelligence about potential labor trafficking violations from Department of Labor investigators or other state and municipal regulators such as those responsible for licensing. The Department of Labor investigates more than 200,000 wage and hour violations annually, some of which likely involve situations of labor trafficking (U.S. Department of Labor 2008). In the sites we studied, however, there was little to no communication between the police tasked with investigating human trafficking and regulators who inspect workplaces. Representatives from the Department of Labor sometimes attended antitrafficking task forces with local police, but these joint meetings did not commonly result in sharing information or intelligence about workplaces that may be at risk for labor trafficking.

Even when the police received tips from the public about labor trafficking cases, they lacked an investigative culture to support investigations of these cases. The police struggled to distinguish unfair working conditions from crimes of labor trafficking. As one detective noted,

I think it [labor trafficking] is even more hidden in our community, or at least doesn't come to our attention; we don't see it easily. I personally think we have a huge problem with it. Given our agricultural basis and some of our food processing and we have a lot of migrant workers so I know that those conditions are ripe for people being exploited, but what we're still trying to figure out is where labor trafficking begins and exploitive or poor work conditions end. We still just don't know.

Absent familiarity with labor regulations and enforcement practices, the police referred potential labor trafficking cases to outside experts in federal law enforcement. As one detective explained,

Labor trafficking is a whole new ball of wax for me. I have to defer a lot of that, especially if they're foreign victims, to our ICE [U.S. Immigration and Customs Enforcement] people. If we get one [a tip] we will investigate it. We've gotten complaints on some forced labor stuff. Every now and again we'll get one on waiters or wait staff at a Chinese restaurant or a Mexican restaurant and we'll try to follow up on it. We're trying to forge a relationship with ICE. We can actually go to them and say, "Hey, we've got this forced labor at this particular restaurant," and they will help us with that investigation because it's really not a vice deal, but we're the closest expertise.

Because the police immediately refer labor trafficking tips to federal law enforcement, they do not develop the skills necessary to identify and investigate labor trafficking cases within their own agency.

The police had even less incentive to proactively identify labor trafficking cases when they lacked guidance from prosecutors about what evidence would

be needed to prosecute such a case. Though state and federal prosecutors faced attitudinal and institutional barriers to prosecuting sex trafficking cases involving both minor and adult victims, they were generally familiar with the evidentiary standards necessary to prosecute such cases. In contrast, prosecutors had little experience prosecuting labor trafficking cases. None of the labor trafficking cases that were identified in these study sites were prosecuted using state human trafficking laws (Farrell et al. 2012). Prosecutors explained that the police had not brought many labor trafficking cases to their attention. Police interviewees, on the other hand, explained that they lacked guidance from prosecutors about the fact patterns necessary to support a labor trafficking prosecution. Without a clear sense that labor trafficking cases would actually be prosecuted, the police were hesitant to devote time and resources to proactively identifying these types of cases.

Institutional Practices Impede Identification

The detectives who we interviewed were in units that had the responsibility for identifying and responding to cases involving human trafficking. For the most part, they had received some specialized training in human trafficking, though the breadth and quality of the training varied considerably. A common challenge, however, was that it was patrol officers, as opposed to detectives, who were more likely to come into contact with potential human trafficking victims while working in the community. Unlike detectives, patrol officers had not been trained or received only minimal training about what human trafficking is or how to identify it. One detective describes this challenge by reflecting on his earlier work as a patrol officer:

What we need to do a lot more of is train emergency first responders so that when they walk into a scene, they'll know what it is when they see it. I say that because when I was a cop, I walked into these situations and I didn't know what they were. I knew something was wrong, but I didn't know what. Now I've seen the light. But there are a lot of other first responders that don't know.

Detectives from two states cited budgetary restrictions as the primary reason for the lack of training of patrol officers. One said that they try to find free trainings in neighboring states to send select officers to, but this does not solve the problem of training all patrol officers or other first responders (e.g., firefighters or EMT).

Even when patrol officers and other first responders are trained to identify human trafficking cases, there are few formal mechanisms to ensure that identified cases reach detectives or other specialized personnel who are trained to investigate these cases. One detective explained that without a policy to guide how human trafficking cases should be investigated, when patrol officers identified kidnapping cases they would send the cases to the missing-persons unit or

the robbery unit if the kidnapping involved extortion. These types of cases would never come to the attention of investigators in the human trafficking unit. Even when proper channels of reporting exist within an agency, patrol officers must be properly trained on indicators of human trafficking, and trained investigators must be available to appropriately conduct interviews and collect evidence.

Because the police are reacting to a tip or happen upon trafficking during the course of other police duties, they are often not prepared to conduct interviews and collect data that would support investigation and prosecution. The first contact law enforcement has with a victim can determine the success of the investigation. As one detective explained, improper first interviews can cause victims to be uncooperative with the investigation. "With these victims you're only going to get one bite at the apple and that's not how the usual investigative model works." In some cases, improperly trained or ill-equipped patrol officers or other first responders inappropriately interview victims or witnesses.

Language barriers are a significant challenge because few patrol officers in the agencies we studied have foreign language capabilities. Detectives cited situations where patrol officers utilized other witnesses at the scene (some of whom were affiliated with the traffickers or even the traffickers themselves) to communicate with potential victims. In these cases, victims may be misrepresented as offenders. For example, a detective described an investigation that was damaged when the police were called to a local farm and used the employer to act as translator between the Spanish-speaking victims and the English-speaking law enforcement. The police, not surprisingly, did not identify any human trafficking on the farm according to the farmer's translations.

In other cases, investigators made mistakes when they pressured victims to provide too much information during the first interview. As one detective explained, he tries to gather only the minimum amount of information necessary to determine whether someone might be a trafficking victim during a first interview. He recognized that multiple interviews would be needed to learn what really happened to a victim. Those interviews were more productive once the victim had been stabilized.

Without a collaborative network of victim service providers to help keep victims involved in an investigation long enough to establish facts of trafficking, the police sometimes resort to arresting potential victims and attempting to extract information about trafficking once the victim is detained. One detective recounted the challenge of accurately identifying human trafficking victims following a raid on a massage parlor:

We served the warrants. We detained the women, and began the interviews. We didn't establish anything further than the original prostitution charges. The girls ... either it wasn't there or they weren't willing to talk about if they were being trafficked. The following day I received a call from a victim service provider and she expressed concerns regarding the way law enforcement handled the interviews. The detectives did not handle the investigation properly.

In this case the victim service provider would not allow a second interview of the potential victims because they were fearful of law enforcement after being

arrested and questioned as suspects. The case was dropped and no trafficking was identified. Detectives acknowledged that arresting victims could impede accurate identification, but felt they had no other way to question potential victims who they feared would be returned to a situation of exploitation.

While law enforcement depends on victim service providers to assist in identifying human trafficking situations and support the police by providing services to victims, the police and service providers have different and sometimes conflicting goals. Victim service providers recognize that alerting the police about a possible human trafficking situation may put the victim they are working with at risk of being arrested, or in a situation where they are not emotionally stable enough to cooperate in an investigation. As a result, they selectively refer cases of trafficking to law enforcement. One provider explained that her ultimate goal is to provide relief to the victim, and if there is a chance that bringing the case to law enforcement would result in arrest [of the victim], they will work with the victim without consulting the police.

Victim service providers were particularly uneasy about providing the police information about foreign national trafficking victims. A legal advocate who works with service providers to assist trafficking victims explained:

As immigration attorneys, we are not saying to the victim or law enforcement that this is not a victim of human trafficking—we're saying that these are the kinds of things we have to prove to get immigration relief for the victim. And if we can't do that, then we don't want to expose the person to immigration because ICE could step in and deport them.

These difficulties are particularly acute in cases of labor trafficking where victims are routinely referred to ICE. They are also magnified in communities where there is pressure on local law enforcement to enforce anti-immigration laws; such partnerships are critical to identifying victimization among foreign national populations. While not all victims will seek help from service providers, those who do are most likely to be referred to the police when the police have developed strong, collaborative, and trusting relationships with community service providers.

Discussion and Conclusion

Studying the experiences in twelve U.S. counties, we found that local police are confused about what human trafficking is. Some of the confusion may be attributable to how human trafficking was defined in early state laws (Kandathil 2005; Polaris Project 2006), but today the confusion is more likely the result of broad public ambiguity about the problem of human trafficking. Without clear direction from lawmakers, the public, or police leadership, the police in this study investigated the cases that they perceived to be the most harmful and to which they thought the public would lend the most support. In this sample the police defined human trafficking primarily as sex trafficking and focused on identifying

situations of sex trafficking that involved domestic minor victims, the group they believed was the most vulnerable.

In addition to confusion about the definition of human trafficking, the police we studied lacked an investigative culture and institutional structure to support the identification of a broad range of human trafficking cases. While police respondents described numerous challenges to finding human trafficking, particularly when victims are reluctant to self-identify and fearful of the police and their trafficker, they approached human trafficking like other traditional forms of crime. They waited for victims to self-identify or for third parties to call the police to report suspicious activity. In nearly all the agencies we studied, police leadership expected officers in existing investigative units such as vice units to take on the responsibility for human trafficking investigations. In turn, these investigators looked for indicators of human trafficking during routine operations but did not develop new investigative routines to identify human trafficking in different areas of the community. These agencies were blinded by their own organizational culture and practices, and they ultimately did not identify many cases of human trafficking. Of the cases identified, notably few involved labor trafficking or sex trafficking of foreign nationals. Finding these cases would have required the police to conduct investigations in nontraditional locations where the police lacked intelligence such as closed ethnic networks or worksites that fell outside of traditional police duties. Once possible trafficking cases were identified, the police utilized traditional vice investigation strategies such as undercover operations that resulted in the arrest and questioning of people selling sex to investigate sex trafficking. Since vice investigators are not always trained to deal with sensitive crime victims, some human trafficking victims were likely misclassified as perpetrators. Information about potential labor trafficking was immediately referred to federal law enforcement.

It is important to note that even though there were numerous challenges to police identifying human trafficking cases in the communities we studied, the police had actually identified human trafficking situations and had experience investigating these cases. The challenges are likely much steeper in the large number of communities across the United States, in which the police have no experience investigating human trafficking cases.

There is much the police can do to improve their response to human trafficking, but real change requires a commitment beyond raising awareness and allocating resources. The police and the public they serve must define human trafficking broadly and consistently, and law enforcement must rethink the investigative strategies they utilize to identify and combat the problem. The police cannot wait for victims or concerned citizens to report problems. Instead, they must develop distinct human trafficking enforcement practices that will lead to the identification of cases. For example, if we expect the police to identify labor trafficking, investigators must gather information about working conditions in industries throughout the community. Intelligence about worksites and areas with high concentrations of temporary workers or others at risk for victimization could be developed in collaboration with the Department of Labor or other state or municipal regulators, but partnerships with regulatory agencies will be undermined if local police assume authority

over enforcing federal immigration laws. Local, state, and federal labor regulators and inspectional services are reluctant to partner with police, whose actions could threaten the trust of immigrant populations (U.S. Department of Labor 2011).

The police must also establish partnerships with groups in the community who are most likely to come into contact with potential trafficking victims. Similar efforts have been made to confront domestic violence, which, like human trafficking, does not always come to the attention of the police through traditional methods such as victim self-reports. Individuals are routinely screened for domestic abuse in settings that vary from medical visits to jail intake. These efforts help to frame domestic violence as a broad-based public health problem for which agencies outside the criminal justice system are responsible. Similar efforts to recognize human trafficking victims should take place. Such a process would allow identified victims to be referred to law enforcement or victim service providers for further assistance.

Enlisting the support of groups within the community necessitates developing relationships with agencies that have historically been hostile to the police such as legal advocates in marginalized and undocumented-migrant communities or support groups for survivors of prostitution. These groups can provide both information to the police about potential human trafficking situations and resources to support victims who are identified by the police. Effective partnerships with such groups necessitate a level of open communication, transparency, and trust that is uncommon among investigative agents. Therefore, policies and programs within police agencies must support collaboration, such as having information-sharing protocols and de-confliction meetings, and practices that support victims through an investigation, including trauma-informed, culturally sensitive victim interview procedures and the provisions of translators when necessary.

The data from this limited sample of police agencies suggest that there is much the police can do to improve their identification of human trafficking victims. But our evaluation of the police should be realistic. Even if police agencies change how they approach human trafficking, it is unlikely that the number of victims identified by law enforcement will ever come close to the estimated number of trafficking victims in the United States. There are other, effective mechanisms that can address human trafficking alongside police responses. For example, exploitive working practices can be remedied through state or federal wage and hour investigations that result in the punishment of the employer and return of back-wages to employees. Greater collaboration between the police and regulatory agencies would surely improve the response to human trafficking, but many victims receive assistance and remedy regardless of police actions.

There is important value in police identification and removal of victims from trafficking situations that should not be measured by the number of cases alone. The existence of trafficking in any community is an affront to our democratic values. Treated as nothing more than commodities, human trafficking victims are stripped of their humanity. Despite its challenges, the criminal justice system provides an important mechanism to establish antitrafficking norms within a society. Identifying and prosecuting human trafficking perpetrators under criminal law demonstrates our intolerance of slavery in any form. If local communities

change practices to support proactive investigations of all forms of human trafficking, we should expect the police to identify a broader array of cases and ultimately hold more perpetrators accountable. Institutional change is difficult and the number of cases the police identify may remain small, but change is most likely to occur in those communities that have a sustained public commitment to understanding and combating trafficking.

Notes

1. The first state antitrafficking laws were passed in 2003, and the majority of states passed antitrafficking laws between 2005 and 2007.
2. Cases were identified from news reports, data from a national survey of law enforcement agencies (Farrell et al. 2008), and data from the Federal Justice Statistics Research Center on federal prosecutions for human trafficking offenses, commercial sexual exploitation of children offenses, and offenses related to the interstate transportation of persons for the purposes of prostitution.
3. Of the twelve study counties, two were located in the West, two in the South, two in the Northeast, and six in the Midwest.
4. As of 2013 the UCR includes new categories for commercial sex acts and involuntary servitude as required in the William Wilberforce Trafficking Victims Protection Act, 2008.
5. Across the study sites, 254 human trafficking cases were identified. In eight of the counties, there were fewer than fifteen identified human trafficking cases; for these, we coded all available case records. In four sites there were more than fifteen identified cases; in these, we drew a sample of approximately fifteen cases per site—stratified by year and type of trafficking—to ensure representation of different case types throughout the study period. The final sample included 140 human trafficking cases.
6. Seventy-two interviews were with local law enforcement; fourteen with state or county prosecutors; eighteen with federal law enforcement (primarily FBI or ICE agents); fifteen with federal prosecutors; forty with victim service providers; and seven with other court officials, legislators, or community stakeholders.
7. For example, see Minnesota statute 609.322: Promoting or Compelling Prostitution: Sex Trafficking.

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