

King County Labor Trafficking Report

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I. Introduction

In response to a proviso in King County’s 2017-18 Adopted Budget, staff from the Office of Equity and Social Justice contracted consultants to conduct a study of labor trafficking and economic exploitation in the region, and prepare a report with recommendations for the County to address these issues. See Appendix A for the Scope of Work.

The County has engaged in successful human trafficking efforts related to sexual exploitation, but has not yet worked extensively on issues of human labor trafficking and economic exploitation. This report was commissioned to provide the County with information on the scope and nature of labor trafficking in the region, a legal analysis, and recommendations for effective actions the County can take to: increase awareness of the issue; improve trafficking prevention, protection, and prosecution, as well as services for labor trafficking survivors; and ensure that the County’s business operations are not contributing to labor trafficking and economic exploitation.

A. General Overview of Labor Trafficking

Labor trafficking (also commonly referred to as forced labor or modern slavery) is one form of human trafficking, and is a criminal offense under federal law and the laws of the State of Washington. Under the federal Trafficking Victims Protection Reauthorization Act, labor trafficking is the “recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery.” 22 USC § 7102. Washington State’s trafficking statute similarly defines labor trafficking, with some variation. See Appendix B for a legal analysis, including details on labor trafficking-related definitions in Washington State law.

Labor trafficking involves compelled labor through force, fraud, or coercion and does not require the transport¹ of a person from one place to another. Federal law and Washington law both segment the offense of trafficking to provide different definitions for sex trafficking and labor trafficking, but many service providers consider sex work to be a form of labor, and believe that distinguishing one from another can obscure survivor experiences of both forms of trafficking (it is not uncommon for them to overlap).

The International Labour Organization (ILO) estimates that nearly 21 million people globally are victims of human

“Trafficking in persons is an insult to human dignity and an assault on freedom. Whether we are talking about the sale of women and children by terrorists in the Middle East, the sex trafficking of girls lured from their homes in Central Europe, the exploitation of farm workers in North America, or the enslavement of fishermen in Southeast Asia, the victims of this crime each have a name. And they each have been robbed of their most basic human rights... governments have a special responsibility to enforce the rule of law, share information, invest in judicial resources, and espouse policies that urge respect for the rights and dignity of every human being.”

~Former Secretary of State John Kerry, Trafficking in Persons Report 2012

¹ Human smuggling is distinct from, but can overlap with, human trafficking. There have been a number of high-profile instances of human smuggling resulting in death, including a container ship smuggling Chinese nationals through the Port of Seattle, and a truck trailer parked in a Walmart parking lot in Texas smuggling in Mexican nationals. Some, though not all, foreign nationals smuggled through ports and across land borders may be destined for labor trafficking situations.

trafficking, of which about 14.2 million are victims of forced labor not involving sexual exploitation.² The ILO also reports that human trafficking generates an estimated \$150 billion per year in illegal profits globally,³ making it a highly profitable criminal enterprise.

Labor trafficking victims can be US citizens, though most are foreign nationals who arrive to the US on a temporary non-immigrant work visa. There are push- and pull-factors for foreign nationals falling prey to labor trafficking. Oftentimes, labor trafficking survivors face dire economic situations and few options in their home countries, which make the promise of lucrative work in the United States and a brighter future for their families a compelling draw. However, when victims arrive in the US they may find themselves in exploitative situations where they face force, fraud and/or coercion at the hands of their recruiters or employers. For instance, workers may find that they owe large, previously undisclosed debts to recruiters or employers; that their pay is lower than agreed or being partially or completely withheld to service debts; that their passport and other official documents have been confiscated; that their movement, communication, and food intake are being monitored, restricted, or otherwise controlled; or that they face threats of deportation or physical harm to themselves or their families if they try to escape or report exploitation.

In the United States, labor trafficking has been found to be prevalent in a variety of sectors with high demand for cheap labor, including “domestic work, agriculture, restaurants, hospitality and construction.”⁴

By its nature, labor trafficking is a hidden crime, which makes identification of victims difficult, and complicates efforts to improve outreach and services to victims. It also makes it challenging for law enforcement to proactively investigate labor trafficking (most rely on referrals rather than sting or similar operations) and effectively prosecute perpetrators.

King County’s Equity and Social Justice Strategic Plan commits the County to focusing “...on those people and places where needs are greatest to ensure that our decisions, policies and practices produce gains for all.”⁵ Labor trafficking victims, often among our community’s most vulnerable populations, endure extreme human rights abuses that curtail freedom, trample dignity, and result in mental and physical trauma that leave survivors vulnerable to further exploitation and abuse. The County should prioritize funding and interventions for labor trafficking survivors to give survivors an opportunity to recover and achieve their full potential.

B. State and County Trafficking Responses

Since 2002, Washington State has led the way in legislative efforts to combat human trafficking, becoming the first state in the country to criminalize human trafficking. The State has since passed a significant number of additional human trafficking-related laws. (See Appendix C for a list of Washington State trafficking legislation, compiled by Councilmember Jeanne Kohl-Welles.)

King County has been a leader in the effort to end human trafficking, particularly sex trafficking. The County established a Commercially Sexually Exploited Children (“CSEC”) Task Force to “help ensure the

² International Labour Organization, *ILO 2012 Global Estimate of Forced Labour Executive Summary* (2012).

³ International Labour Organization, *Profits and Poverty: The Economics of Forced Labour* (2014).

⁴ Urban Institute, *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States* (2014).

⁵ King County Equity and Social Justice Strategic Plan 2016-2022.

safety of young people who are survivors of sexual exploitation” as well as a *Sex Trafficking and Buying Sexual Services Policy*. The King County Prosecutors Office established a “Buyer Beware” program with the Organization of Prostitution Survivors. King County also works with service providers and advocates. The County worked to raise public awareness and prevent human trafficking through the “Help Stop Human Trafficking” campaign which included billboards on Metro buses that provided information on how to contact agencies that assist individuals to escape trafficking. More recently, a draft ordinance was considered that would have established a task force on labor trafficking, the County Council declared the month of January as Human Trafficking Awareness Month, and funding for this report was allocated in a budget proviso in the 2017-18 budget.

The County’s focus on combatting human trafficking supports the County-wide Equity and Social Justice agenda. Human trafficking is an extreme human rights violation that is perpetrated against vulnerable members of our communities. Taking steps to address the problem is an important means of tackling root causes of inequities and improving community health and welfare.

The County is considering building on and expanding its anti-trafficking efforts by dedicating resources through the Veterans, Seniors, and Human Services Levy, scheduled for a renewal vote on the November 2017 ballot. This report is intended to help inform the County’s future efforts related to labor trafficking and economic exploitation.

II. Study Methodology and Limitations

A. Methodology

The consulting team of Margaret McClung and Deborah Espinosa was contracted to conduct a study beginning on May 1, 2017 and produce the final draft report by July 31, 2017, working closely with a County project team made up of Executive and Council staff. The consultants used a combination of independent desk research, interviews, and a work group meeting to better understand labor trafficking in the County, and to develop and validate the findings and recommendations presented in this report.

The consultants began desk research the first week of May 2017 to perform a literature review on labor trafficking, and to inform the development of tailored interview questions for different types of interviewees.

In consultation with the County project team, the consultants developed a list of people to interview, and using the tailored questions, began interviews in mid-May. Consultants interviewed 22 people in May and June, including County employees, subject matter experts from academia and nonprofit organizations, local labor trafficking-focused law enforcement and prosecutors, and a representative of a labor trafficking task force from Alameda County, California. See Appendix D for a list of people interviewed.

In late June the County project team convened a work group of subject matter experts, County staff, and Councilmember Kohl-Welles to review and discuss the team’s preliminary findings and recommendations. The work group was comprised of a subset of people interviewed for the study (Appendix D also notes work group participants). Following the work group meeting the consultants incorporated feedback received and finalized the draft report in consultation with the County project team.

B. Limitations

The broad scope of work for the study, combined with the limited amount of time to complete the work, required a high-level (rather than in-depth) approach to the study. As such, the study should not be considered to be exhaustive or comprehensive in its analysis and recommendations. In addition, the information in this report is for informational purposes only and does not constitute legal advice.

Consultants also had limited time for interviews, and did not interview or consult with any labor trafficking survivors or judges in the course of this study. This may have resulted in the omission of important perspectives on labor trafficking in the County.

Finally, although representatives from King County with expertise in procurement, law enforcement and prosecution were invited to the work group meeting, they were unable to attend. Therefore, although consultants interviewed County representatives from these areas in the course of the study, these representatives were not engaged in the work group discussion to review and validate the findings and recommendations in this report.⁶

III. Findings and Related Recommendations

A. Scope and Nature of Labor Trafficking in Region

1. Prevalence

Labor trafficking is, by nature, a hidden crime which makes quantifying the scope of the problem in the region challenging. In addition, there is no consolidated source of information on the prevalence of labor trafficking in the United States (nor for the State of Washington and its counties and cities). Given the lack of available data, there are a few possible approaches to quantifying the scope of labor trafficking,⁷ each with its own challenges and limitations.

Investigations – interview information indicates that the state’s sole investigatory team dedicated to labor trafficking (staffed by Seattle Police Department and the Department of Homeland Security Investigations) typically opens 10-15 new cases each quarter. The team’s current caseload involves 11 labor trafficking investigations and 5 additional labor-related referrals that may develop into investigations.⁸

⁶ However, these representatives did receive a copy of preliminary findings and recommendations when invited to the work group meeting.

⁷ In addition to the approaches noted here, consultants attempted to track down two other potentially relevant data points. One was information on the number of federal criminal cases involving labor trafficking in Washington state that were resolved under non-trafficking related charges, but this data is not available through the publicly accessible court records database. The other was the number of T visa applications submitted and/or T visas issued in Washington. Unfortunately, the United States Citizenship and Immigration Services (USCIS) does not provide state-level information to the public. Consultants conferred with Robert Beiser of Seattle Against Slavery on estimates for Washington State he has previously provided to state legislators, but that information did not yield useful estimates pointing specifically at labor trafficking survivors.

⁸ Information on the current labor trafficking caseload was provided by the Seattle Police Department’s WashACT Program Advisor via email 7/12/17.

Criminal Prosecutions – very few labor trafficking cases (3 cases over the past 10 years)⁹ have been charged and prosecuted as trafficking offenses in the state, and all of them have been pursued as federal prosecutions through the US Attorney’s Office. However, there are likely many more federal cases involving labor trafficking that have been resolved under non-trafficking charges in Washington state (for instance, harboring an alien, domestic violence or other charges may be a preferred route to securing a conviction for a variety of reasons).

Civil Cases – only one civil case involving allegations of labor trafficking has been heard in Washington courts. The case involved three Chilean men recruited for sheep herding work in Eastern Washington. The case (Ruiz v. Fernandez) was settled in October 2013.¹⁰

Clients of Service Providers – the Washington Anti-Trafficking Response Network (WARN), which is the primary service provider receiving referrals for labor trafficking survivors in Washington State, indicates that they typically intake 15-20 new trafficking survivors per quarter, of which labor trafficking survivors are the majority (75%). This means they are receiving roughly 50 new labor trafficking survivors per year.¹¹ WARN noted that intake rates of trafficking survivors doubled in the first quarter of 2017, which may be attributed to an increased number of trafficking survivors being identified among the population in the federal Northwest Detention Center in Tacoma (many of whom were trafficked elsewhere).

However, each of these sources likely underestimates the true scope of labor trafficking given that there are significant barriers to survivors being identified, and cases being investigated and prosecuted.

2. Where and How Labor Trafficking Occurs

Labor trafficking happens in a variety of sectors in the region, and perpetrators use different means of recruiting and controlling victims. Labor trafficking survivors are predominantly foreign nationals, and many of them arrive to the United States on a temporary nonimmigrant worker visa¹² after receiving a job offer from a recruiter, family member, or acquaintance in their home country. Most trafficking survivors enter into employment agreements hoping for better opportunities for themselves and their families, but may find that they owe significant undisclosed fees to recruiters or traffickers for the cost of transport, visa, housing and food, among other things.

Labor trafficking survivors in Washington State have come from many countries, particularly Mexico, the Philippines, Honduras, Thailand, and India¹³ (see Figure 1 for additional country data). Service providers noted that there is an increasing trend of survivors trafficked over the southern US border from Mexico and ending up in the federal Northwest Detention Center. In addition, service providers indicated they suspect there may be as-yet unreported labor trafficking survivors in Native American and homeless youth populations. Outreach is just beginning with these populations, and it will take time for trafficking-focused community organizations to establish trust and uncover issues.

⁹ Information on the number of federal criminal cases prosecuted in Washington under labor trafficking charges was provided in an interview with the US Attorney’s Office, Western District of Washington and confirmed through emailed data provided by The Human Trafficking Pro Bono Legal Center (HT Pro Bono). HT Pro Bono maintains a database of federal trafficking cases.

¹⁰ Information on this civil case was provided by email by HT Pro Bono, which also maintains a database of civil cases related to human trafficking.

¹¹ Since WARN began its trafficking work in 2004, they have served 137 labor trafficking survivors. They noted that their intake has increased year by year.

¹² Several of the most common temporary nonimmigrant visa types issued (including H2A and H2B visas) tie workers to a particular employer, which can make workers feel trapped and unable to escape exploitative or abusive circumstances.

¹³ Data on countries of origin of labor trafficking survivors provided by email by WARN.

Figure 1. Top countries of origin for labor trafficking survivors served by WARN (2004 – 2016)

Country of Origin	Number of Labor Trafficking Survivors
Mexico	38
Philippines	13
Honduras	9
Thailand	8
India	7
Ethiopia	6
Guatemala	6
China	5
Kenya	5

Traffickers may use a number of means of control to keep victims from escaping or seeking help, including confiscating documents (passports, visas, etc.), threats of arrest or deportation once their visa expires, surveillance and control of movement and communications, physical isolation and confinement, withholding food and wages, and threats against victims and their families (traffickers may have influence and networks in the victim’s home country).

Prevalent sectors in the area (based on information from interviews, work group input, and review of available data on Washington State trafficking hotline calls) include:

- Domestic servitude (in-home domestic work and elder and child care)
- Restaurants
- In-home health care
- Nursing facilities
- Adult and child care facilities
- Cleaning services
- Factories/manufacturing, and food processing plants
- Landscaping
- Construction, painting
- Hospitality (hotels, motels, etc.), primarily housekeeping
- Drug smuggling and distribution
- Nail salons
- Massage parlors
- In-home businesses (small home-based textile business)
- Begging/panhandling
- Horticultural nurseries, agriculture and animal husbandry (the extent to which trafficking in these sectors is happening within King County is as-yet unclear, but the Northwest Justice Project’s Farmworker Unit is planning to do outreach to farms in Kent, and the work group indicated there are investigations of nurseries underway in King County).

Recommendation: Consider further research into labor trafficking within King County similar to a study conducted in San Diego County trying to develop credible estimates of the scope of labor trafficking amongst the unauthorized Spanish speaking migrant population in the County (including data collection on country of origin; forms of force, fraud or coercion; and industries). Study findings indicated that nearly one third of the unauthorized Spanish speaking migrant laborers in the County (predominantly from Mexico) had experienced an incident that meets the federal definition of labor trafficking, though few had reported.¹⁴ While the San Diego study methodology holds some promise for developing better estimates of the prevalence of labor trafficking and exploitation, this kind of study approach would not capture information about domestic servitude and other more hidden forms of labor trafficking, and would thus still provide only a partial picture of the extent of trafficking in the area.

B. Service Landscape for Survivors

Labor trafficking survivors may be connected to services prior to or during escape, though many are identified and connected to services years after their trafficking ended. The service needs of survivors vary greatly depending on their circumstances.

1. Survivor Needs

Trafficking survivors typically need intensive case management, emergency shelter and long-term housing, cash and food assistance, employment and job readiness/placement, education, legal, and physical and mental health services. Housing tends to be the most significant need for most survivors, and many need housing support for 3-5 years to stabilize. Service providers noted that survivors' vulnerability often increases when benefits, supports, and other assistance end.

"Survivors of human trafficking are exposed to severe levels of trauma in their trafficking situations. When a survivor escapes, the individual needs to receive a range of services to help cross the bridge from victim to survivor."

~United States Advisory Council on Human Trafficking Annual Report 2016

2. Service Provider Network

A small number of non-profit organizations provide comprehensive services (client-driven, trauma-informed, linguistically and culturally appropriate) free of charge to labor trafficking survivors in Washington State. International Rescue Committee (IRC) and API Chaya are the primary service organizations within King County, though other organizations may also be providing services to this population without dedicated funding (including the Filipino Community Center). IRC and API Chaya receive a limited amount of federal funding administered through the Washington Office of Crime Victims Advocacy for services and some direct assistance to trafficking survivors (particularly while T visa¹⁵ applications are prepared and processed, which once approved give survivors the same benefits provided to refugees).

Service providers are coordinating through the Washington Anti-Trafficking Response Network (WARN), which IRC manages. In addition, WARN is a co-chair, alongside the Seattle Police Department and US Attorney's Office for the Western District of Washington, of the Washington Advisory Committee on

¹⁴ Zhang, Sheldon X., *Looking for a Hidden Population: Trafficking of migrant laborers in San Diego County* (2012), available at <http://nij.gov/topics/crime/human-trafficking/Pages/labor-trafficking-san-diego-county.aspx>.

¹⁵ A T visa requires proof of effort to report trafficking (survivor declares effort to report, which needs to be supported with documentation).

Trafficking (WashACT), which is a federally-funded multi-disciplinary task force to facilitate coordination among law enforcement, service providers, and mobilization groups in Washington State.

Limited pro-bono immigration assistance for trafficking survivors is available through the Northwest Immigrant Rights Project (NWIRP), Northwest Justice Project (NJP), and Kids in Need of Defense (KIND). NWIRP provides direct representation to trafficking survivors seeking immigration benefits, including detention and deportation defense. NJP provides assistance with visas for trafficking victims, and has a new program to provide general legal assistance to crime victims. KIND provides assistance to unaccompanied children in deportation proceedings.

In addition to service providers, there are a number of non-profit organizations focusing on trafficking awareness, mobilization, and advocacy. Seattle Against Slavery (SAS) mobilizes a large network of volunteers for community education and partners with non-profit organizations and government agencies to combat trafficking. Businesses Ending Slavery and Trafficking (BEST) focuses on raising awareness and training businesses on the prevention of trafficking. Washington Engage focuses on trafficking training and mobilizes communities through their Coalitions Against Trafficking program.

In addition, survivors interact with a number of government agencies to access benefits and supportive services. See Appendix E for a list of government agencies and nonprofit organizations currently engaged in providing services to labor trafficking survivors.

3. Gaps, Challenges and Recommendations

Organizations providing comprehensive services to labor trafficking survivors describe a challenging landscape with significant barriers to effectively supporting survivors on a path to restoration and recovery. Service providers focus on survivor safety, stability, and survivor-defined goals for future success, but systemic issues and limited funding complicate their efforts.

a) Immigration-related Barriers to Benefits

One of the biggest challenges in providing services to trafficking survivors relates to immigration status. Because most labor trafficking survivors are foreign nationals who either overstayed a temporary visa or entered undocumented, they are not legally authorized to work in the US and are ineligible for state and federal programs until they receive a T visa or other form of legal status. A T visa can take more than a year to obtain, and during that period non-profit service providers must stretch a limited amount of funding to cover complex needs of a growing survivor population.

Recommendations:

- Provide County funding to service providers to augment existing funding for services and direct assistance to trafficking survivors. Ensure funding does not limit eligibility based on immigration status. Ensure that funding for anti-trafficking efforts focuses on/earmarks funding for smaller and emerging nonprofit and community organizations.
- Engage with Washington State Task Force Against the Trafficking of Persons to explore the possibility of legislation making trafficking survivors eligible for state benefits at the point that they are identified as a trafficking survivor, ideally, or at the point that a T visa application is submitted. The states of California and Illinois allow human trafficking specialists to submit an affidavit to identify someone as a trafficking survivor (using federal trafficking definition) to establish eligibility for state benefits.

- Examine Requests for Proposals (RFPs) and submitted proposals for the joint Seattle and King County Legal Defense Fund for Immigrants and Refugees to ensure RFP respondents have experience serving labor trafficking survivors (and can effectively screen for trafficking and connect survivors to assistance), and consider feasibility of including earmarked funding in future rounds of RFPs for specialized training on labor trafficking for immigration attorneys, particularly any working with the population in the Northwest Detention Center.
- Work with King County Bar Association to consider ways to increase the number of attorneys with relevant language proficiency and cultural competency to serve labor trafficking survivor populations. Provide targeted labor trafficking training to bilingual attorneys, those serving relevant ethnic communities, and relevant minority bar associations.
- Consider offering Continuing Legal Education (CLE) credits for attorney training, and keep costs low.

b) Shelter and Transitional Housing Access

Another significant challenge is in accessing short-term shelter or transitional housing options for labor trafficking survivors. Although shelters are not an ideal setting for most survivors (independent living is usually a better solution), they can be an important temporary solution for survivors exiting a trafficking situation who need an immediate short-term solution. Service providers report that there are no shelter spaces specifically for labor trafficking survivors. Female survivors may be placed in a domestic violence (DV) shelter if they experienced gender-based violence as part of their trafficking (not uncommon), but service providers have to present their clients as DV victims rather than trafficking survivors. Male survivors have the option of placement in a recovery center or homeless shelter, neither of which is appropriate for trafficking survivors. Transitional housing may be a better short-term solution for many trafficking survivors, but eligibility requirements may bar survivors from accessing transitional housing. Given these challenges, service providers often work with victims to find someone in their personal networks with whom they can stay until longer-term housing can be found.

Recommendations:

- Support establishment of emergency shelter slots for trafficking survivors. Conduct outreach to service providers and shelter agencies to determine the most appropriate options for male and female survivors, and ensure shelters can provide linguistically and culturally appropriate care. Ensure shelter providers receive training on labor trafficking, including survivor needs and rights, and trauma-informed care (make this a grant condition and earmark funding for training). Ensure that shelter intake staff is sensitive to survivor trauma, and require that they work with trafficking service providers to protect survivors from re-traumatization during intake process.
- Examine eligibility requirements of Coordinated Entry for All to ensure trafficking survivors can access transitional housing, and expand funding to support transitional housing for labor trafficking survivors.
- Ensure that King County 2-1-1 information and referral specialists are trained on labor trafficking issues, understand the challenges facing survivors, and have up-to-date information on shelter, transitional housing, and other benefit options for survivors.

c) *Long-term Affordable Housing Access*

Long-term affordable housing for survivors is another challenge. API Chaya reported that their current level of funding means they have only about \$300 per month for each survivor for housing,¹⁶ which is insufficient to rent an apartment anywhere in the metro area. Service providers report they are relying on finding rooms for rent on Craigslist, and asking landlords for discounts, but may have difficulty placing people due to language and cultural barriers.

Recommendations:

- Provide County funding for housing subsidies to labor trafficking survivors for at least one year (renewable one time), or until survivors become eligible for state housing benefits.
- Ensure that the standing advisory panel to the King County Regional Affordable Housing Task Force includes a trafficking survivor, or representative from an organization serving survivors so that policies and solutions for affordable housing take trafficking survivor needs into account.

d) *Employment Authorization and Services*

Immigration status also presents barriers to legal employment and accessing employment services. Trafficking survivors need to make a living, and may resort to informal employment arrangements while they are awaiting work authorization, which can leave them vulnerable to further exploitation or repeat trafficking. In addition, few training and employment support programs are able to accept unauthorized immigrants and limited-English speakers.

Recommendations:

- Advocate for funding to community colleges to provide combined English as a Second Language and job training for labor trafficking survivors, and provide stipends to survivors attending classes and training. Ensure that participation does not require proof of work authorization.
- Convene focus groups with survivors, service providers, and businesses to explore possibilities for paid internships and/or apprenticeships for labor trafficking survivors that do not require proof of work authorization. Consider language needs.
- Provide County funding to support and expand programs like Casa Latina's Day Labor Center so that labor trafficking survivors have safer casual labor options.

e) *Limited Awareness of and Resources for Labor Trafficking*

Awareness of labor trafficking is low among government agencies, the general public, and trafficking victims themselves.¹⁷ Law enforcement officers and frontline employees of government agencies (inspectors, healthcare workers, parks employees, etc.) tend to have higher awareness of sex trafficking than labor trafficking, and may lack adequate information and training to identify and/or appropriately serve labor trafficking survivors. Similarly, the majority of anti-trafficking efforts and resources are dedicated to addressing sex trafficking, with very little focused on labor trafficking.

As with other immigrant populations, limited English proficiency creates additional barriers for labor trafficking survivors in receiving information about rights, communicating with law enforcement, and accessing services.

¹⁶ This amount is flexible, but API Chaya tries to limit their support to the level of support that survivors will receive for housing once they are eligible for Refugee Cash Assistance. The Washington State DSHS website lists the current amount of cash assistance for refugees as \$332 per month for a single person (\$420 for a family of two).

¹⁷ University of Washington, Jackson School of International Studies Task Force, *From International Supply Chains to Local Consumption: Eliminating labor trafficking from all companies in Washington State* (2015).

Recommendations:

- Consider creating a dedicated labor trafficking task force (or similar type of entity) comprised of external subject matter experts to help guide the County's work on labor trafficking. The task force should include trafficking survivors (survivors should be compensated for their participation and expertise), community organizations focused on labor trafficking, and other key stakeholders that can provide thought partnership to inform the County's policy and efforts on this issue. The task force should be situated to work alongside County staff and leadership in the departments and agencies responsible for this work and focused on helping to guide the County's efforts to implement its labor trafficking strategy, linking survivor voices to policy development, and identifying and trouble-shooting issues and challenges.
- Revive King County's public awareness campaign on human trafficking and consult with service providers to update information. Ensure this effort complements the State of Washington's rest stop poster campaign and the Department of Homeland Security's Blue Campaign, and solicit input about where to target messaging. Consider outreach to ethnic media outlets with linguistically appropriate materials.
- Consider creating a call for labor trafficking awareness-raising materials from artists and arts organizations through King County's 4Culture to increase public awareness of this issue through accessible arts programs.
- Recognize the importance of community organizing as a prevention strategy for labor trafficking, and provide County funding to support established and trusted organizations working in local communities impacted by labor trafficking.
- Provide training on trafficking signs and indications to frontline County employees who may be in a position to recognize and report suspected labor trafficking. Consult with service providers to develop and deliver training or use the training curriculum being developed by Washington Department of Labor and Industries. Ensure training equips staff with clear and appropriate information about whom to contact when trafficking is suspected.
- Require training on trafficking survivor needs and rights, and ensure appropriate language access is readily available (and budgeted) for all County agencies that may begin to interact with labor trafficking survivors as a result of this new County initiative.¹⁸ This may be particularly relevant for Department of Community and Human Services (DCHS) staff if they are in a position to determine program or benefits eligibility for any individuals. Consider designating one point of contact at DCHS for service providers when eligibility determinations must be made.
- Weave labor trafficking into the County's ongoing focus on immigrants and refugees led by the Office of Equity and Social Justice (ESJ). For example, ensure that labor trafficking service and advocacy organizations are represented in the future Immigrant and Refugee Commission, and work to deliberately incorporate consideration of labor trafficking survivor needs and issues into future RFPs and initiatives focused on immigrant and refugee populations. Ensure that King County employees staffing the Commission, and all members of the Commission itself, receive training on labor trafficking.
- Ensure organizations funded by the County to engage in know your rights campaigns with immigrant and worker populations are providing information on labor trafficking in multiple relevant languages, and staff is informed about where to refer suspected trafficking. In future rounds of funding ensure that funding goes to organizations that have established trust and rapport with affected communities.

¹⁸ Title VI of the Civil Rights Act of 1964 requires all organizations receiving federal funds to ensure meaningful access to limited English proficient persons to their programs and activities.

C. King County Roles in Responding to Labor Trafficking

In addition to the opportunities noted above for the County to strengthen and support effective services for labor trafficking survivors, the County has other opportunities to positively address labor trafficking in the region. Admirably, the County recognized in the RFP for this study that it should seek to understand and address any core County business functions that may be inadvertently contributing to labor trafficking and exploitation problems. And, as a government entity, the County has regulatory and law enforcement/prosecution authorities that can be leveraged to combat labor trafficking. Each of these roles provides opportunities for the County to engage on the issue of labor trafficking.

It is important to note that there may be tensions inherent in the various opportunities for the County to engage on labor trafficking. For instance, the County's law enforcement role in the region could lead the County to emphasize prosecution efforts above efforts to improve outcomes and services for survivors.¹⁹ As such, it is advisable for the County to develop a focused strategy for tackling labor trafficking that strikes an appropriate balance and articulates the choices made to advance the County's long-term priorities and goals.

1. Employer

King County is one of the largest employers in the region. With about 14,000 employees, the County has an important role to play in helping to prevent labor trafficking by equipping employees with the knowledge, tools, and strategies needed to identify and appropriately respond to potential trafficking situations and victims.

Training is an important tool for government agencies to raise awareness of labor trafficking within their workforce and improve government response to the issue. The Washington State Department of Labor & Industries (L&I) is developing and will deliver a mandatory human trafficking training curriculum for all agency staff (about 3,000 people) by the end of 2017. The curriculum covers both labor and sex trafficking. All new employees of L&I onboard after 2017 will receive on-line trafficking training, and L&I will make an on-line refresher training available to all employees, as well as to all public agencies in Washington. This trafficking training is an important step for L&I to increase its capacity to investigate labor trafficking and to track its efforts and effectiveness over time. Following the training, the agency will update its reporting systems to capture trafficking-related data.

The City of Seattle partnered with WARN to conduct human trafficking training targeting community-facing employees (Seattle Public Utilities staff, traffic sign and marking crews, fire fighters, parks staff, business license enforcement staff, etc.) who may be in a position to observe signs of trafficking in their work. The training was open to all City staff, but focused on outward facing employees in an effort to increase capacity to identify and report human trafficking.

¹⁹ A Rutgers review of global good practices for serving trafficking victims acknowledges the tendency to emphasize prosecution of perpetrators at the expense of victim services, noting that "Victims' cooperation and testimony with law enforcement is typically needed during prosecution; this cooperation from victims greatly depends on the quality and consistency of services provided to them..." and that successful prevention models require "...suitable resources for current human trafficking victims in order to prevent previous victims from being vulnerable to exploitation again." Jamie Kynn et al, *Providing Services to Trafficking Victims: Understanding Practices Across the Globe* (2016). Available at <https://socialwork.rutgers.edu/centers/center-violence-against-women-and-children/research-and-evaluation/providing-services-trafficking-victims-understanding-practices-across-globe>.

King County's CSEC Task Force has recommended training for a subset of its staff on sex trafficking, but the plans do not currently include any training on labor trafficking, despite the fact that both sex and labor trafficking are prohibited in federal and state laws.

Large employers can also make a positive impact on combatting trafficking by encouraging employees to patronize businesses that are engaged in anti-trafficking efforts. For example, Washington L&I is planning on updating its travel and per diem policy to encourage traveling agency staff to select hotels that are part of the Businesses Ending Slavery and Trafficking (BEST) coalition committed to ending slavery and trafficking. In doing so, the agency would be acknowledging and supporting participating businesses and providing incentives to others businesses to join.

In addition, and in line with the County's ESJ strategic plan, the County has an opportunity to examine its hiring practices to uncover and remedy barriers for survivors to enter the County workforce. The County's efforts to make employment opportunities accessible to trafficking survivors could be leveraged to influence private employers to follow suit.

Recommendations:

- Expand planned trafficking training for County staff to encompass labor trafficking in addition to sex trafficking. Consider using L&I's trafficking curriculum, tailored to specific settings and types of public engagement relevant for County employees. As part of this training, encourage employees to brainstorm how their positions can be leveraged to address labor trafficking issues.
- Update the County's travel and per diem policy to encourage traveling employees to select hotels committed to ending trafficking under the BEST program.
- Distribute small, flushable information slips (available from WARN)²⁰ in multiple languages for traveling County staff to leave behind in hotel rooms and restaurants for those establishments' staff. The slips contain information on who to contact for help if you are a victim of trafficking. Ensure that County staff is adequately trained on appropriate, discreet use of the slips so as not to endanger potential trafficking victims. The County could also make those cards available for public use, downloadable on its website.
- Ensure that all non-profit organizations involved in labor trafficking know about and are on the list of organizations eligible for the County's Employee Giving Program. As part of a roll-out announcing King County's enhanced commitment to end labor trafficking, highlight these organizations for potential employee giving.
- Partner with local organizations to host employee and public screenings of and conversations about the trafficking video series produced by the Office for Victims of Crime, available at <https://ovc.ncjrs.gov/humantrafficking/publicawareness.html>.
- Weave consideration of labor trafficking survivor populations into the County's ESJ efforts to increase accessibility of County employment opportunities for underserved communities. Examine hiring practices and standards to reduce barriers for labor trafficking survivors with limited English skills, education, and formal work experience.

2. Business

Each year, King County purchases products and services valued in the hundreds of millions. In 2016, King County spent \$2.2 billion, of which 59% was used for the purchase of goods and services, or \$1.3 billion,

²⁰ The National Human Trafficking Resource Center also provides a downloadable wallet-sized card with information on indicators of labor trafficking and the hotline number. However, the card is only available in English.

and 10% went to construction, or \$220 million.²¹ As such, King County has an extraordinary opportunity to influence the labor practices of its contractors and sub-contractors. A few of those opportunities are discussed below.²²

a) *Business Practices and Processes for Reducing Risk of Human Trafficking*

Globally, there are several practices that businesses engage in when they commit to reducing the risk of labor trafficking in their operations. The first step in that commitment is developing and declaring the company's policy to prevent human trafficking across all of its operations, consistent with applicable law, and prominently displaying that policy (on its website and conspicuously posting in all of its offices).²³

A second step is publicly and internally committing to applying its policy throughout its supply chain, i.e., its service providers and suppliers (both contractors and sub-contractors), consistent with applicable law and best practices.²⁴ This commitment is prominently displayed in public and actively communicated to all service providers and suppliers and is included in requests for proposals, business contracts, purchase orders, and related documents.

Third, the company publicly and internally commits to ensuring a remedy for workers and other stakeholders adversely affected by labor trafficking in the company's operations or supply chain, such as repayment of fees paid by workers, etc.

Internally, these company commitments must be implemented by: 1) assigning responsibility and accountability to executive-level management as well as staff across all relevant internal functions, i.e., human resources, procurement, etc.; and 2) dedicating sufficient funding to fulfil the mandate. Responsible staff is charged with identifying, assessing, and managing the risks of labor trafficking within company operations and among its service providers and suppliers, including prospective contractors. Records are kept up to date and annual risk assessments and reports are delivered to leadership.

Risk assessments vary in scope but typically focus on risk factors in specific sectors and risk factors in specific commodities within those sectors or countries. For the federal government, 11 high-risk sectors and 48 high-risk commodities were examined. Risk factors include conditions in specific countries of production or supply of labor.²⁵

Based on results of the risk assessment, staff establishes business controls or improves existing controls to manage identified risks in its operations. These will include training existing and new staff on the anti-

²¹ <http://www.kingcounty.gov/depts/finance-business-operations/procurement/about-us.aspx>.

²² For more in-depth discussion of case studies of and best practices on ethical supply chains as well as recommendations on policies supporting clean supply chains, commissioned by the State of Washington, see Basu & White, *Human Trafficking and Supply Chains: Recommendations to Reduce Human Trafficking in Local and Global Supply Chains* (June 2017), available from the authors of this report.

²³ To a great extent, this section is based on the non-profit organization Verité's guidance, which is much more detailed than as presented. See e.g., Verité, *Anti-Human Trafficking Business Authentication Criteria: Company Level and Site Level* (June 2016).

²⁴ The California Transparency in Supply Chains Act of 2010 encourages corporate disclosure of efforts to eliminate human trafficking from supply chains. This law requires large retail and manufacturing companies doing business in California, with annual worldwide gross receipts that exceed \$100 million, to disclose the policies they have to address human trafficking in their supply chains.

²⁵ Verité, *Strengthening Protections Against Trafficking in Persons in Federal and Corporate Supply Chains: Research Phase 1* (2017).

human trafficking policy, and providing refresher training based on annual assessments. Such controls will also include monitoring for effectiveness.

With respect to suppliers and service providers, businesses create specific performance expectations of their contractors and sub-contractors, including charging no fees for job applicants; engaging in ethical recruitment practices, such as no fraud, deception, or coercion in the recruitment, selection, and hiring of workers as well as clarity in employment terms and conditions; using written employment contracts in employees' native languages, which are provided before employment begins or, for foreign employees, before departing their home country; never retaining, confiscating, or destroying employees' official documents; and never restricting movement outside working hours or access to personal bank accounts; among other expectations.

b) Addressing Risk in the County's Business and Operations

In the US, Sweden, and Norway, companies and governments are leveraging procurement as a means of reducing the risk of trafficking in their supply chains. Under this approach, companies work with their contractors to ensure there is no forced labor in the procurement process. The U.S. federal Executive Order 13627 Strengthening Protections Against Trafficking in Persons in Federal Contracts is one such example. The European Community also focuses on public procurement as a means for reducing labor trafficking.²⁶

Similarly, building on its prior efforts, King County may next develop a human trafficking policy that explicitly includes the County's commitment to reducing the risk of all forms of human trafficking in its operations and supply chains, including suppliers and service providers, as well as contractors and sub-contractors, consistent with applicable law and best practices in the corporate sector.

As but one example of resources available for trafficking policy development, the American Bar Association has adopted a Model Business Policy and a Model Supplier Policy intended to address labor trafficking and, specifically, child labor, which potentially arises in the operations of a business. Principles in the business policy include: (1) prohibiting labor trafficking and child labor in its operations; (2) conducting a risk assessment of the risk of labor trafficking and child labor and continually monitor implementation of this policy; (3) training relevant employees; (4) engaging in continuous improvement; (5) maintaining effective communications mechanisms with its suppliers; and (6) creating a remediation policy and plan that addresses remediation for labor trafficking or child labor in its operations.

In terms of procurement, King County has already begun working with its contractors to combat labor trafficking in its supply chain. In September 2016, King County adopted a new requirement for solicitations valued at \$100,000 or more (excluding construction bids).²⁷ Eligible bidders must attest to their "historical compliance" with human trafficking laws, rules, and regulations (among other standards) for the three years preceding the solicitation's submittal date. The County's Finance and Business Operations Division is currently working on criteria for best practices in ethical sourcing of labor to be incorporated into procurement practices.

The County also adopted the living wage ordinance, which requires contractors (and their subcontractors) awarded a contract valued at \$100,000 or more to pay their employees a prescribed

²⁶ See e.g., the *EC Guide on Socially Responsible Public Procurement (SRPP)*, which defines principles, requirements and standards of SRPP for local and regional governments, available online at: http://www.ccre.org/docs/SRPP_Joint_Statement_Final_EN.pdf.

²⁷ King County Ordinance 18372.

living wage, depending on the number of employees. KCC 3.18.070. Failure to pay living wages may result in disqualification from King County contracting, damages, and termination of a contract. KCC 3.18.090. In addition, King County is prohibited from contracting with employers who willfully and unlawfully withhold wages from their employees.

The County could expand ethical sourcing efforts to resemble the County's Environmental Purchasing Program, which included adoption and implementation of its Environmentally Preferable Product Procurement Policy (KCC 18.20), and related policies.²⁸ That Program reflects the County's "long-term commitment to the purchase of environmentally preferable products" and "provides county personnel with information and technical assistance to help them identify, evaluate, and purchase economical and effective environmentally preferable products and services."²⁹

Recommendations:

- Develop and publicize a human trafficking policy that seeks to reduce the risk of labor trafficking within the County's operations and supply chain, explicitly including suppliers and service providers, as well as contractors and sub-contractors, consistent with applicable law and best practices in the corporate sector. In developing the policy, engage in a participatory process with stakeholders to determine how far down the chain to go.
- Develop and fund an implementation strategy to reduce the risk of labor trafficking within the County's operations and supply chains, including among contractors and sub-contractors for both goods and services, consistent with applicable law and best practices in the corporate sector.
- Expand the County's procurement policy to require contractors to declare that they are doing their due diligence to reduce the risk of trafficking within their operations. Due diligence may include providing the disclosures required under RCW 19.320.120, putting up anti-trafficking posters, and training staff to identify and prevent trafficking.
- The County's new procurement requirement that bidders attest to the prior three-years of labor trafficking-free operations is commendable but could be expanded to commit to labor trafficking-free operations through the term of the new contract with the County. Contractors to the County are already required to comply with all federal, state, and local laws so identifying this particular obligation ought not to create an undue burden.
- Highlight on the County's website its commitment and efforts to reduce the risk of labor trafficking in its operations and supply chains. Currently, information about wage theft, living wage requirements, and procurement policies are located in separate places on the County's website.

3. Regulatory Authority

Under the Washington State Constitution, King County has discretionary authority to "make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws." Wash. Const. art. XI, sec. 11. For example, by statute, the state legislature has preempted any local authority from setting penalties for violations of the controlled substances act. RCW 69.50.200. Although at least 26 states prohibit local cities and counties from regulating certain labor conditions,

²⁸ <http://www.kingcounty.gov/depts/finance-business-operations/procurement/for-government/environmental-purchasing/policies.aspx>.

²⁹ <http://www.kingcounty.gov/depts/finance-business-operations/procurement/for-government/environmental-purchasing.aspx>.

Washington has not.³⁰ Thus, it appears the County has authority to regulate labor conditions to the extent such regulation is not inconsistent with state and federal law.

Below are a few examples of workplace rights relevant to labor trafficking.

Notice of workers' rights: Under Washington State law, employers and international labor recruitment agencies that hire foreign nationals to work in Washington State must disclose to foreign nationals their rights under Washington labor law. RCW 19.320.120. The disclosure must include that the worker has the right of control over his or her travel and labor documents, and must detail all fees that will be charged to the worker by the recruiter or employer. The disclosure must be in English, or in a language that the worker understands. L&I has created a model disclosure statement available on its website. Service providers and mobilization organizations do not think compliance with this requirement is being monitored and enforced.

Public Notice Requirements: The State of California requires certain businesses and other establishments to post a notice about human trafficking for victims and the public, including the trafficking hotline telephone numbers for help or to provide a tip. Ca. Civ. Code. § 52.6. There are specific language requirements depending on the county where a business is located and penalties for failure to post. Businesses required to post include: restaurants serving alcohol; adult or sexually oriented businesses; airports; bus and train stations; truck stops; emergency rooms; urgent care centers; farm labor contractors; private job recruitment centers; roadside rest areas; and massage or bodywork services. The State Attorney General's Office has a model poster available online in multiple languages.

Seattle's Office of Labor Standards: The City of Seattle created an Office of Labor Standards in 2015 to "to implement the City's labor standards for Minimum Wage, Paid Sick and Safe Time, Wage Theft, Fair Chance Employment (limiting the use of conviction and arrest records in employment decisions), and other laws that the City may enact in the future." The Office provides free, confidential services, including investigations and complaints, outreach to workers (some through grants to community organizations like API Chaya), technical assistance to businesses, and resources and referrals. The city's wage theft ordinance, adopted in 2015, created an administrative process for addressing wage theft complaints.

Recommendations:

- Request guidance from Washington L&I on monitoring compliance with the notice of workers' rights requirement, and coordinate with state and city employment and wage violation investigation divisions to push for increased monitoring and enforcement.
- Like the State of California, require certain businesses – and particularly contractors – to post information (in multiple languages depending on the population) about labor trafficking and how to get help or report suspicious activity with accompanying penalties for failing to do so.
- Partner with municipalities in the County to require large businesses to disclose on their website their policies regarding human trafficking. In doing so, the County would be requiring businesses to provide valuable information to the public as consumers concerned about trafficking.

³⁰ See e.g., Casuga & Rose, "Are State Workplace Preemptions on the Rise?" in Bloomberg BNA, Legal (July 19, 2016), available on line at: <https://www.bna.com/state-workplace-preemption-n73014444995/>.

- Have County representatives responsible for investigating wage theft and other labor violations meet quarterly with Washington State Department of Labor and Industry's Fraud Prevention and Labor Standards Division to share data and coordinate activities (this recommendation is at the request of the Deputy Assistant Director for that Division).

4. Law Enforcement Authority

King County has authority to both investigate and prosecute labor trafficking. Despite this authority, there has been limited prosecution of labor traffickers in King County, and these have primarily been pursued by the U.S. Attorney's Office for the Western District of Washington (see Figure 2 for examples of cases prosecuted in the state). To date, King County has not attempted to prosecute labor traffickers because no cases have come to the Prosecuting Attorney's Office.

Figure 2. Examples of labor trafficking cases prosecuted in Washington

In March 2017, the U.S. District Court for Western Washington sentenced three undocumented Mexican nationals (all family members) for labor trafficking of three children, including one of their nieces. One of the survivors, a 14-year old girl from Mexico came to the US with her uncle in hopes of having a better life. Her mother paid her expenses. Once she arrived, she was kept captive in an apartment in Federal Way and not allowed to go to school. She was told she owed them thousands of dollars so they sent her to work first as a maid, then as a nanny, and then in a factory, which hired her through a temporary employment agency. The couple had forged green cards and social security cards. She eventually worked at an industrial bakery south of Seattle. All of her wages were taken from her as well as any identification. She and another girl were rarely fed and denied basic medical and dental care. They slept on the floor and were forced to take cold showers. One of the traffickers was sentenced to three years and the other two a little less. The defendants are expected to be deported. The girl now has legal status in the US for a period of four years (from the *Seattle Post-Intelligencer*, March 8, 2017).

A flooring contractor pled guilty to smuggling a Mexican immigrant into the country and coercing him to work 15-hour days installing carpets to repay his smuggling fee (from *Christian Science Monitor Projects*, Jan. 4, 2016).

A Moroccan couple pled guilty to concealing and harboring an alien for bringing their 12-year-old niece from Morocco on a visitor's visa, then making her work long days in the couple's home and coffee shop (from *The Seattle Times*, Sept. 8, 2006).

A couple pleaded guilty to crimes related to holding a Filipina woman in domestic servitude, forcing her to work seven days a week providing childcare and domestic services (from *The Wenatchee World*, June 7, 2013).

A Micronesian couple was sentenced to prison for forcing a young cousin to work in the home and a poultry plant (from *Christian Science Monitor Projects*, Jan. 4, 2016).

There may be a variety of reasons that no labor trafficking cases have been brought to the King County Prosecuting Attorney's Office. One reason may be that the US Attorney's Office has experience with labor trafficking cases, and are perceived to be the most effective avenue to pursue cases. Additionally, labor trafficking is hard to identify because the offense occurs in private, and the victim is often isolated physically, culturally, and linguistically. Trafficking survivors are also often hesitant to come forward in part due to their undocumented status as well as a general distrust of law enforcement, which may be based on experiences in their home countries. Finally, local service providers and law enforcement noted that many survivors were trafficked elsewhere before relocating to the area (possibly because of the services available here, or because they have been placed in the federal Northwest Detention Center). Local law enforcement does not have jurisdiction to investigate when trafficking occurred outside of Washington.

The majority of labor trafficking investigations have been performed by a dedicated team of detectives from the Seattle Police Department (SPD) and the Department of Homeland Security Investigations.³¹ SPD has a grant from the U.S. Department of Justice through 2018 to support a detective dedicated to labor trafficking, working in partnership with Homeland Security Investigations. The team works in close cooperation with the U.S. Attorney's Office for the Western District of Washington, and the King County Prosecutor's Office, if needed, and has good relationships with service providers, immigration attorneys and others working with trafficking survivors. It is unclear whether SPD will continue to dedicate an officer to labor trafficking investigations when the grant ends.

The King County Sheriff's Office has an impressive track record with sex trafficking investigations, but has not investigated any labor trafficking to date, for many of the reasons noted. The Sheriff's Office is willing to investigate labor trafficking but they need to find resources to do it. In addition to more training (on-line training on human trafficking is available to officers), the Sheriff's Office believes it needs the "cultural competency" to investigate such offenses, i.e., they need to understand the personal side to the issue.³² The Sheriff's Office noted that officer training focuses on examination of successful investigations, so it would be useful for them to have training that incorporates example investigations as well as stories from survivors. They also noted that public awareness and education on labor trafficking would be useful because it would presumably lead to tips. The Sheriff's Office is open to having a fully funded detective focused on labor trafficking like SPD if the caseload so warrants.

King County law enforcement and prosecutors are engaged in a number of federal and local trafficking task forces. However, the Sheriff's Office was previously involved in WashAct but has not attended for a few years.

Recommendations:

- Engage in advocacy with the US Attorney's Office, Western District of Washington to prosecute cases under labor trafficking charges rather than non-trafficking charges whenever possible to ensure greater visibility and accountability for labor trafficking offenses.
- Provide in-person training for County law enforcement personnel on labor trafficking, including examples of successful cases and survivor stories. Work with service providers, WashACT, and other subject matter experts to create training, and use web-based training resources such as those provided through the Department of Homeland Security's Blue Campaign as refresher training.
- Consider the benefits of representatives of the King County Sheriff's Office re-engaging with the WashACT task force to take advantage of resources available to law enforcement, including training and the opportunity to draw on local labor trafficking expertise.
- Develop policies and protocols for law enforcement officers and prosecutors that provide guidance for responding to labor trafficking incidents, and ensure the protocols effectively operationalize relevant federal and state legal frameworks for labor trafficking.

³¹ Based on tips, labor trafficking investigations are underway in south King County, among other areas, involving landscaping companies, factories, adult home care facilities, painting companies, and daycare centers.

³² The Office for Victims of Crime's Training and Technical Assistance Center produced the Human Trafficking Task Force e-Guide, which emphasizes the importance of law enforcement and services providers building capacity to take a trauma-informed, victim-centered approach to working with trafficking survivors. The e-Guide is available at <https://www.ovcttac.gov/taskforceguide/eguide/>.

- Ensure that officers are aware of their duty (as recipients of federal funding) to provide meaningful language access for limited English language speakers. Instruct officers to use their employer-issued cell phones in the field to immediately call the Language Line and victim service providers when they encounter suspected trafficking victims with limited English.

IV. Legal Analysis

This section discusses a few of the legal issues identified in the analysis of the legal framework governing labor trafficking in Washington State, which is in Appendix B. A comprehensive analysis of Washington’s statutory framework governing labor trafficking is beyond the scope of this report, but may be useful as King County moves ahead with this initiative.

Washington State became the first state to criminalize human trafficking in 2003, and its legislature has adopted additional legislation each year thereafter. In 2014, the Polaris Project assigned Washington State’s anti-trafficking legislation a perfect score. Washington State now recognizes January 11 as Human Trafficking Awareness Day. RCW 1.16.050.

Overall, as the Polaris Project found, Washington State’s legislative framework governing labor trafficking is substantively sound, but it is unwieldy after years of amendments. There also are a few significant gaps. Below are a few of the legal recommendations, which arose in the analysis in Appendix B. King County may want to support recommended legal reform and/or share with trafficking advocates.

Recommendations:

- Add a section to chapter RCW 9A.40.100 that defines the term “coercion” for purposes of the trafficking offense, ensuring that all known traffic-related behavior is included, and delete references to a more general definition of coercion and force.
- Add a sub-section to RCW 9.94a.753 to require courts to impose criminal restitution tailored for trafficking survivors as well as future expenses reasonably certain to occur as a result of the trafficking, including the costs of housing and mental health services.
- Advocate for the establishment of a legal privilege under state law to protect confidential communications between trafficking survivors and caseworkers/service providers.
- Amend RCW 9A.82.100 to allow a civil action against a defendant found guilty under the federal TVPA.
- Extend the limitations period for civil suits to at least seven years from the date from which the survivor was freed from the trafficking situation, and remove any requirement that the defendant have been criminally charged.
- Amend RCW 9A.40.100 to explicitly call out the criminal liability of a business and assign relevant penalties, including possible revocation of its corporate charter.
- Amend RCW 9A.82.100 to allow a civil action against a defendant found guilty under the federal TVPA.
- Conduct a comprehensive analysis of the legal framework, harmonizing the sex trafficking and labor trafficking provisions as well as consolidating the various trafficking-related provisions under a trafficking statute to improve access, understanding, and ease of application and interpretation.

V. Prioritized Recommendations

King County has developed an impressive track record focusing on addressing sexual exploitation-related human trafficking, but has yet to develop and pursue a comprehensive strategy to address labor-related human trafficking. The County is an important regional authority, employer, service provider, and influencer, which positions the County well to have a significant impact on addressing labor trafficking and economic exploitation. This report can serve as a launching point for the County to define a path to address this important issue, and recommendations throughout are aimed at helping the County choose its next steps. Below the recommendations contained in this report are grouped by suggested high, mid and lower priorities.

The rationale for defining high priorities included consideration of the urgent service needs to address the health and safety of survivors,³³ the need to raise awareness among County employees and the general public, work the County can do internally to address labor trafficking issues in its own operations, and steps the County will need to take to set the stage for longer-term engagement on labor trafficking. Mid and lower priorities, while still important, are steps the County can take to build on this work over time.

High Priorities

- Provide County funding to service providers to augment existing funding for services and direct assistance to trafficking survivors.
 - Ensure funding from the joint Seattle and King County Legal Defense Fund for Immigrants and Refugees goes to organizations that have experience serving labor trafficking survivors
 - Consider feasibility of funding for specialized training on labor trafficking for immigration attorneys. Consider offering Continuing Legal Education (CLE) credits for attorney training, and keep costs low.
 - Support establishment of emergency shelter slots for trafficking survivors, and ensure shelters can provide linguistically and culturally appropriate care.
 - Examine eligibility requirements of Coordinated Entry for All to ensure trafficking survivors can access transitional housing, and expand funding to support transitional housing for labor trafficking survivors.
 - Ensure that King County 2-1-1 information and referral specialists are trained on labor trafficking issues, and have up-to-date information on shelter, transitional housing, and other benefit options for survivors.
 - Provide County funding for housing subsidies to labor trafficking survivors for at least one year (renewable one time), or until survivors become eligible for state housing benefits.
 - Ensure that the standing advisory panel to the King County Regional Affordable Housing Task Force includes a trafficking survivor, or representative from an organization serving survivors.
 - Provide County funding to support and expand programs like Casa Latina's Day Labor Center so that labor trafficking survivors have safer casual labor options.
 - Consider creating a dedicated labor trafficking task force (or similar type of entity) comprised of external subject matter experts to work alongside County staff and leadership to help guide implementation of the County's strategy to address labor trafficking.
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³³ Consultants borrowed some of the rationale from the Washington State Task Force against the Trafficking of Persons to prioritize immediate health and safety needs of survivors in their recommendations to the legislature. Office of Crime Victims Advocacy, Washington State Department of Community, Trade & Economic Development, *Washington State Task Force against the Trafficking of Persons Report to the Legislature* (2008).

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- Revive King County's public awareness campaign on human trafficking.
 - Consider creating a call for labor trafficking public awareness-raising materials from artists and arts organizations.
 - Require training on trafficking survivor needs and rights, and ensure appropriate language access is readily available (and budgeted) for all County agencies that may begin to interact with labor trafficking survivors as a result of this new County initiative.
 - Weave labor trafficking into the County's ongoing focus on immigrants and refugees led by the Office of Equity and Social Justice (ESJ).
 - Ensure organizations funded by the County to engage in know your rights campaigns with immigrant and worker populations are providing information on labor trafficking in multiple relevant languages, and staff is informed about where to refer suspected trafficking.
 - Expand planned trafficking training for County staff to encompass labor trafficking in addition to sex trafficking. Consider using L&I's trafficking curriculum, tailored to specific settings and types of public engagement relevant for County employees.
 - Ensure that all non-profit organizations involved in labor trafficking know about and are on the list of organizations eligible for the County's Employee Giving Program.
 - Expand the County's new trafficking-related procurement requirement so that bidders must commit to trafficking-free operations through the term of their contract with the County (in addition to attesting to prior three years).
 - Highlight on the County's website its commitment and efforts to reduce the risk of labor trafficking in its operations and supply chains.
 - Have County representatives responsible for investigating wage theft and other labor violations meet quarterly with Washington State Department of Labor and Industry's Fraud Prevention and Labor Standards Division to share data and coordinate activities.
 - Provide in-person training for County law enforcement personnel on labor trafficking, including examples of successful cases and survivor stories.
 - Consider the benefits of representatives of the King County Sheriff's Office re-engaging with the WashACT task force to take advantage of resources available to law enforcement.
 - Ensure that law enforcement officers are aware of their duty (as recipients of federal funding) to provide meaningful language access for limited English language speakers, and instruct officers to access the Language Line and victim service providers when they encounter suspected trafficking victims with limited English.

Mid Priorities

- Consider further research into labor trafficking within King County similar to a study conducted in San Diego County trying to develop credible estimates of the scope of labor trafficking.
 - Advocate for legislation making trafficking survivors eligible for state benefits at the point that they are identified as a trafficking survivor.
 - Work with King County Bar Association to increase the number of attorneys with relevant language proficiency and cultural competency to serve labor trafficking survivor populations.
 - Advocate for funding to community colleges to provide combined English as a Second Language and job training for labor trafficking survivors, and give survivors a stipend to attend classes and training.
 - Convene focus groups with survivors, service providers, and businesses to explore possibilities for paid internships and/or apprenticeships for labor trafficking survivors that do not require proof of work authorization.
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- Recognize the importance of community organizing as a prevention strategy for labor trafficking, and provide County funding to support established and trusted organizations working in local communities impacted by labor trafficking.
 - Provide training on trafficking signs and indications to frontline County employees who may be in a position to recognize and report suspected labor trafficking.
 - Update the County’s travel and per diem policy to encourage traveling employees to select hotels committed to ending trafficking under the BEST program.
 - Distribute small, flushable human trafficking information slips in multiple languages for traveling County staff to leave behind in hotel rooms and restaurants for those establishments’ staff.
 - Partner with local organizations to host employee and public screenings of and conversations about the trafficking video series produced by the Office for Victims of Crime.
 - Weave consideration of labor trafficking survivor populations into the County’s ESJ efforts to increase accessibility of County employment opportunities for disadvantaged communities.
 - Develop and publicize a human trafficking policy that seeks to reduce the risk of labor trafficking within the County’s operations and supply chain, explicitly including suppliers and service providers, as well as contractors and sub-contractors.
 - Develop and fund an implementation strategy to reduce the risk of labor trafficking within the County’s operations and supply chains, including among contractors and sub-contractors for both goods and services.
 - Expand the County’s procurement policy to require contractors to declare that they are doing their due diligence to reduce the risk of trafficking within their operations.
 - Engage in advocacy with the US Attorney’s Office, Western District of Washington to prosecute cases under labor trafficking charges rather than non-trafficking charges whenever possible to ensure greater visibility and accountability for labor trafficking offenses.
 - Develop policies and protocols for law enforcement officers and prosecutors that provide guidance for responding to labor trafficking incidents, and ensure the protocols effectively operationalize relevant federal and state legal frameworks for labor trafficking.

Lower Priorities

- Request guidance from Washington L&I on monitoring compliance with the notice of workers’ rights requirement, and coordinate with state and city employment and wage violation investigation divisions to push for increased monitoring and enforcement.
 - Require certain businesses – and particularly contractors – to post information about labor trafficking and how to get help or report suspicious activity. Attach penalties for failing to do so.
 - Partner with municipalities in the County to require large businesses to disclose on their website their policies regarding human trafficking.
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VI. Appendices

- A. Scope of Work for Study
- B. Analysis of Anti-Labor Trafficking Legislation in Washington State
- C. Compilation of Washington State Trafficking Legislation
- D. Interviewees and Work group Participants
- E. Government Agencies and Organizations Providing Services to Survivors of Labor Trafficking
- F. Works Consulted



King County

Office of Equity and Social Justice
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LABOR TRAFFICKING STUDY AND REPORT

SCOPE OF WORK

Background

King County is the thirteenth-largest and second-fastest growing county in the country. The county's rapid population growth is in great part due to its surging technological and business sector, as well as commercial marinas, airports, international ports, and its proximity to the Canadian border. Moreover, the state of Washington is equidistant between Asia and Europe, leading to the high levels of imported and exported goods trafficked through our region each day. Regrettably, these conditions have also positioned Washington as a “hot spot” in international human trafficking, the world’s fastest growing underground economy.

Though extensive study has been conducted to assess the root causes of sex trafficking in Washington state and interventions that are necessary to prevent it, very little is known about labor trafficking and economic exploitation (apart from the sex trade) in Washington, current impacts of King County code and practices on domestic and international workers, nor how King County can best deliver services to victims of labor trafficking.

On, November 17, 2016, the King County Council directed the County Executive to develop a report with options and recommendations on how the County can effectively address the systemic nature of labor trafficking and economic exploitation in the region.

An internal project team consisting of County Executive and County Council staff seeks research and writing support to produce the report.

Objectives and Milestones

The required report should provide the County with information on the scope of labor trafficking in the region, including the number of people who experience economic exploitation, where and how it occurs, the nations of origin of individuals experiencing exploitation, and recommendations on practices that can be implemented by the County to ensure that its own goods and services are derived from ethical and humane supply chains.

Consulting with community-based organizations, businesses, and county departments, the report shall examine the effectiveness of agencies’ current delivery of services to victims and survivors, how or whether these services currently align as a system, and how current systems leave

workers vulnerable to being trafficked and/or economically exploited, especially those who have arrived from other countries. The report shall recommend strategies to prevent incidents of labor trafficking and economic exploitation, enhance services to survivors of labor trafficking and economic exploitation, educate businesses on current domestic and international labor laws, educate workers on their rights under these laws, and increase community awareness of labor trafficking and economic exploitation.

In partnership with the internal project team, the consultant may convene a work group comprised of community partners, representatives from the Department of Community and Human Services, Finance and Business Operations Division, Prosecuting Attorney's Office, Sheriff's Office, and Council and Executive staff in the preparation of this report.

The study and production of a draft report shall be concluded no later than July 31, 2017, in order to accommodate delivery of a final report to the County Council by September 1, 2017.

Consultant Role and Responsibilities

Consultant will conduct independent research, interview content experts and stakeholders, and produce a full draft report that documents process and methodology, and presents key findings and recommendations.

In addition the general objectives defined above, the report shall include, but not be limited to:

- A list of the governmental and other local agencies that currently interact with the potential victims of labor trafficking and exploitation;
- An analysis of the federal, state and local laws and regulations related to labor trafficking, labor standards, procurement standards, purchasing standards, ethical sourcing and supply chain management;
- A review of King County's current standards and practices in purchasing, procurement, contracting and supply chain management;
- A review of other County jurisdiction's ordinances, rules and practices that reduce labor trafficking and economic exploitation through procurement, purchasing, contracting and any other methods that advance ethical sourcing;
- Identification of existing national and international best practices for reducing labor trafficking and economic exploitation, helping victims and survivors of labor trafficking and increasing awareness of labor trafficking.

Milestones

- Project begins by May 1, 2017.

- By July 7, consultant and internal project team may convene a work group to vet preliminary findings.
- By July 31, 2017 the consultant shall submit draft report to County staff.

Appendix B: Analysis of Anti-Labor Trafficking Legislation in Washington State

This section briefly analyzes labor trafficking-related legislation in Washington State, as compared to other states trafficking legislation, the federal Trafficking Victims Protection Act, as reauthorized (TVPA), and the Uniform Act on Prevention of and Remedies for Human Trafficking. This section also includes recommendations for legal reform, which King County may want to support and/or share with trafficking advocates. A comprehensive analysis of Washington's statutory framework governing labor trafficking is beyond the scope of this report, but may be useful as King County moves ahead with its initiative.

In 2002, Washington was the first state to create a Task Force Against the Trafficking of Persons and, in 2003, became the first state to criminalize human trafficking. The legislature has adopted additional legislation each year thereafter, including the first legislation to require international labor recruiters and domestic employers of foreign workers to disclose federal and state labor laws to employees and to require health care professionals be provided with information to help identify human trafficking victims, including civil penalties for failure to do so.¹

Since 2003, every other state in the U.S. has passed similar laws criminalizing human trafficking. In 2014, the Polaris Project assigned Washington State's anti-trafficking legislation a perfect score, along with Delaware and New Jersey.² Washington State now recognizes January 11 as Human Trafficking Awareness Day. RCW 1.16.050.

Along with Washington's legislative framework, there are 11 state trafficking frameworks in the top tier of the Polaris ranking.³ According to one source, "[t]he laws vary in several ways including who is defined as a "trafficker," the statutory elements required to prove guilt in order to obtain a conviction and the seriousness of the criminal and financial penalties those convicted will face."⁴

As of yet, there is no Washington case law providing an interpretation of the statutory framework to inform this analysis. Instead, the Washington law governing labor trafficking is compared to other states as well as the Uniform Act on Prevention of and Remedies for Human Trafficking (2013), which the Uniform Law Commission (ULC) drafted in close cooperation with a number of legal trafficking experts and service providers, among others.⁵ As part of the drafting process, the ULC reviews existing state and federal laws, here including the federal TVPA.⁶

¹ See Appendix C for a compilation of the state's legislative efforts governing human trafficking.

² Polaris assigns points to states whose legislation includes the following: sex trafficking provision, labor trafficking provision, asset forfeiture and/or investigative tools, training and/or human trafficking task force, lower burden of proof for sex trafficking of minors, posting human trafficking hotline, safe harbor: protecting minors; victim assistance; access to civil damages, vacating convictions for sex trafficking victims. See Polaris Project, *2014 State Ratings on Human Trafficking Laws* (2014), available online at: <https://polarisproject.org/sites/default/files/2014-State-Ratings.pdf>.

³ Polaris Project (2014).

⁴ National Conference of State Legislatures, *Human Trafficking State Laws* (Dec. 2016), available online at: <http://www.ncsl.org/research/civil-and-criminal-justice/human-trafficking-laws.aspx>.

⁵ The ULC is a non-profit organization established in 1892 to develop non-partisan state legislation where uniformity is desirable. "Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law."

⁶ The ULC drafts uniform legislation to guide states in developing legislation where state uniformity is preferable. The ULC Drafting Committee worked closely with representatives of a number of organizations, including the ABA Center for Human Rights, the ABA Task Force on Human Trafficking, the ABA Section on Business Law, the Polaris Project, the National association of attorneys General, the National Violence Against Women Project, the U.S. Department of State Office to Monitor & Combat Trafficking in Persons, Shared Hope International, the Global Freedom Center, LexisNexis, and representatives from a number of state and local prosecutors' offices. In 2015, the American Bar Association (ABA) and the Council of State Governments Suggested State Legislation approved this Uniform Act.

When courts interpret (especially new) statutes, they may reference uniform laws to inform their interpretation, although uniform laws are not binding on any jurisdiction.

Overall, as the Polaris Project found, Washington State’s legislative framework governing labor trafficking is substantively sound, but it also is unwieldy after years of amendments. There also are a few significant gaps discussed below. Despite the soundness of the framework, however, a comprehensive analysis is recommended. The sex trafficking and labor trafficking provisions need to be harmonized and consolidated along with a recodification of the framework to improve access, understanding, and ease of application and interpretation.

1. The Offenses of Trafficking and Corresponding Penalties

State statutes defining trafficking activities are not uniform. For example, in Alaska, a person who benefits from trafficking in any way is guilty of human trafficking in the second degree. Direct involvement is first degree trafficking. Activities that constitute trafficking in other states include: selling, recruiting, harboring, transporting, isolating, enticing, providing, receiving, holding, confining, harboring, purchasing, profiting, soliciting, and depriving liberty.⁷

1.1 Types of Trafficking Offenses

In Washington State, a person is guilty of the single offense of trafficking in the second degree, a class A felony, when he or she:

Recruits, harbors, transports, transfers, provides, obtains, buys, purchases, or receives by any means another person knowing, or in reckless disregard of the fact,⁸ that force, fraud, or coercion will be used to cause the person to engage in forced labor; involuntary servitude; a sexually explicit act; or a commercial sex act.

RCW 9A.40.100(1)(a)(i)(A). The exception to the requirement of force, fraud, or coercion is when a person under the age of 18 years is caused to engage in a sexually explicit act or a commercial sex act. RCW 9A.40.100(1)(A)(i)(B). Neither consent by the person under the age of 18 years nor that the perpetrator believed that the person was at least 18 years old is a defense. RCW 9A.40.100(5); Senate Bill 5813 (effective 7/23/17).

A person is also guilty of trafficking in the second degree if he or she “benefits financially or by receiving anything of value from participation in a venture that has engaged in the acts above.” RCW 9A.40.100(1)(b).

Trafficking is considered in the first degree, a class A felony, if the acts above *also* involved: (1) kidnapping or attempting to kidnap; (2) a sexual motivation; (3) illegal harvesting or sale of human organs; or (4) result in death. RCW 9A.40.100(1)(b).

⁷ Nat’l Conf. of State Leg, *Human Trafficking State Laws* (Dec. 2016), available online at: <http://www.ncsl.org/research/civil-and-criminal-justice/human-trafficking-laws.aspx>.

⁸ As defined in RCW 9A.36.070.

In effect, Washington's statute combines the various types of conduct that may occur during trafficking into a single trafficking offense. In contrast, the Uniform Act criminalizes each stage of a trafficking venture to ensure that all contributors to trafficking can be prosecuted for their role(s) in the trafficking process. Thus, the Uniform Act recognizes not just one trafficking offense but multiple offenses, including trafficking an individual, forced labor, sexual servitude, and patronizing a victim of sexual servitude. Uniform Act, secs. 3-6.

In the absence of case law, it is difficult to conclude that one way is better than the other. But specifying the different types of conduct that constitute trafficking offenses may be more effective for purposes of training law enforcement, and possibly for prosecution.

1.2 Definitions

There are several concerns with Washington's labor trafficking provisions, which arise from the applicable definitions.

First, although the statute defines the terms "forced labor," "involuntary servitude," and "commercial sex act," and "sexually explicit act," Washington's statute does not define the terms "force" or "fraud" for purposes of prosecuting a trafficking offense. Thus, whether a prosecutor must prove all elements of criminal fraud for purposes of proving a trafficking violation is unclear.

The statute also does not define the term, "coercion," instead referring to the definition of the criminal offense of coercion under RCW 9A.36.070(1), which is a gross misdemeanor. Under that definition, coercion is "if by use of a threat he or she compels or induces a person to engage in conduct which the latter has a legal right to abstain from, or to abstain from conduct which he or she has a legal right to engage in." RCW 9A.36.070.

The section on a coercion offense defines the term, "threat" as "to communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time." RCW 9A.36.070(2). The term "threat," however, also could mean "communicate, directly or indirectly the intent: (a) To cause bodily injury in the future to the person threatened or to any other person; or (b) To cause physical damage to the property of a person other than the actor; or (c) To subject the person threatened or any other person to physical confinement or restraint." RCW 9A.36.070(2); RCW 9A.04.110(27) (a), (b), or (c). There is no definition of "coercion" or "threat" specific to the offense of trafficking.

In contrast, the Uniform Act specifically defines the term, "coercion," by including the various and specific types of conduct seen in trafficking scenarios, rather than referencing more general statutory definitions. The Uniform Act definition focuses on the use of force, abduction, restraint, and the threat of serious harm. Other types of conduct included within the definition of coercion are through the abuse of law or legal process; through drug addiction; by destruction or withholding of identification; or by the "use of an individual's physical or mental impairment when the impairment has a substantial adverse effect on the individual's cognitive or volitional function." It also includes and defines the term "debt bondage" for purposing of trafficking. Uniform Act sec. 2(2).

Thus, under Washington law, parties will be confronted with vague definitions of “coercion” and “threat” that may or may not apply; ambiguity as to whether a prosecutor must prove the elements of *criminal* fraud; and what behavior constitutes the term, “force” for purposes of trafficking.

Recommendations:

- Add a section to chapter RCW 9A.40.100 that defines the term “coercion” for purposes of the trafficking offense, ensuring that known traffic-related behavior is included, and delete references to a more general definition of coercion and force.
- Review and clarify all definitions that apply to trafficking and revise RCW 9A.40.100.
- Conduct a comprehensive analysis of the legal framework, harmonizing the sex trafficking and labor trafficking provisions as well as consolidating the various trafficking-related provisions under a trafficking statute to improve access, understanding, and ease of application and interpretation.

1.3 Penalties for Trafficking

Washington State imposes a sentencing range of 10 years, 3 months to 33 years for trafficking in the first degree, depending on the offender’s prior criminal history (aka offender score under the Sentencing Reform Act). Trafficking in the second degree carries the same sentencing range, depending on criminal history, but with fewer months at each offender score. RCW 9.94A.510 (at seriousness levels of XIV and XIII, respectively. RCW 9.94A.515).

Like under the Uniform Act, a trial court may find aggravating circumstances that justify an exceptional sentence outside the sentencing guidelines, including where any victim of trafficking was a minor at the time of the offense. RCW 9.94A.535; RCW 9.94A.537.

Washington State also assesses a \$10,000 fee on a person convicted of a trafficking offense (or where there is deferred prosecution), unless the court finds that the offender does not have the ability to pay the fee in which case it may reduce the fee by an amount up to two-thirds of the maximum allowable fee. RCW 9A.40.100(4)(a).

In contrast, a person found guilty of human trafficking in California can be sentenced from a range of five years to life and assessed a fine of \$500,000. Cal. Pen. Code § 236.1 & 236.4. The court also has discretion to assess an additional fine of \$1,000,000. Cal. Pen. Code § 236.4.

Recommendation:

- Consider increasing the amount of the fine and prison terms for convicted traffickers to more align with other states’ penalties for trafficking.

1.4 Criminal Restitution

Victim restitution is part of a criminal defendant’s sentence, the purpose of which is to make the victim whole through financial redress. Many states require trafficking offenders to pay criminal restitution to their victims, although a national study found that few labor trafficking survivors receive restitution.⁹ This may be because collection of restitution is often limited by the offender’s ability to pay as well as

⁹ Owens, C. et al., 2014. *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, Washington, DC: Urban Institute.

the efficacy of the system monitoring compliance with this sentencing condition. In a trafficking case, restitution may also be less likely if, upon conviction, the defendant was undocumented, because upon release from prison the defendant would likely be deported, which complicates collection.

In some states, victim restitution in trafficking cases includes payment for medical and psychological services, housing, childcare, repatriation, and the costs of provided labor. North Carolina requires restitution in an amount equal to the value of the survivor's labor according to the Fair Labor Standards Act.¹⁰

In California, restitution specifically for trafficking survivors is the economic loss, calculated based on the greatest sum of the following: "the gross value of the victim's labor or services based upon the comparable value of similar services in the labor market in which the offense occurred, or the value of the victim's labor as guaranteed under California law, or the actual income derived by the defendant from the victim's labor or services or any other appropriate means to provide reparations to the victim." Cal. Civ. Code § 1202.4(q).

The Uniform Act grants restitution to trafficking survivors for past and *future* expenses reasonably certain to occur as a result of trafficking, including reasonable attorney's fees and costs; an amount equal to the greatest of gross income to the offender or value of the victim's labor or services, excluding the costs of maintenance of the victim, among others. Unif. Act., sec. 10.

Washington requires an offender to pay restitution where the offense resulted in injury to any person or damage to or loss of property. RCW 9.94a.753(5). Restitution is to be based on "easily ascertainable damages" and cannot include reimbursement for mental anguish, pain and suffering, or other intangible losses, but includes the costs of counseling reasonably related to the offense. RCW 9.94a.753(3). The restitution amount can "not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime." RCW 9.94a.753(3). Where the offense is rape of a child and the victim becomes pregnant, restitution includes medical costs and child support. RCW 9.94a.753(6). There is no restitution specific to the unique losses of trafficking survivors and no allowance for future expenses.

Recommendation:

- Add a sub-section to RCW 9.94a.753 (or under RCW 9A.40.100) to require courts to impose restitution tailored for trafficking survivors (much like the California restitution statute) as well as future expenses reasonably certain to occur as a result of the trafficking, including the costs of housing for a multi-year period and mental health services.

1.5 Asset Forfeiture

Legislatures provide for forfeiture of certain assets of an offender to compensate victims of crimes as well as to prevent offenders from profiting from their crimes. At least 27 states and the District of Columbia authorize forfeiture in trafficking cases as well as prescribe a specific procedure for forfeiture in trafficking cases. States vary, however, as to which property is subject to forfeiture in trafficking cases and the procedure for forfeiture. Washington has several forfeiture provisions that apply to human trafficking but none specific to labor trafficking.

¹⁰ Nat'l Conf. of State Leg., *Human Trafficking State Laws: Judicial Protections* available online at: <http://www.ncsl.org/research/civil-and-criminal-justice/human-trafficking-laws.aspx>.

Washington has two applicable general forfeiture provisions, and a third applicable to commercial sexual exploitation of a child and promotion of prostitution. The first general forfeiture statute is intended to compensate the victim as part of restitution. RCW 7.68.310(1); RCW 7.68.330. Under that statute, the only property subject to forfeiture is tangible and intangible property acquired as a direct or indirect result of the trafficking offense. RCW 7.68.310(1). That property also includes any traceable proceeds from the property described above. RCW 7.68.310(2).

Forfeiture of assets involved in a felony is also permitted. RCW 10.105.010. Under that provision, the property subject to seizure is only *personal* property, “which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony.” RCW 10.105.010.

Forfeiture of a defendant’s assets is also authorized upon conviction of commercial sexual abuse of a child (and promoting such acts) and prostitution (and promoting prostitution). RCW 9A.88.150. Property subject to that forfeiture provision is property acquired or maintained in violation of the acts above. RCW 9A.88.150.

In contrast, California’s trafficking statute provides for the forfeiture of assets “used in, or benefitted from” the trafficking violation. Cal. Pen. Code § 236.7. The scope of property subject to forfeiture in trafficking violations is even broader in Florida, which authorizes the seizure of “[a]ny real property or personal property that was used, attempted to be used, or intended to be used . . . in violation of the trafficking statute.” Fl. St. § 787.06(7).

In addition, California’s statute prescribes certain forfeiture procedures to include the freezing of assets upon filing of a complaint alleging trafficking violations. And if the victim is under 18 years, the process includes allocation of proceeds to a fund that supports community-based organizations providing services to trafficking survivors. See Cal. Pen. Code § 186.8; 236.6; 236.7.

Washington allows pretrial attachment under certain circumstances, not specific to trafficking. See Ch.6.25 RCW.

There appears to be no *specific* forfeiture procedure for trafficking-related property in Washington State.

Recommendations:

- Add forfeiture provisions specific to real and personal property used in or benefitting from labor trafficking violations and/or amend RCW 9A.88.150 to include violations of the human trafficking statute, RCW 9A.40.100; and
- Allow for the freezing of assets during the pendency of a criminal proceeding involving trafficking and all monies and proceeds upon sale of that property be assigned to a state fund for service or housing providers to draw on in their assistance of trafficking survivors.

1.6 Explicit Corporate Liability for Trafficking

Several states explicitly allow businesses and corporations to be prosecuted for trafficking crimes, including Alabama, Georgia and Mississippi.¹¹ Washington’s Criminal Code defines a “person” for purposes of criminal liability, including the trafficking offense, to include a corporation, joint stock, association, or an unincorporated association.¹²

The Uniform Act goes further than Washington’s law, however, by explicitly establishing criminal liability for business entities that knowingly engage in trafficking, including the business’ employees or agents engaged in human trafficking as part of a pattern of activity for the benefit of the business, and where the entity knew it was occurring and failed to stop the activity. Uniform Act., sec. 7. In the event of a conviction, the business entity is fined not more than \$1,000,000 per offense, must disgorge profit arising from the trafficking activity; and be barred from holding state and local government contracts.

In contrast, Washington assesses the same trafficking penalties on corporations as individuals (prison term and \$10,000) rather than tailoring trafficking penalties specifically to target business interests.

Recommendation:

- Amend RCW 9A.40.100 to explicitly call out the criminal liability of a business and assign relevant penalties, including possible revocation of its corporate charter.

2. Victim Protections

2.1 Criminal Statute of Limitations

Washington State’s Legislature just extended the statute of limitations for trafficking offenses from three years to ten years. *See* Senate Bill 5030, eff. July, 23, 17. In doing so, the State Legislature recognized that, “Because of the serious nature of human trafficking related offenses, and the power, control, and exploitation exerted over victims, the legislature finds the statute of limitations on these offenses should be extended. Victims are often under the control of their trafficker for significant periods of time and may not be willing or able to report their perpetrator until they are free from their control.” *See* Senate Bill 5030, eff. 7/23/17.

Other states’ statutes of limitations vary. In Alabama, there is no statute of limitation for first or second degree human trafficking, whereas Minnesota requires actions be brought within six years for trafficking of an adult, which begins when the offense has ended, although there is no statute of limitation if the survivor is under 18.¹³

The Uniform Act provides a 20-year statute of limitations (Unif. Act., sec. 12) and the federal TVPA provides no time limit on causes of action.

¹¹ Also see: Human Rights First, *Corporate Liability and Human Trafficking* (2015), available online at: <http://www.humanrightsfirst.org/sites/default/files/HRFCorporateLiabilityTraffickingreport.pdf>

¹² Note that in the 2015-2016 state legislative session, the definition of “any person” was added to read “adults and children of any nationality,” which applies only to chapter 19.320 of the Revised Code of Washington. Senate Bill 5342, eff. June 9, 2016.

¹³ Renewal Forum, *Why Sex Trafficking Should Not Have a Statute of Limitations* (no date), available at: <http://renewalforum.org/wp-content/uploads/Human-Trafficking-Statute-of-Limitations-Report.pdf>.

Recommendation:

- Monitor and record future efforts of the prosecutor’s office to bring cases under the state trafficking law to determine whether the ten-year limitations period cuts off otherwise viable prosecutions.

2.2 Privileged Communications

Legal privileges protecting confidential communications between individuals and professionals exist to help foster those relationships and ensure trust.¹⁴ In order to promote survivors’ confidence and secure trust, service providers who assist victims of violence and abuse must be able to ensure the confidentiality of their communications with clients.

Unlike a few other states, there is no legal privilege for confidential communications between a survivor and his or her trafficking caseworker/service provider in Washington.

In California, communications between the victim and a human trafficking caseworker are protected from disclosure to a third party. CA Ev. Code § 1038 (2013). The effect of asserting the privilege is that the caseworker cannot be compelled to disclose privileged communications in trials, hearings, depositions, or during other court processes.

Recommendation:

- Advocate for the establishment of a legal privilege under state law to protect confidential communications between trafficking survivors and caseworkers/service providers.

2.3 Civil Cause of Action for Trafficking

Washington and 31 other states, the TVPA, and the Uniform Act all provide trafficking survivors a private right of action against their alleged traffickers, although there is much variation among states.¹⁵

Washington law also creates an additional cause of action for foreign workers against domestic employers and international recruitment agencies for failure to disclose foreign workers’ labor rights in Washington. RCW 19.320.040. The plaintiff in such a case may be awarded from \$250 to \$500, or actual damages, whichever is higher, as well as equitable relief, and attorney’s fees and court costs. RCW 19.320.040.

The two factors most relevant here are: (1) the statute of limitations for bringing a civil action; and (2) the types of allowable civil damages.¹⁶

¹⁴ For a comparison of the various legal privileges recognized by each state, see Legal Momentum, *State Confidentiality Statutes*, available from the authors.

¹⁵ Polaris (2014); 18 U.S. Code § 1595; Uniform Act, Section 18, Comment, p. 23.

¹⁶ For an extensive discussion on bringing a civil suit for trafficking, although dated, see *Civil Litigation on behalf of Trafficking Victims*, Southern Poverty Law Center, 2008, available online at: <https://www.splcenter.org/20081201/civil-litigation-behalf-victims-human-trafficking>.

2.3.1 Statute of Limitations for a Civil Action

As with criminal suits, the TVPA provides no time limit within which a plaintiff must file a civil suit alleging trafficking-related damages.

California grants a civil cause of action to a trafficking survivor, provided that action is brought within seven years of the date the survivor was free from the trafficking situation or, for minors, ten years after he or she turns 18. Cal. Civ. Code § 52.5(c).

In Massachusetts, a survivor has three years to bring a civil action against his or her alleged perpetrator, although if they were children, they have within three years after they reach 18.¹⁷

In Washington, a survivor who sustained injury to his or her person, business, or property due to trafficking (or the state) may file a civil suit against the perpetrator within three years of the final disposition of any criminal charges relating to the underlying human trafficking offense. RCW 9A.82.100. Such a provision appears to preclude a civil suit where criminal charges were never brought.

2.3.2 Allowable Damages in a Civil Action

Almost all states allow survivors to claim recovery of actual damages. But only approximately one-third allow survivors to claim compensatory damages, and one-half allow survivors to claim punitive damages, injunctive relief, attorney's fees, and costs.¹⁸

The federal TVPA allows trafficking survivors to file civil law suits in federal district court to recover actual and punitive damages as well as reasonable attorney's fees and costs. 18 U.S.C. § 1595. Under that provision as an example, an Indian woman trafficked for labor was awarded a total of \$1,228,797, plus \$220,898 and \$8,640 in legal fees and costs, respectively.¹⁹

In California, a trafficking survivor can bring a cause of action against his or her trafficker for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief, as well as attorney's fees and costs. Cal. Civ. Code § 52.5(a).

West Virginia and Pennsylvania grant a trafficked survivor the right to recover treble damages if the defendant's acts were willful and malicious.²⁰

And a recent enactment in Pennsylvania not only allows a civil action against traffickers, it allows an action against those who knowingly market or provide goods or services to a person liable for sex trafficking.²¹

¹⁷ National Conference of State Legislatures, *Human Trafficking State Laws: Judicial Protections* (2016), available online at: <http://www.ncsl.org/research/civil-and-criminal-justice/human-trafficking-laws.aspx#tabs-1>.

¹⁸ Polaris (2013).

¹⁹ Polaris Project, *2013 Analysis of State Human Trafficking Laws* (2013), citing *Gurung v. Holtra*, 851 F. Supp. 2d 583 (S.D.N.Y. 2012).

²⁰ National Conference of State Legislatures, *Human Trafficking State Laws: Judicial Protections* (2016), available online at: <http://www.ncsl.org/research/civil-and-criminal-justice/human-trafficking-laws.aspx#tabs-1>.

²¹ 8 Pa.C.S. § 3051(b)(1); Villanova Law Institute to Address Sexual Exploitation, *New PA Human Trafficking Statute, Act 105, Provides Civil Remedy for Victims of Human Trafficking* (June 2015), available at: <https://cseinstitute.org/new-pa-human-trafficking-statute-act-105-provides-civil-remedy-victims-human-trafficking/>.

Washington grants survivors of trafficking the right to bring a civil suit, where he or she sustained injury to his or her person, business, or property due to trafficking, against the trafficker for recovery of “damages” and the costs of the suit, including reasonable investigative and attorney’s fees. RCW 9A.82.100(1). In addition, upon proof of a violation of the trafficking statute, a court may impose a civil penalty up to \$250,000. RCW 9A.82.100.

Recommendations:

- Extend the limitations period for civil suits to at least seven years from the date from which the survivor was freed from the trafficking situation, and remove any requirement that the defendant have been criminally charged.
- Consider expanding the types of damages that can be claimed, including treble damages, as allowed under RCW 19.86.090.
- Amend RCW 9A.82.100 to allow a civil action against a defendant found guilty under the federal TVPA.

Appendix C: Compilation of Washington State Trafficking Legislation

Jeanne Kohl-Welles

Councilmember, District 4

Metropolitan King County Council

Landmark Washington State Accomplishments to Prevent Human Trafficking and Sexual Exploitation of Minors

Preface

Human trafficking is a global problem that coerces an estimated 21 million persons around the world into forced labor, slavery, and sexual exploitation. Most consumers are unaware that many services and goods are produced by a human trafficking workforce composed of men, women, and children who are exploited for domestic work, agriculture, construction, and manufacturing industries while huge profits are gained by the businesses who exploit them.

Sexual exploitation for commercial purposes is another aspect of human trafficking that has a devastating impact on individuals. Sex trafficking and labor trafficking frequently overlap.¹ The International Labor Organization estimates that there are currently 4.5 million people trapped in forced sexual exploitation around the world.

U.S. citizens, foreign nationals, women, men, children, and LGBTQ individuals can be victims of sex trafficking. Sex trafficking victims are often controlled physically, emotionally and financially. Sex trafficking exists within diverse venues including fake massage businesses, online escort services, residential brothels, in public on city streets and at truck stops, strip clubs, hotels and motels, and elsewhere.² Sex trafficking occurs right here in Washington state.³

Washington State is a leader in enacting state laws to combat human trafficking in all its forms. In 2012, Washington's anti-trafficking legislation was ranked at the top of all 50 states according to the Polaris Project's ratings.⁴ Each session from 2002 to present, Washington's legislature builds on its longstanding efforts to enact laws to effectively combat human trafficking in all its forms.

Summary

Washington state is a hotspot for labor trafficking due, in part, to its many ports and its diverse business landscape. Washington continues to be identified as a very progressive state and a national leader in its legislation, its policies, and its interventions to combat human trafficking. Washington's anti-human trafficking policies use a multi-faceted approach often referred to as the "3 P's"—prosecution, prevention, and protection.

Year-by-year, Washington's state and local governments and its community organizations have expanded anti-trafficking activities to build the public's awareness about human trafficking, to reach out to trafficking victims, to help trafficking survivors with a wide range of support services, and to strengthen law enforcement resources and training for those who investigate and prosecute persons who commit human-trafficking crimes.

In 2002, Washington was the first state to establish a Task Force Against the Trafficking of Persons. In 2015, the task force has been renewed and expanded. The state's anti-trafficking task forces and work groups, measure and evaluate the outcomes of anti-trafficking policy initiatives and programs in order to improve their effectiveness.

Also in 2015, Washington's Department of Commerce Office of Crime Victims Assistance is authorized to create a new web portal and information clearinghouse to be a single point of contact in the state for access to the most current information and resources on Washington's anti-trafficking work and similar work at the federal level and in other states.

In 2010, in anticipation that the Winter Olympic Games held in British Columbia might result in an increase of human trafficking activity along the Interstate 5 corridor, the legislature authorized anti-trafficking posters to be placed in each I-5 Department of Transportation rest stop. The posters featured a toll-free number for trafficking victims to contact for help. The posters were produced and placed at no cost to the state by non-profit anti-trafficking organizations. In 2015, the legislature builds on the success of the rest stop posters by authorizing the Department of Commerce Office of Crime Victims Assistance to work with the business community and with anti-trafficking stakeholders to develop a new anti-trafficking notice that will be available to any business that has a public restroom. Like the 2010 posters, the public restroom notices will be produced at no cost to the state.

The following is a year-by-year review of Washington's significant anti-trafficking legislation.

2002

House Bill (HB) 2381 created the Task Force Against the Trafficking of Persons—the first of its kind in the nation—directed to measure and evaluate the state's progress in trafficking prevention activities, identify available programs providing services to victims of trafficking, and recommend methods to provide a coordinated system of support and assistance to victims of trafficking (Veloria). *Not codified; Report issued in 2004 (see below)*

Senate Bill (SB) 6412, the International Matchmaking Organization Act—also the first of its kind in the nation—established protections for prospective foreign spouses of Washington residents who go through online international marriage brokers by requiring the brokers to notify recruits in their native language that background check and marital history information is available for prospective spouses who are Washington residents (Kohl-Welles). *RCW 19.220.010.*

The Washington State Task Force Against the Trafficking of Persons issued its first report and recommendations (<http://www.commerce.wa.gov/Documents/OCVA-HT-2002-HT-Report.pdf>).

2003

HB 1175 created two human trafficking crimes, both class A felonies, and expanded the definition of criminal profiteering to include the crime of trafficking—making Washington the first state in the nation to criminalize trafficking and specify criminal and civil penalties (Veloria). *RCW 9A.40.100.*

HB 1826 increased protections for prospective foreign spouses by also making personal history information available to them, including spousal abuse and founded child abuse (Veloria). *RCW 19.220.010.*

The Federal International Marriage Broker Regulations Act is sponsored by U.S. Sen. Maria Cantwell and U.S. Rep. Rick Larsen, modeled after the 2002 International Matchmaking Organization Act.

2004

The Task Force released its second report (<http://www.commerce.wa.gov/Documents/OCVA-HT-2004-Task-Force-Report.pdf>).

2005

SB 5127 created requirements for state agencies to develop written protocols for the delivery of services to victims of human trafficking (Kohl-Welles). *RCW 7.68.360*

State funding was provided for legal aid to undocumented immigrants who are victims of sexual assault, domestic violence, or human trafficking.

The Task Force released its third report (<http://www.commerce.wa.gov/Documents/OCVA-HT-2005-Task-Force-Report.pdf>).

2006

SB 6731 prohibited sex tourism—making WA the second state in the nation to do so (Fraser). *RCW 9A.88.085*. Task Force funding was renewed and the task force was directed to create a Comprehensive Response to Human Trafficking—a coordinated system containing seven components, including prevention, victim identification and victim services. The Federal International Marriage Broker Regulation Act was signed into law as part of the Violence Against Women and Department of Justice Reauthorization Act of 2005. *Pub. L. No. 109-162, 119 Stat. 2960 (2006)*.

2007-2008

SB 6339 added victims of human trafficking to the list of persons eligible for the state's address confidentiality program (Kohl-Welles). *RCW 40.24.010*.

SB 5718 created four new crimes relating to child sexual exploitation: commercial sexual abuse of a minor (CSAM) that replaced the crime of patronizing a juvenile prostitute, promoting CSAM, promoting travel for CSAM, and permitting CSAM. It also added an additional one-year penalty to the sentence for a conviction of the most serious crimes of child sex abuse if the offender paid to engage in the abuse (Kohl-Welles). *RCW 9.68A.100 through .103*.

The Task Force released its fourth report (<http://www.commerce.wa.gov/Documents/OCVA-HT-2008-HT-Report.pdf>).

2009

SB 5850—the first legislation of its kind in the nation—required international labor recruiters and domestic employers of foreign workers to disclose federal and state labor laws to employees and required health care professionals be provided with information to help identify human trafficking victims (Kohl-Welles). *RCW 19.320.020*.

HB 1505 allowed prosecutors to divert cases in which a minor is alleged to have committed the offense of prostitution, if the juvenile agrees to participate in a program that provides wraparound services, including mental health counseling (Dickerson). *RCW 13.40.213*.

2010

SB 6332, built on SB 5850 enacted in 2009, added nonimmigrant workers to the list of employees who must be provided with federal and state labor laws, and established civil penalties for labor recruiters and employers who fail to do so (Kohl-Welles). *RCW 19.320.010*.

SB 6476 strengthened penalties for the crime of commercial sexual abuse of a minor and required development of training for law enforcement officers. It also requires the prosecutor to file a diversion for a juvenile's first prostitution-related offense, even if the juvenile has other criminal history (Stevens). *RCW 9.68A.100, .101, and .105, and 9A.88.140*.

SB 6330 allowed informational posters on domestic trafficking, including trafficking of minors and a "1-800" number, to be placed at rest stops throughout the state which could be very helpful for individuals being taken to international events, such as the Winter Olympics which were held in British Columbia (Kohl-Welles). *RCW 47.38.080*.

2011

SB 5482 authorized local governments to use affordable housing funds to provide housing assistance to victims of human trafficking and their families (Kohl-Welles). *RCW 36.22.178, .179, and .1791*.

HB 1874 authorized law enforcement officers to conduct surveillance operations on suspected human-trafficking and commercial sexual abuse activities with the consent of the victim. It also authorized prosecutors to request assistance from minors in the undercover surveillance of telephone communications in trafficking investigations without putting youth in danger (Dickerson). *RCW 9.73.210 and .230*.

SB 5546 amended the crime of human trafficking to include the illegal harvesting or sale of human organs and broadened the scope of the crimes to hold criminals accountable when caught transporting a person despite not knowing whether the

person would eventually be forced into prostitution or manual labor (Kohl-Welles). *RCW 9A.40.100 and .010, 9.95.062, and 10.64.025.*

2012

SB 6251 created a new crime, making it illegal to knowingly publish an escort ad on-line or in print that involves a minor (Kohl-Welles). *Chapter 9.68A RCW.*

SB 6252 added the crimes of commercial sexual abuse of a minor and promoting commercial sexual abuse of a minor to the list of offenses that may constitute a pattern of criminal profiteering activity (Kline). *RCW 9A.82.010 and .100.*

SB 6253 authorized law enforcement agencies to seize any proceeds or property that facilitate the crimes of commercial sexual abuse of a minor, promoting sexual abuse of a minor, or promoting prostitution in the first degree (Eide). *Chapter 9A.88 RCW.*

SB 6254 criminalized the act of compelling a person with a disability that renders the person incapable of consent to engage in an act of prostitution (Delvin). *RCW 9A.88.070.*

SB 6256 added to the list of gang-related crimes the promotion of sexual abuse of a minor that provides the gang with an advantage, control, or dominance over a market sector (Conway). *RCW 9.94A.030.*

SB 6257 defined sexually explicit acts with regard to sex trafficking and promoting the sexual abuse of a minor and added sexually explicit acts to these offenses (Roach). *RCW 9.68A.101 and 9A.40.100.*

SB 6258 criminalized ordering, luring, or attempting to lure a minor or a person with a cognitive disability into any transportation terminal or into a motor vehicle (Stevens). *RCW 9A.40.090.*

SB 6255 established an affirmative defense in any prosecution for prostitution in the first degree, or trafficking in persons under the Trafficking Victims Protection Act, and allowed minors who were convicted of prostitution resulting from being trafficked by force, fraud, or coercion to request the court to vacate the conviction (Fraser). *RCW 9.96.060 and Chapter 9A.88 RCW.*

SB 6103 prohibited anyone from practicing reflexology or representing himself or herself as a reflexologist unless certified as a reflexologist or licensed by the health department as a massage practitioner (Keiser). *Chapter 18.108 RCW*

HB 1983 increased the fees imposed against individuals convicted of promoting or patronizing prostitution and required that an offender with a prior conviction for promoting prostitution in the first or second degree register as a sex offender (Parker). *RCW 9A.40.100, 9A.44.128, 9A.88.120, 9.68A.105, 3.50.100, 3.62.020, 3.62.040, 10.82.070, and 35.20.220.*

HB 2692 increased the additional fine a person must pay when convicted of patronizing a prostitute and requires those fees be used to pay for increased enforcement and prevention programs (Orwall). *RCW 9A.88.130, 3.50.100, 3.62.020, 3.62.040, 10.82.070, and 35.20.220.*

HB 2177 prohibited the duplication or distribution of child pornography as part of the discovery process in a criminal prosecution, and instead required the material to be made reasonably available to the prosecutor, defense attorney, and expert witnesses who may testify at trial (Ladenburg). *Chapter 9.68A RCW.*

2013

SB 5308 creates a statewide coordinating committee to recommend ways to combat the commercial sexual exploitation of children. This new Commercially Sexually Exploited Children Statewide Coordinating Committee will examine laws and practices of local and regional entities to address issues relating to commercially and sexually exploited children and make recommendations for statewide protocols, laws and practices (Kohl-Welles). *Chapter 7.68 RCW*.

SB 5488 imposes a \$5,000 fine on top of existing penalties for using online ads to facilitate the commercial sexual abuse of a minor. The bill defines an internet advertisement as a statement in electronic media that would be understood by a reasonable person to be an implicit offer for sexual contact or sexual intercourse in exchange for something of value (Kohl-Welles). *Chapter 9.68 RCW and Chapter 9.68A RCW*.

SB 5563 requires that to receive initial certification as a teacher, an applicant must complete training on how to recognize and prevent commercial sexual abuse and exploitation of minors. Certificated and classified school employees must complete training in their orientation and every three years thereafter. The Washington Coalition of Sexual Assault Programs, in consultation with other organizations, must update existing educational materials informing parents and other interested community members about how to prevent children from being recruited into sex trafficking, among other issues (Kohl-Welles). *RCW 28A.410.035, 28A.300.145, 28A.400.317*.

SB 5669 allows for a victim of trafficking and sexual exploitation up to 14 years of age to testify outside the presence of her or his abuser. This bill also tightens current laws addressing trafficking, clarifies that victim consent cannot be used as a defense in the prosecution of a trafficking crime, including when an abuser utilizes an online platform to recruit or sell the victim for sex (Padden). *RCW 9.68A.090, 9.68A.100, 9.68A.101, 9.68A.102, 9.68A.103, 9A.44.020, 9A.44.128, 9A.44.150, 9A.82.010, 13.34.132, 9A.40.100*.

EHB 1291 creates a Statewide Coordinating Committee on Sex Crimes composed of community agencies, legislators and agencies providing services to victims of sex trafficking. This bill also details how the committee will oversee the distribution of funds collected from trafficking crimes to services for victims of sex trade, including revenue collected from impounding vehicles when the driver is involved in exploiting a sex trafficking victim. Fifty percent of revenue from fees and fines for sex crimes must be spent on preventative and rehabilitative services for victims of sex trafficking (Orwall). *RCW 43.63A.740, 9.68A.105, 9A.88.120, 9A.88.140, 43.280*.

2014

Senate Joint Memorial (SJM) 8003 requests that Congress amend the federal Communication Decency Act enacted in 1996 in order to reflect changes in the scope and role of the internet, and the publisher-like role of companies, such as backpage.com, which facilitate child sex trafficking by allowing their online platforms to run adult escort services ads without age verification of those depicted in the ads (Kohl-Welles).

SB 6339 addresses involuntary servitude when an individual is being coerced to perform labor by another person who threatens to withhold or destroy documents relating to immigration status or threatens to contact law enforcement to notify that a person is in the United States in violation with immigration laws. A person is committing coercion of involuntary servitude regardless of whether they are providing compensation or benefits for the forced labor performed. Coercion of involuntary servitude is a class C felony (Fraser). *Chapter 9A.40 RCW and RCW 9A.40.010*.

SHB 1791 expanded the definition of "sex offense" to include trafficking in the first degree when the trafficked person is caused to engage in a sexually explicit act or a commercial sex act. A finding of sexual motivation is not required in order for the offense to qualify as a sex crime. The bill was amended with language from **SB 6017** (Kohl-Welles) that permits the seizing law enforcement agency to keep 90 percent of proceeds obtained through seizures and forfeitures for cases in which the crime was committed in connection to child pornography, commercial sexual abuse of a minor, or promoting prostitution (Parker). *RCW 9.68A.120, 9A.40.100, 9A.44.128, 9A.88.150*.

SHB 1292 addresses the vacating of prostitution convictions when the person committed the offense as a result of being a victim of Trafficking, Federal Trafficking in Persons, Promoting Prostitution in the first degree or Commercial Sexual Abuse of a Minor. An individual can apply and have the record vacated regardless of whether other prior records of prostitution convictions were vacated or if there are pending prostitution charges. The applicant must show by a preponderance of evidence that the elements of the crime she or he is charged with were a result of the applicant having been a victim of Trafficking, Federal Trafficking in Persons, Promoting Prostitution in the first degree, or Commercial Sexual Abuse of a Minor (Orwall). *Chapter 9.96 RCW and RCW 9.96.060.*

2015

SSB 5215 creates the Washington Internet Crimes Against Children Account, which will be administered by the Criminal Justice Training Commission. The account must be used exclusively for combating Internet-facilitated crimes against children, promoting education on Internet safety to the public and to minors, and rescuing child victims from abuse and exploitation (Roach). *Chapter 43.101 RCW.*

ESSB 5884 directs the Department of Commerce office of Crime Victims Assistance (OCVA) to develop and maintain a web portal and information clearinghouse as a single point of contact regarding Washington State's efforts to combat human trafficking. The OCVA must also review and approve a model anti-trafficking information notice taking input from interested businesses and anti-trafficking advocates. The notices will be voluntarily posted in public restrooms at no cost to the state. The Washington State Task Force on the Trafficking of Persons is restored to active status with expanded membership of state officials and stakeholders. The task force must evaluate the effectiveness of the state's efforts to combat all forms of human trafficking and must make findings and recommendations as needed. The Commercially Sexually Exploited Children Statewide Coordinating Committee is extended through 2017 with 3 additional members—2 representing service providers and 1 trafficking survivor. The committee must evaluate implementation of the 2010 law on sex crimes involving children and issue a report by February 1, 2016. (Kohl-Welles). RCW 7.68, 7.68.350, 7.68.801, 47.38.

SB 5933 requires the Office of Crime Victims Advocacy to establish a statewide training program on human trafficking laws for criminal justice personnel, and to provide a biennial report to the Legislature on the program (O'Ban). *Chapter 43.280 RCW.*

2SHB 1281 assesses an additional fine of \$1000 for each depiction or image of visual or printed matter that constitutes a separate conviction under RCW 9.68A/070, Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct. Creates a Child Rescue Fund for deposit of the new additional fines. The Attorney General is authorized to grant 25 percent of the receipts in the Child Rescue Fund to child advocacy centers as defined in RCW 26.44.020 and to grant 75 percent of the receipts to the Washington State Internet Crimes Against Children Task Force for investigation and prosecution of crimes against children. (Sawyer) *RCW 9.68A.*

2016

2SHB 2530 requires the Washington state Patrol to create and operate the Statewide Sexual Assault Kit Tracking system. Authorizes the Department of Commerce to accept private donations to fund the testing of previously unsubmitted sexual assault kits and training for sexual assault nurse examiners. (Orwall) *RCW 36.27.020; 42.56.240; 43.79A.040; 43.43; 35.21.* (Hasegawa). *RCW 19.320.010.*

SB 5342 adds definitions to the Human Trafficking chapter of RCW for the following terms: any person; menace of any penalty; forced labor; human trafficking or trafficking; and work or service. *Menace* of any penalty is all forms of criminal sanctions and other forms of coercion; *Forced work* is all work exacted under the menace of any penalty and where the person has not voluntarily offered to work; *Human trafficking* is an act conducted to exploit, including forced work, by any means. Examples of means include the threat of use of force or other forms of coercion, abduction, fraud or deception, abuse of power, or abuse of position of vulnerability; and *Work* or *service* includes all types of legal or illegal work, employment or occupation.

SB 6376 recognizes January 11 as Human Trafficking Awareness Day in Washington state. (*Fraser*). RCW 1.16.050.

SR 8644 supports increased education, stronger laws and law enforcement, and the promotion of justice to reduce the exploitation of all people, including women and children. (*Chase*).

SB 6463 establishes the unranked class C felony of luring with intent to harm or to facilitate the commission of any crime. A person commits the crime of luring if the person orders, lures, or attempts to lure a minor or a person with a developmental disability into any area or structure that is obscured from or inaccessible to the public, or away from any area or structure constituting a bus terminal, airport terminal, or other transportation terminal, or into a motor vehicle without the consent of parent or guardian and with the intent to harm the health, safety, or welfare of the minor or person with a developmental disability or with intent to facilitate the commission of any crime. (*Pearson*). RCW 9A.40.090.

2017

HB 1079 Human Trafficking and Promotion Prostitution – No Contact Orders: - DIGEST (SUBSTITUTED FOR - SEE 1ST SUB) Requires a defendant who is charged by citation, complaint, or information with an offense involving trafficking or promoting prostitution in the first or second degree and not arrested to appear in court for arraignment in person, no later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information. Requires the court, at that appearance, to determine the necessity of imposing a no-contact order and consider other conditions of pretrial release. <http://lawfilesexext.leg.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/House/1079-S.SL.pdf>

HB 1184 Patronizing a Prostitute – Location of Crime: - DIGEST (SUBSTITUTED FOR - SEE 1ST SUB) Provides that the crime of patronizing a prostitute may be considered as being committed in more than one location. For instance, a person who sends a communication to patronize a prostitute is considered to have committed the crime both at the place from which the contact was made and where the communication is received. <http://lawfilesexext.leg.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/House/1184-S.SL.pdf>

HB 1988 Implementing a Vulnerable Youth Guardianship Program: - DIGEST (SUBSTITUTED FOR - SEE 1ST SUB) Authorizes a vulnerable youth to petition the court to have a vulnerable youth guardianship established for him or her by filing a petition in juvenile court. Gives jurisdiction to the juvenile division of superior courts to appoint a guardian for a consenting vulnerable youth who has been abandoned, neglected, or abused by one or both parents, or for whom the court determines that a guardian is otherwise necessary as one or both parents cannot adequately provide for the youth such that the youth risks physical or psychological harm if returned to the youth's home. <http://lawfilesexext.leg.wa.gov/biennium/2017-18/Pdf/Bills/House%20Passed%20Legislature/1988-S.PL.pdf>

SB 5030 Trafficking, Prostitution, and Commercial Sexual Abuse of a Minor – Statute of Limitations: - DIGEST (DIGEST AS PASSED LEGISLATURE) Addresses the statute of limitations for trafficking, commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, and promoting travel for commercial sexual abuse of a minor. <http://lawfilesexext.leg.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/Senate/5030.SL.pdf>

SB 5272 Forced Prostitution – Vacating Convictions: - DIGEST (SUBSTITUTED FOR - SEE 1ST SUB) Addresses the vacating of prostitution offenses when the person committed the offense as a result of being a victim of trafficking, promoting prostitution in the first degree, promoting commercial sexual abuse of a minor, or trafficking in persons under the trafficking victims protection act. <http://lawfilesexext.leg.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/Senate/5272-S.SL.pdf>

Appendix D: Interviewees and Work Group Participants

Name	Title/Function	Organization	Interview Date
Val Richie	Prosecuting Attorney	King County Prosecuting Attorney's Office	May 22
Molly Jensen*	KC CESC work group	King County Human Resources	May 23
Robert Beiser*	Director	Seattle Against Slavery	May 25
Emma Catague*	Founder	API Chaya	May 26
Velma Veloria*	Former Legislator	Washington State Legislature	May 26
Sutapa Basu	Director	UW Women's Center	May 26
Celia Chessin-Yudin*	WARN Program Coordinator	International Rescue Committee	May 29
Roy Dodman	Goods & Services Supervisor	King County Finance & Business Operations Division, Procurement & Payables Section	June 2
Chris Barringer	Chief of Staff	King County Sheriff's Office	June 2
Robin Fenton	Chief of Criminal Investigations Division	King County Sheriff's Office	June 2
Kate Crisham	Assistant US Attorney	US Attorney's Office, Western District of Washington	June 2
Megan Bruneau	Labor Trafficking Detective	Seattle Police Department	June 6
Jen Wallace	Program Coordinator	WashACT	June 8
Tim Warden-Hertz	Attorney	Northwest Immigrant Rights Project	June 8
Chrissy Russillo	Director of Human Resources	King County	June 9
Julie Dunn	Employment Services Manager	King County	June 9
Mar Brettmann*	Director	Businesses Ending Slavery and Trafficking	June 9
Priya Rai	Human Trafficking Organizer	API Chaya	June 13
Kirsten Foot	Professor	UW Department of Communications	June 15
Annette Taylor	Deputy Assistant Director for Fraud Prevention and Labor Standards	Washington State Department of Labor and Industries	June 15
Jennifer Hill	Youth Services Coordinator	King County Department of Community and Human Services	June 20
Dan Roisman	Deputy District Attorney Consumer, Environmental and Worker Protection Division	Alameda County H.E.A.T. Unit Office of the District Attorney Alameda County, California	June 20

* Participated in the work group meeting. Additional participants in the work group meeting included: Kathleen Morris and Dulce Zamora from IRC/WARN; Joanne Alcantara and Morgan Burdick of API Chaya; Councilmember Kohl-Welles; County project team members Ericka Cox, Carmela Ennis, and Faride Cuevas Ayala; and consultants Margaret McClung and Deborah Espinosa.

Appendix E: Government Agencies and Organizations Providing Services to Survivors of Labor Trafficking

State of Washington
Department of Labor and Industries Department of Social and Health Services Office of the Attorney General Office of Crime Victims Advocacy
King County
Department of Community and Human Services Prosecuting Attorney's Office Sheriff's Office
City of Seattle
Human Services Department Office of Labor Standards Seattle Police Department
Nonprofit Organizations
API/Chaya Businesses Ending Slavery and Trafficking Filipino Community Center International Rescue Committee, Seattle Kids in Need of Defense Northwest Immigrant Rights Project Northwest Justice Project Seattle Against Slavery Washington Engage

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