



Evolving Approaches to Proactively Identifying and Investigating Sex Trafficking: A White Paper Analysis of AEquitas Roundtables

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Law enforcement officers charged with identifying and investigating sex trafficking are challenged to identify a crime that is by its very nature hidden not only to the public, but often to the victims themselves. Traffickers use a variety of tactics to physically and psychologically coerce their victims to engage in commercial sex, cause victims to minimize their own exploitation, and to instill distrust in police and other systems that are designed to help trafficking victims.² Because traffickers make it difficult for victims of sex trafficking to recognize or self-report their victimization, investigators often rely on undercover operations to identify potential traffickers and their victims. These operations target potential victims by setting up a “date” to meet to engage in sexual services for money. Once law enforcement arrives at the “date” and detains the

potential victim, there is a follow-up investigation to identify a potential trafficker. While these undercover operations have led to successful investigations and prosecutions of sex traffickers, they can also leave victims with complex feelings of being targeted, used, lied to, and further traumatized by law enforcement.³

To identify possible promising alternatives to these traditional undercover operations, AEquitas hosted a series of virtual and in-person roundtables designed to examine the efficacy and impact of undercover operations and discuss alternative methods used to identify and investigate sex trafficking. This resource describes the purpose and limitations of vice-style undercover operations in identifying human trafficking, reviews the outcome of the discussions from the AEquitas roundtables, and outlines promising strategies being used in place of undercover operations to better serve victims of human trafficking.

Deconstructing the Undercover Operation

To assess the ways in which undercover operations impact the ability of law enforcement and prosecutors to identify and provide services for victims of human trafficking and subsequently investigate and prosecute their traffickers, it is necessary first to discuss what these undercover operations entail, why law enforcement uses them, and what weaknesses they present. A typical⁴ undercover operation - or vice sting, as they are sometimes known - involves a law enforcement officer posing as a would-be buyer of sex to contact a would-be seller of sex, arrange for a meeting, and receive a solicitation of sex for money.⁵ After communication is established, law enforcement will arrange an in-call or out-call meeting⁶ at a hotel or apartment.⁷ Prior to the undercover operation, law enforcement may have different levels of indicia that the targeted seller

of sex is a victim of human trafficking. For example, law enforcement may have chosen a particular ad by focusing on advertisements that show very young-looking individuals or identifying words or emojis in the advertisements that they believe to be tied to trafficking to narrow investigative targets. It is also possible law enforcement may have no prior indication of possible trafficking if they set up such operations by contacting as many posters of advertisements as they can. Once law enforcement receives the solicitation for sex on the scene, a “take down” is initiated. This can involve several uniformed and armed police officers rushing into the premises and quickly detaining and searching everyone present, whether or not they are a potential or known human trafficking victim, so that officers can secure the scene.

Why Conduct Undercover Operations

Without detailing the intricacies of each state law defining human trafficking or specifically sex trafficking, most trafficking statutes require proof of three essential elements in keeping with the federal statute that criminalizes human trafficking: an act, a means, and a purpose.⁸ In most cases, evidence directly observed by law enforcement may easily meet the first and third of these elements. The first element, an “act”, generally requires proof that the defendant recruited, harbored, transported, provided, or obtained the victim. An undercover operation may provide proof that a suspect harbored the potential victim if the suspect and potential victim are staying together in the same hotel, or the suspect was observed transporting the victim to that location. The third element, the “purpose”, requires proof of commercial sexual activity.⁹ An undercover operation will almost certainly establish that the potential victim is engaging in commercial sex. While not required by any statute, during the roundtable discussions, law enforcement reported that some prosecutors require evidence that the potential

victim solicited sex for money to establish this element before charging human trafficking cases.¹⁰ The second element, the “means” requires proof that the defendant engaged in force, fraud, or coercion. In cases involving minor victims, this is not required, which means that if the victim is a minor, an undercover operation may be able to establish evidence sufficient to prove sex trafficking, whether or not the victim is prepared to make a full disclosure of their victimization and participate in a prosecution.

Undercover operations can also be a method of obtaining powerful digital evidence to support a human trafficking prosecution. During undercover operations, law enforcement identifies, seizes, and searches cell phones which often contain additional evidence of sex trafficking, including communication between the trafficker and the victim(s) which can show evidence of the element of “force, fraud, or coercion”.¹¹ Sometimes this cell phone evidence can be admitted into evidence without a victim testifying, however a victim may need to testify to establish the authenticity¹² and relevancy¹³ of the contents of the cell phone in order for this evidence to be admissible. Either way, the evidence of the communication can be helpful for law enforcement and prosecutors to identify trafficking and then strategize methods to further investigate the trafficker.

The Limitations of Undercover Operations

Undercover operations have several limitations, including the fact that they negatively affect the victims that they are meant to be identifying. These operations are also limited in their general utility, as they are mainly designed to identify two specific types of sex trafficking that primarily affect women and girls: pimp-controlled trafficking and commercial front trafficking, such as trafficking within illicit massage businesses. Sex

trafficking that is not advertised online, including familial trafficking, is unlikely to be identified through undercover operations.¹⁴

Survivors of sex trafficking who have been the target of an undercover operation report that these operations are inherently traumatic.¹⁵ This creates additional unnecessary barriers for victims to overcome and often does not set officers up to obtain actionable disclosures of human trafficking. Undercover operations targeting potential victims create an environment that is at best not helpful to encourage truthful disclosures and at worst further pushes victims into exploitation. When victims report feeling tricked into meeting with law enforcement, treated like perpetrators, and then asked about their circumstances, victims are unlikely to see involved law enforcement as a safe person to disclose their trafficking to. As one roundtable participant with lived experience stated, law enforcement is at a “trust deficit” with anyone they encounter this way.¹⁶ This effect is compounded when victims have had other negative interactions with police from arrests or other traumas related to their exploitation, and the likelihood of a truthful disclosure diminishes.¹⁷ Law enforcement also reported during roundtables a disfavor for undercover operations (with one participant stating that “I hate undercover ops,” and that he finds them traumatic on the law enforcement side as well.¹⁸)

Undercover operations can also lead to arrests of human trafficking victims.¹⁹ Arrests can be the result of a lack of training, agency arrest policies, or a misplaced belief that arresting potential victims is an effective way to get victims services or remove them from a dangerous situation. The Department of Justice (DOJ), Office for Victims of Crime (OVC) has provided guidance to Enhanced Collaborative Model (ECM) Task Force to Combat Human Trafficking (HTTF) grantees or “ECM HTTFs” specifically precluding

them from arresting victims engaged in commercial sex as a means of identifying sex trafficking.²⁰ However, available data and information provided during the AEquitas roundtables indicates that many law enforcement agencies still engage in these types of undercover operations.²¹ Survivors report that the use of actual or threatened arrest and prosecution is still being used to secure victim disclosures and testimony.²²

While undercover operations can lead to the discovery of powerful digital evidence of trafficking, it is a rare circumstance that digital communications alone will practically make out all the elements of the offense, and such communications are not always admissible without victim testimony to authenticate or lay foundation for them. Especially in cases involving adult victims, live testimony from a victim is often necessary to prove human trafficking.²³ Victims are most able to testify at trial when they feel safe and secure enough to participate in the investigation and prosecution, something that undercover operations may preclude. Therefore, building trust, being transparent, and providing support to victims are key strategies that can impact prosecutors' ability to hold offenders accountable.

ECM HTTF grantees are provided funding to develop additional strategies to investigate all forms of trafficking and to implement policies and practices that do not harm potential victims. This includes prohibiting the use of funds for commercial sex undercover stings that do not have a known nexus to human trafficking. This guidance has been provided directly to ECM grantees for several years, and in the most recent years has been included in the funding announcement itself.²⁴

The AEQUITAS Roundtables

In order to better assess the efficacy of these undercover operations and any promising practices that jurisdictions are engaged in that have greater impact for victims of human trafficking, AEQUITAS hosted four roundtable discussions between January 2023 and April 2024: two multi-disciplinary in-person roundtables; one virtual roundtable made up of law enforcement officers; and one virtual roundtable of subject matter experts with lived experience. Participants came from all around the country, from smaller and larger jurisdictions, having a variety of lived and professional experience. Some participants worked within an ECM HTTF, and others did not.

Questions posed to participants were tailored to the audience assembled. In the virtual roundtable with lived experience experts, AEQUITAS designed the discussion points to maximize survivor input on the effect of undercover operations on victims by asking questions such as:

- What do undercover operations look like from the perspective of those targeted as sellers of sex?
- What is the impact of undercover operations on ability to disclose, and are there factors that might make disclosure more or less likely in these moments?
- What could make undercover operations better?

At the virtual roundtable which invited prosecutors and law enforcement, AEQUITAS asked questions to elicit commentary on the effectiveness of undercover operations, how they impacted prosecutions, and other proactive strategies they have seen or used to successfully identify, investigate, and prosecute sex trafficking. Some of those questions included:

- What percentage of your sex trafficking cases originate from an undercover operation?
- How “successful” are undercover operations? How do you define success?
- What percentage of victims disclose during an undercover operation? When they did, what factors contributed to the disclosure?
- Thinking about your sex trafficking cases – besides undercover operations – how else are victims identified?

The multi-disciplinary panels that AEQUITAS hosted were conducted in person at The Network’s Convening on Trafficking within the Illicit Massage Industry (IMI) held in Los Angeles in January 2023 and the Conference on Crimes against Women (CCAW) held in Dallas in May 2023. Given the broader audience at these roundtables, participants were asked a variety of questions including:

- How do you pick targets (victims, ads, traffickers) for undercover operations?
- How else have you identified victims of trafficking working in illicit massage businesses?
- Do you need the undercover operation to establish an element of a crime? How else might they establish the element of “commercial sex”?
- How do you think victims experience undercover operations or raids?
- How can/do you mitigate the trauma that may necessarily be a result of police interaction?

AEQUITAS has also collected proactive investigation plans from participants in various jurisdictions, to identify promising best practices for proactive approaches to victim identification and law enforcement investigations. The recommendations and discussion in this paper are applicable to any jurisdiction tasked with investigating sex trafficking cases.

Alternative Proactive Approaches to Combating Sex Trafficking

Three strategies emerged as viable alternative proactive approaches to increase victim identification in human trafficking cases: (1) Building trusted relationships with specific organizations, agencies, communities, and individuals; (2) Developing investigative strategies that target known or suspected traffickers rather than their victims; and (3) intra-agency cross-training and collaboration.

Proactive Approach: Building Trusted Relationships

As one survivor leader explained, a relationship is what got her into sex trafficking, and relationships were the only thing that could get her out.²⁵ While the cultivation of relationships may not provide law enforcement with the immediate satisfaction of a quick arrest,²⁶ building trusted relationships can lead to positive long-term outcomes. One roundtable participant at the IMI Convening described how victims will wait and see how other victims are treated before feeling comfortable reaching out. An example provided by a victim advocate during the IMI roundtable:²⁷

“One victim didn’t want services and then she messaged me a week later on Facebook...she met me and we put her in safe housing and now she is on her way to the T-visa b/c [sic] of her friend who was ok. It didn’t happen overnight, but she waited to see what happened to the other girl, who is fine, and now they are both getting T-visas.”

Having trusted partners and being a trusted partner can increase substantive referrals, improve information sharing, and enhance participation by providing victims with services and resources that increase their safety, stability, and autonomy.

Law enforcement can look to successful labor trafficking cases to develop proactive strategies based on building relationships and referral sources. Labor trafficking cases

are often built after an initial victim disclosure is made to someone other than law enforcement, such as immigration attorneys, legal aides, language teachers, child welfare social workers, faith leaders, and other service providers. Many disclosures are initially made to organizations and agencies that have trusted reputations in their communities; for example, a church attended by members of the Filipino community where services take place in Tagalog or an organization with Spanish-speaking outreach workers who provide sunscreen or gloves to agricultural workers may have more trust from community members, and therefore be more likely than law enforcement to receive a sensitive disclosure. Where those organizations have a mutual partnership with law enforcement, that can help build the trust that would allow victims to give those disclosures to law enforcement.

This strategy starts with identifying organizations, agencies, communities, and individuals who may intersect with or serve individuals who are at high-risk for sex trafficking. Those partners should include traditional allies like state child welfare agencies, probation and parole, domestic violence agencies, rape treatment centers, and the medical community. In addition, task forces and multi-disciplinary teams should look beyond traditional partners and identify and pursue relationships with non-traditional partners such as the defense bar, organizations that provide housing, food pantries, and agencies that license and inspect rehabilitation centers. Task forces can begin this process by mapping their state and local agencies and community-based service organizations. Next, separate disciplines can conduct anonymized case reviews during which they consider how, where, and when victims or suspected victims intersect with systems or individuals who could have identified their victimization.

For example, law enforcement might review a case and recognize that the victim attended the same methadone clinic every day, that she was brought there by her trafficker, and that she danced at a strip club where a “house mom” had noticed her covering bruises on her face with heavy make-up. This case review might encourage conversations about potential outreach strategies for dancers and efforts to learn more about the rules and regulations behind methadone clinics and whether employees of the clinics could be in a position to provide human trafficking awareness and resources materials to their patients. Likewise, a case review conducted by a community-based organization may reveal that many of their clients also receive services at a local women’s health clinic and some are involved with the child welfare system as mothers who have parenting plans. This outreach may lead to expanding a previous partnership with the child welfare agency to also look at parents at risk for trafficking and in need of support. These relationships can be built on all levels: organizational, agency, systematic, and individual.

Improving Victim Identification Through Multi-Disciplinary Collaboration:

A roundtable participant who is a victim advocate and expert in trafficking of Asian populations shared that approach, she has found to be effective is connecting potential victims with doctors who are trained to look for signs of trafficking. Many victims have daily interactions with men and are worried about injuries and potential infections, so they want to see a doctor who can provide free medical services. As a result of a partnership with a local clinic with capacity for interpretation, the advocate reports that: “Now my phone rings all day long because the doctor keeps seeing red flags of human trafficking.”²⁸

Survivors and other anti-trafficking professionals reported during the roundtables that cases are identified by individuals who are well placed to identify trafficking and who have specific knowledge and interest in the topic, namely individuals who frequently work with individuals in high-risk industries, or with populations at high risk for exploitation. These individuals may also have valuable evidence to support a trafficking investigation or prosecution. Examples include motel clerks, strip club “house moms”, case managers, and those who run group homes, all of whom may be in a position to observe evidence of trafficking. Law enforcement reported that cases have come to their attention by teachers, probation officers, and self-described sex workers who are concerned about violent traffickers or traffickers targeting and exploiting minor victims.²⁹ These examples demonstrate that not only do people need to be able to identify indicators or behaviors of sex trafficking, but they also must believe that law enforcement will take their referrals seriously.

To develop trusted relationships, law enforcement and task forces must not only identify potential partners, but they must also demonstrate that their response to any potential sex trafficking victim or situation will be thorough and will strive to minimize any harm to victims. Partnerships are not one-sided, so everyone involved must demonstrate that they are willing to learn as well as teach; that they are willing to make referrals as well as receive referrals, and that they are willing to be of service to others.

Building Proactive Multi-Disciplinary Relationships:

One participant at the roundtable of individuals with lived experience shared an example in which law enforcement worked with a low-barrier shelter that served individuals with substance use disorder and those engaged in commercial sex. Officers worked with the shelter to set up optional “office hours” that were attended by law enforcement with specific knowledge and training in combatting human trafficking. During these office hours, individuals involved in commercial sex are provided an opportunity to report dangerous buyers or other violent offenders. The participant was optimistic that the relationships and trust built through this accessibility and treating vulnerable individuals with respect could lead to identifying more victims and ensuring they have access to services.³⁰

Strong positive relationships between law enforcement and individuals, communities, organizations, and agencies create a greater likelihood that victims of sex trafficking will feel heard and trusted enough to disclose their exploitation and allow officers to identify a perpetrator of human trafficking in the community. When law enforcement demonstrates their trustworthiness by responding to sex trafficked and vulnerable individuals with dignity and respect, these relationships can flourish and provide credible evidence of sex trafficking.

Proactive Approach: Target Sex Traffickers

Across the roundtables and in the proactive response plans AEquitas reviewed from jurisdictions with specific policies for improving their proactive response to human trafficking, many prosecutors and law enforcement identified the critical need to identify

investigative targets who are engaging in human trafficking through other means than follow up from undercover operations, using resources such as open-source information, law enforcement databases, and undercover online accounts to identify traffickers who are recruiting, advertising, and coercing victims to engage in commercial sex. Law enforcement roundtable participants reported that they often know the identity of traffickers when they conduct undercover operations targeting victims.³¹ Knowing this, AEquitas suggests that law enforcement develop offender-focused strategies by targeting known traffickers and developing evidence of the trafficking independent of a victim's disclosure. This may invariably involve prosecutors assessing and pursuing cases in much the same way as a traditional organized crime prosecution: identifying actors of varying culpability, cultivating confidential informants, engaging in on the ground and digital surveillance including wiretaps, reviewing financial records, and building a broader picture of the scope of a criminal enterprise.³²

The Organized Crime Approach:

Financial	Digital	Surveillance
<ul style="list-style-type: none">• Financial records from banks• App based transactions• Following the trail of online digital currencies	<ul style="list-style-type: none">• Communicating with potential traffickers online• Social media• Phone dumps from phones of recovered victims and identified co conspirators	<ul style="list-style-type: none">• Confidential informants• On the ground surveillance• Wiretaps

Proactive Approach: Intra-Agency Cross-Training

Knowing that traffickers engage in a variety of criminal activity in addition to or as part of a sex trafficking operation, it is strategic to ensure that every police officer, specialized unit, and prosecutor can identify indicators of sex trafficking and are able to make appropriate intra-agency referrals or to conduct sex trafficking investigations concurrently with other types of investigations. This requires inter-agency communication and coordination from all agencies that work with highly vulnerable populations, or in or adjacent to high-risk industries.

Sex trafficking can co-occur with gang activity, fraud and theft-related crimes, and physical and sexual assault, and a myriad of other offenses. Understanding this, prosecutors handling domestic violence cases should be trained to identify indicators of trafficking and be empowered to initiate follow-up investigations into the circumstances surrounding the original case of assault or battery. Similarly, gang investigators should be trained to identify and investigate gang-facilitated sex trafficking in addition to crimes of drug trafficking, gang violence, and racketeering. Victims of human trafficking may also be arrested for or involved in offenses that on the surface do not appear directly connected to their trafficking but may have indicia that can be recognized by a trained investigator who knows what questions to ask or signs to look for. The law enforcement and prosecutor roundtable participants found that having dispatch and patrol officers trained to identify potential signs of human trafficking in everyday calls can improve victim identification and avoid key signs of victimization being missed.³³

Improving Victim Identification Through Cross Training Between Agencies:³⁴

One participant at the law enforcement focused roundtable noted that sex trafficking cases often come in as a report of domestic violence or a robbery at a hotel. He emphasized that cross-training between human trafficking investigators, 911 operators, and responding patrol officers who handle many of those calls would help improve the identification of victims and potentially create investigative targets.

Another participant indicated that his unit trains corrections officers, particularly those who conduct intake at their local prisons. Those officers are trained to ask specific screening questions to identify at risk or potentially trafficked individuals coming into the prison; if an individual is flagged as a potential victim, Human Trafficking Task Force detectives are alerted, and one will try and speak to that individual to build rapport and attempt to get a disclosure.

Sheriffs and corrections staff who have jurisdiction over jails and prisons can be integrated into any anti-trafficking response, whether that is part of an intra-agency cross training strategy or a separate relationship-building approach, or a member of a multi-disciplinary team. Corrections staff have eyes and ears on prisoners who may either be traffickers, or victims or targets of trafficking. Given their unique position, these employees should receive training around how sex trafficking is conducted from within jails, how victims are recruited out of jails, and how victims of trafficking are commonly criminalized as a result of their victimization.³⁵ Staff should also be provided guidance on securing evidence to support investigations into sex trafficking operating out of correction facilities including jail phone calls, visitor logs, and physical communications to prisoners and from prisoners (letters) or sent between prisoners within facilities.

Improving Undercover Operations: Using Survivor-Informed Practices to Minimize Harm and Maximize Justice

Undercover operations can be an effective tool to identify and recover human trafficking victims, but that utility is strained by the knowledge of how severely they can negatively impact victims and prevent them from feeling safe enough to speak with law enforcement. As the anti-trafficking movement has matured, more survivor leaders have been rightfully identified as experts with valuable lived and professional experience that should be leveraged to improve the response to sex trafficking and make it more survivor informed. OVC defines “survivor informed” to mean: “A program, policy, intervention, or product that is designed, implemented, or evaluated with intentional partnership, collaboration, and input from survivors to ensure that the program or product accurately represents the needs, interests and perceptions of the target victim population.”³⁶ Survivor leaders at the AEquitas roundtable raised some of the following as promising practices:

- Ensuring that potential victims are detained for as short amount as time possible to ensure the safety of the scene.
- Limiting any explicit sexual communication or actions with potential victims.³⁷
- Making victim services available on-site or immediately thereafter.
- Building relationships with vulnerable populations.

Roundtable participants reported a variety of practices when it comes to connecting potential victims with victim services. Many participants shared that they coordinate with victim services in advance of any undercover operation to arrange for onsite victim advocates. Roundtable participants stressed the importance of having professionals with lived experience involved in their operations to provide guidance for interacting

with victims recovered on scene, and others discussed referral protocols designed to ensure potential victims have genuine access to services.

Despite efforts to make undercover operations “trauma informed” and “victim centered”, the nature of undercover operations makes it difficult to eliminate harm caused when victims are targeted for police intervention and their first interaction with law enforcement is based on deceit, sexual innuendo, and being treated (even temporarily) as a criminal.³⁸ These practices can create an atmosphere where law enforcement’s trust deficit is reduced and allow law enforcement to demonstrate their trustworthiness.

It is critical to remember that survivors are not a monolith, and individuals who have been trafficked have distinct experiences that may be a result of any number of factors, including the type of trafficking they experienced, their background and the circumstances leading up to their exploitation, any interactions they had with police and service providers, and their experience exiting trafficking,³⁹ including their involvement in commercial sex when not being controlled by a third-party trafficker. Some commonalities do emerge when speaking with survivors: most agree that they have had negative experiences with law enforcement, ranging from not being believed and being treated poorly, to arrest, to sexual harassment and assault.⁴⁰ Survivors who participated in AEquitas’ roundtables shared that undercover operations are always traumatic on some level and that they induce fear, shame, anger, and distrust. One survivor noted that “if I’ve felt like a criminal before, I am going to continue to feel like a criminal.”⁴¹ Echoing this sentiment, at the multi-disciplinary roundtable at the IMI Convening one participant noted, “A survivor once told me that victim-centered [undercover

operations] aren't victim centered because they're by nature traumatizing to victims. We say they are victim-centered to make *us* feel better.”⁴²

Improving Victim Identification Through Survivor Informed Practices:⁴³

Survivor leaders, as well as prosecutors and law enforcement who participated in the AEquitas roundtables, noted that one way for officers to build trust while centering the experiences of survivors is to focus on the dangerous buyers who commit physical and/or sexual assaults. This can allow law enforcement to remove dangerous individuals from the community while building trust with people who are uniquely positioned to collaborate with law enforcement by referring victims of sex trafficking to them and provide information about individuals who may be involved in trafficking. One survivor noted: “Just having Law Enforcement asking, ‘Are there any tricks out there hurting you?’ I found that way more effective than undercover ops. That builds trust.”⁴⁴

Working with survivor leaders may pose specific challenges for law enforcement and prosecutors. OVC funded the creation of a guidebook⁴⁵ for working with survivor leaders that includes assistance for jurisdictions on how they can be good partners to survivor leaders involved in their operations. This includes (among other things):

- Making sure survivor experts are fairly compensated.
- Having a clear policy surrounding a practice that you are seeking to improve and the role you expect the survivor expert to take in improving it.
- Recognize that survivors are experts beyond their lived experience and often have direct expertise as a service provider, victim advocate, or professional expert who has studied human trafficking.
- Building HR policies to ensure that survivors are welcomed and treated respectfully.

Lessons Learned

- Sex trafficking can be difficult to detect and prosecute, and traditional vice-style undercover sting operations have limited utility as a tool to identify victims and hold traffickers accountable.
- Undercover operations cause harm to potential victims of human trafficking.
- Long term community relationship building creates partnerships that more effectively enhance responses to human trafficking.
- Cross training between agencies creates more opportunities for victims to be identified.
- Centering the experience of survivors allows prosecutors and law enforcement to better understand how they can help and serve them.
- By lessening reliance on undercover operations, law enforcement will be better positioned to identify all forms of sex trafficking.

ENDNOTES

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² 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>;

See also: Webinar by Jane Anderson, Wendy Barnes and Keisha Head, *Being Trafficked: What You Need to Know About 'The Life'*, AEQUITAS, https://youtu.be/_yxCjAsivAI (uploaded 17 November 2020).

³ *Roundtable of Sex Trafficking Survivors*, virtually hosted by AEQUITAS, April 12, 2024.

⁴ Other types of sting operations that officers use can involve posing as a trafficker to target buyers or posing as a victim to attempt to have traffickers make contact to coerce them into commercial sexual activity. See HUMAN TRAFFICKING INSTITUTE, 2023 FEDERAL HUMAN TRAFFICKING REPORT, 95 (2024), <https://traffickinginstitute.org/wp-content/uploads/2024/06/2023-Federal-Human-Trafficking-Report-WEB-Spreads-LR.pdf>.

⁵ *Id.* at 26.

⁶ An “in-call” meeting is one where the buyer goes to a location named by the would-be seller of sex, while an “out-call” meeting would involve the seller coming to the buyer’s location.

⁷ *Roundtable of Sex Trafficking Survivors*, virtually hosted by AEQUITAS, April 12, 2024. *See also* NEWTON ET AL., FINDING VICTIMS OF HUMAN TRAFFICKING, NATIONAL OPINION RESEARCH CENTER (2008), <https://www.ojp.gov/pdffiles1/nij/grants/224393.pdf>.

⁸ See, e.g., 18 U.S.C.A. § 1591. While many state human trafficking laws are similar to the federal statute, AEQUITAS’ compilation of state human trafficking laws is available upon request by clicking the “request resource” button at <https://aequitasresource.org/resources/>.

⁹ The federal statute prohibiting sex trafficking defines commercial sexual activity to mean “any sex act, on account of which anything of value is given to or received by any person.” 18 U.S.C.A. § 1591(e)(3).

¹⁰ Law enforcement across multiple jurisdictions shared this sentiment during the AEQUITAS roundtables. *See, Being the Change: Instituting Promising Practices Roundtable*, IMI Convening, January 12, 2023.

¹¹ See FED. R. EVID. 801(d)(2)(e) (articulating that statements of co-conspirators in furtherance of a conspiracy are admissible hearsay, similar to the statements of a party opponent themselves), and see, e.g., *People v. Brown*, 14 Cal. App. 5th 320 (Ct. App. 2017) (holding that the statute prohibiting the prosecution of victims did not preclude such victims from being considered uncharged co-conspirators for the purposes of the co-conspirator exception to the hearsay rule).

¹² FED. R. EVID. 901 requires that authenticity be established by “evidence sufficient to support a finding that the item is what the proponent claims it is.” A common method of proving authenticity is through testimony from a witness “with knowledge... that an item is what it is claimed to be.”

¹³ FED. R. EVID. 401(a) defines relevancy as “any tendency to make a fact more or less probable than it would be without the evidence[.]”. When determining the relevancy of digital evidence, the proponent of the evidence must establish who the communication came from (typically, the defendant) and that it materially impacts a fact at issue in the case.

¹⁴ In 2023, sting operations involving undercover officers posing as buyers made up roughly 15% of the reported federal undercover operations to identify human trafficking and identified only nine actual victims of sex trafficking. See: HUMAN TRAFFICKING INSTITUTE, *supra* note 4 at 96.

¹⁵ *Roundtable of Sex Trafficking Survivors*, virtually hosted by AEQUITAS, April 12, 2024.

¹⁶ *Id.*

¹⁷ See AEQUITAS et al., *supra* note 2.

¹⁸ Participant at *Undercover Roundtable*, CCAW Summit, May 24, 2023.

¹⁹ Of respondents to a 2023 survey of human trafficking victims, 62% reported that they were arrested, detained, or cited by law enforcement. Of those arrested, detained, or cited, 81% reported that it happened during their trafficking experience. See POLARIS, IN HARM'S WAY: HOW SYSTEMS FAIL HUMAN TRAFFICKING SURVIVORS, (2023), <https://polarisproject.org/wp-content/uploads/2023/07/In-Harms-Way-How-Systems-Fail-Human-Trafficking-Survivors-by-Polaris-modifed-June-2023.pdf>.

²⁰ See, e.g., OVC FY24 Enhanced Collaborative Model (ECM) Task Force to Combat Human Trafficking, OFFICE FOR VICTIMS OF CRIME, (last visited august 29, 2025), <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/o-ovc-2024-172001.pdf>.

²¹ See Amy Farrell, Colleen Owens & Jack McDevitt, *New laws but few cases: Understanding the challenges to the investigation and prosecution of human trafficking cases*, 61(2) CRIME, LAW AND SOCIAL CHANGE 139-168 (2013) <https://doi.org/10.1007/s10611-013-9442-1>; and see *Undercover Roundtable*, CCAW Summit, May 24, 2023.

²² *Roundtable of Sex Trafficking Survivors*, virtually hosted by AEQUITAS, April 12, 2024.

²³ Law enforcement reported during the AEQUITAS Roundtables that prosecutors are more comfortable prosecuting cases where there has been an undercover operation, since it is an "easy" way to prove two of the three elements of sex trafficking.

²⁴ See, e.g., OVC FY24 Enhanced Collaborative Model (ECM) Task Force to Combat Human Trafficking, OFFICE FOR VICTIMS OF CRIME, (last visited august 29, 2025), <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/o-ovc-2024-172001.pdf>.

²⁵ *Roundtable of Sex Trafficking Survivors*, virtually hosted by AEQUITAS, April 12, 2024.

²⁶ During the AEQUITAS Roundtables, law enforcement articulated that they sometimes feel pressured to conduct undercover operations and to make multiple and fast arrests. One law enforcement Roundtable participant stated: "[i]f we're doing a long-term investigation of 7-10 months and we're only bringing down a few people, it's not going to look as good as if we do an undercover operation where we're getting 35 arrests [of sellers and buyers of sex]."

²⁷ *Being the Change: Instituting Promising Practices Roundtable*, IMI Convening, January 12, 2023

²⁸ Participant at *Being the Change: Instituting Promising Practices Roundtable*, IMI Convening, January 12, 2023.

²⁹ Participant at *Undercover Roundtable*, CCAW Summit, May 24, 2023.

³⁰ *Roundtable of Sex Trafficking Survivors*, virtually hosted by AEQUITAS, April 12, 2024.

³¹ Participant at *Undercover Roundtable*, CCAW Summit, May 24, 2023.

³² For more information about utilizing wiretaps in sex trafficking investigations, see: Jennifer Dolle and Jennifer Newman, *Utilizing Eavesdropping Warrants to Successfully Investigate and Prosecute Sex Traffickers*, 25, STRATEGIES: THE PROSECUTORS NEWSLETTER, (2025), <https://aequitasresource.org/wp-content/uploads/2025/04/Wiretapping-Corrected-Article.pdf>; and see: Webinar by Jennifer Dolle and Sgt. Nick Odenath, *Tapping into Offender Accountability: Using Wiretapping in State-Level Human Trafficking Cases*, AEQUITAS, https://www.youtube.com/watch?v=qy0F_mM5C0g (April 11, 2023).

³³ *Roundtable of Law Enforcement and Prosecutors*, virtually hosted by AEQUITAS, April 17, 2024.

³⁴ *Roundtable of Law Enforcement and Prosecutors*, virtually hosted by AEQUITAS, April 17, 2024.

³⁵ Webinar by Jane Anderson and Nikki Bell, *From Jail to Bail to Sale: Human Trafficking Within the Criminal Justice System*, AEQUITAS, <https://www.youtube.com/watch?v=hmw1gYQI3aU> (uploaded January 2023).

³⁶ *Glossary*, OFFICE FOR VICTIMS OF CRIME, <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/model-standards/6/glossary.html> (last visited, August 29, 2025).

³⁷ During the AEQUITAS Roundtables, law enforcement reported that some prosecutors insist on law enforcement getting a solicitation to prove the element of commercial sexual activity. Law enforcement explained that to get a solicitation, they may have to engage in counter-surveillance measures which sometimes includes the undercover officer engaging in sexually explicit conversations, video chats (exhibiting “dummy” genitalia), and sexual touching with the potential victim. However, survivors voiced during the Roundtables that these practices are not trauma-informed and can cause harm to victims. While prosecutors reported that they can explain their rationale for needing certain explicit evidence to a judge or jury, the element of commercial sex can be successfully proven through online advertisements and cell phone evidence, a practice that is less traumatic for victims.

³⁸ A common refrain from multiple participants at the survivor leader roundtable was that survivors felt there was no way an undercover vice operation could be trauma informed.

³⁹ For example, some survivors have reported that they were able to exit their trafficking experience after spending time in jail or prison. Other victims reported that experience within the criminal justice system as defendants caused them to be less able to report their victimization, heightening their fear of law enforcement and trauma associated with the criminal justice system. Further inquiry may discover what was helpful about the experience. Was it the time apart from their trafficker, the space to think about their future, or services provided in custody or as part of a probationary sentence? Finding ways to reconcile the lived experiences of survivor leaders providing advice to law enforcement and prosecutors to find paths forward to create better outcomes for all survivors in their communities.

⁴⁰ JEANETTE HUSSEMAN ET. AL, URBAN INSTITUTE, BENDING TOWARDS JUSTICE: PERCEPTIONS OF JUSTICE AMONG HUMAN TRAFFICKING SURVIVORS (2018), available at <https://www.ojp.gov/pdffiles1/nij/grants/251631.pdf>.

⁴¹ *Roundtable of Sex Trafficking Survivors*, virtually hosted by AEQUITAS, April 12, 2024.

⁴² Participant at *Being the Change: Instituting Promising Practices Roundtable*, IMI Convening, January 12, 2023.

⁴³ *Roundtable of Sex Trafficking Survivors*, virtually hosted by AEQUITAS, April 12, 2024.

⁴⁴ *Id.*

⁴⁵ OFFICE FOR VICTIMS OF CRIME, PRACTICAL GUIDE: SURVIVOR-INFORMED SERVICES (2019), <https://ovc.ojp.gov/program/human-trafficking/practical-guide-survivor-informed-services.pdf>.

This resource was produced by AEQUITAS under 15POVC-21-GK-03263-HT, awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this presentation are those of the contributors and do not necessarily represent the official position or policies of the U.S. Department of Justice.