



How can expert testimony improve human trafficking prosecutions?

Expert witness testimony can be an effective way to educate a judge and jury about a variety of topics connected to sex and labor trafficking. Federal and state courts have repeatedly confirmed that expert testimony is appropriate in human trafficking cases where it aids the fact finder in understanding the evidence or determining an issue in question.¹

Who can be an expert?

Human trafficking experts can be qualified based on their “knowledge, skill, experience, training, or education” if their “scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue.”² Possible experts include:

- Experienced investigators³
- Service providers, social workers, or advocates
- Industry professionals
- Survivors
- Psychologists or clinicians
- Scholars and researchers
- Medical professionals
- Anyone with specialized or technical knowledge

What topics can experts talk about?

Common Offender Tactics for Recruiting and Exploiting Victims:

Courts have specifically allowed expert testimony that explains how some traffickers target vulnerable individuals,⁴ including strategies like using peers to recruit them,⁵ grooming victims with initial tenderness and seduction⁶ or promises of a lavish lifestyles,⁷ and then using a variety of

¹ See *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 589 (1993); *Boca Raton Community Hosp., Inc. v. Tenet Health Care Corp.*, 528 F.3d 1227, 1232 (11th Cir. 2009); *People v. Bynum*, 852 N.W.2d 570, 584 (Mich. 2014); *Griffin v. Spacemaker Group, Inc.*, 486 S.E.2d 541, 544 (Va. 1997).

² FED. R. EVID. 702

³ *State v. Simon*, 831 P.2d 139 (Wash. Ct. App. 1991).

⁴ See *State v. Turvey*, 220 N.E.3d 968 (Ohio Ct. App. 2023); *Dukes v. State*, Nos. 13-14-00731-CR & 13-14-00732-CR, 2016 WL 1393930 (Tex. Ct. App. Apr. 7, 2016).

⁵ *State v. Moore*, 493 P.3d 703 (Utah Ct. App. 2021).

⁶ *State v. Littleton*, 285 So.3d 1181, 1199-1200 (La. App. 5 Cir. 2019) (holding that an officer, having been deemed appropriately qualified as an expert in human trafficking dynamics, was able to testify to common trafficking practices, including seduction).

⁷ *United States v. Robinson*, 993 F.3d 839 (10th Cir. 2021).

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tactics to control and manipulate them, including providing and withholding gifts, money⁸ and/or emotional support⁹, and psychologically manipulating victims into feeling helpless to leave their situation.¹⁰ Experts have also been allowed to testify regarding tactics like making victims seemingly complicit in the offenders wrongdoing by forcing them to engage in criminal activity.¹¹ While such tactics are commonly used,¹² the dynamics they create are not often within the personal experience or understanding of typical jurors, and having expert testimony can help jurors understand the testimony they will hear from victims of human trafficking.

Language and Subculture:

Sex traffickers often use very specific slang designed to isolate victims and communicate surreptitiously about commercial sex.¹³ Courts have allowed testimony about common terminology¹⁴ and acronyms¹⁵ used by traffickers, specific slang¹⁶ used to communicate about commercial sex.

Victim Behavior and Common Responses to Trauma and Offender Tactics:

Expert testimony regarding how victims may respond to offender' tactics and how resulting trauma can present is relevant where jurors may otherwise be impacted by myths or misconceptions about how a victim "should" or "would" act. Courts have allowed expert testimony to explain the reality of why a victim may not call for help at the "first" opportunity¹⁷, and how offender tactics can create a trauma bond, which results in a victim being fiercely protective of, and acting in the offender's interest over their own.¹⁸

What about testimony regarding the Neurobiology of Trauma?

A word of caution is necessary about framing experts and expert testimony around the neurology of trauma. First, there are few true experts in this field. Second, many of the lessons learned from experts on the neurology of trauma are consistent with what others have learned through their own

⁸ *Id.*

⁹ *Id.*

¹⁰ *Lemery v. State*, 768 S.E.2d 800 (Ga. Ct. App. 2015).

¹¹ *Id.*

¹² See, e.g., AEQUITAS, Wendy Barnes, Keisha Head, and Toolsi Meisner, *Being Trafficked: What Prosecutors Need to Know About the Life*, STRATEGIES IN BRIEF, (June 2023), <https://aequitasresource.org/wp-content/uploads/2023/07/Being-Trafficked---What-Prosecutors-Need-to-Know-About-the-Life.pdf>

¹³ *Id.*

¹⁴ *United States v. Brinson*, 772 F.3d 1314 (10th Cir. 2014); See also *United States v. Pires*, 138 F.4th 649 (1st Cir. 2025)

¹⁵ *United States v. Szczerba*, 897 F.3d 929 (8th Cir. 2018).

¹⁶ *State v. Ashley*, No. M2022-01096-CCA-R3-CD, 2023 WL 7130271 (Tenn. Crim. App. Oct. 30, 2023) (unreported).

¹⁷ *United States v. Alzanki*, 54 F.3d 994 (1st Cir. 1995).

¹⁸ *People v. Abdur-Razzaq*, 77 N.Y.S.3d 842, 852 (N.Y. Sup. Ct. 2018).

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experience working with victims and survivors of trauma. By avoiding framing victim behavior as a hard science, complicated (and ill-fitting) reliability tests may also be avoided. Instead, experts can share that they have received training and education around neurobiology of trauma and that that training, along with their experience, informs their testimony.¹⁹ Some experts with professional experience could provide context regarding a traumatized victim's behaviors rather than forcing a "battle of the experts" over placing a diagnostic label on what a victim has experienced, such as PTSD.

Medical Evidence

Beyond testifying as to their observations and findings during a medical exam, experts with medical and human trafficking expertise may also testify about common health risks associated with sex and labor trafficking, explain acute and historical injuries,²⁰ and discuss the impact of drug dependency and withdrawal.²¹

Industry Standards

In labor trafficking cases, it may be helpful to educate the fact finder about industry norms so that they can better evaluate whether the traffickers engaged in exploitive practices. Experts can explain labor market specific practices such as how the farm labor contractor system works, typical hiring and supervising practices, and supervisory hierarchy.²² Experts can also opine on labor contract provisions that are unusually coercive²³ or unsafe workplace practices that are outside industry norms, such as the denial of medical care for workplace injuries²⁴ or debt bondage.²⁵ By providing the critical context of what non-exploitative practices in an industry should look like, such experts can help juries better evaluate the actions of a charged offender.

¹⁹ When working with any expert, it is important to agree on the area of the expert's expertise and to prepare accordingly. Experts should not overstate their expertise. In *State v. Eckley*, 128 N.E.3d 832 (Ohio. Ct. App. 2019), the defense called an expert who was eminently qualified to testify in drug-related and internet-related trafficking. However, the Court found that she lacked expertise to testify to matters of human psychology, and so her testimony that the victim did not exercise free will because of coercive elements was found to not be sufficiently based on her area of expertise to be admissible.

²⁰ See Webinar by Jane Anderson and Kim Nash, *A SANE Approach to Human Trafficking Cases*, AEQUITAS, <https://www.youtube.com/watch?v=PUnydnh-rEk> (uploaded October 2022), also available on file with AEQUITAS.

²¹ *United States v. Bell*, No. 17-20183, 2022 U.S. Dist. LEXIS (E.D. Mich. Apr. 5, 2022); See also Jane Anderson, *Drugs as Coercion: Human Trafficking and Toxicology*, YouTube (July 13, 2018), <https://www.youtube.com/watch?v=S4hKC3PuWAM>.

²² *People v. Alvarez*, No. F078551, 2021 WL 1382275, at *11 (Cal. Ct. App. Apr. 13, 2021) (unreported).

²³ *Wang v. Gold Mantis Construction Decoration (CNMI), LLC*, 705 F.Supp.3d 1190 (N. D. Mar. 2021).

²⁴ *Id.*

²⁵ *Jones v. State*, 199 A.3d 717 (Md. Spec. App. 2019).

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Victim Background and Circumstances

Experts may be helpful in human trafficking cases where they have specialized knowledge about the victim's background and circumstances that are not commonly understood by the fact finder.²⁶

Under Federal law and in most states, prosecutors must prove that the defendant asserted, "force, fraud, or coercion" (or something similar). Federal Law defines coercion as "any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person."²⁷ Federal law further defines "serious harm" to include any harm "whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing [commercial sexual activity or] labor or services in order to avoid incurring that harm."²⁸

Thus, the victim's background and circumstances are relevant for the fact finder to determine whether the offender's tactics amounted to coercion. An expert with specialized knowledge can assist a fact finder in determining "a fact in issue"; that fact being whether the victim was sufficiently compelled by the offender, in light of their specific background and circumstances.

How can an expert be used even beyond testimony at trial?

Experts can be helpful beyond trial testimony. Consulting experts are typically provided access to the case file and potentially the victim. This consulting role can be helpful in educating yourself and allied partners about the realities of trafficking, understanding the evidence, building relationships with victims, and making charging decisions.

²⁶ See, e.g., *Dang Vang v. Vang Xiong X. Toyed*, 944 F.2d 476 (9th Cir. 1991) (holding that expert testimony explaining that "upon fleeing from Laos, Hmong refugees were reliant on government officials for their needs and would not survive in the United States without government assistance" was highly relevant to explain certain behavior by the victims—including their repeated contact with a government official after he raped them—that the jury might have otherwise found "confusing."); and see *United States v. Alzanki*, 54 F.3d 994 (1st Cir. 1995) (holding that testimony regarding Kuwaiti treatment of domestic workers (namely Kuwaiti police "were under orders to shoot undocumented domestic workers who ventured out alone") was admissible to assist the jury in evaluating the special vulnerabilities of the victim in that case and why she did not leave the home where she was being exploited as a domestic laborer to seek help from authorities).

²⁷ 18 U.S.C. § 1591(e)(2); 18 U.S.C. § 1589(a)(4).

²⁸ 18 U.S.C. § 1589; 18 U.S.C. § 1561.

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