

Labor Trafficking in the U.S.: A Closer Look at Temporary Work Visas

Overview

“They treat us like dogs.”

– Jordan, H-2B Visa Holder¹

While human trafficking spans all demographics, there are some circumstances that lead individuals to become more susceptible to victimization. Foreign nationals who have paid large recruitment and travel fees to labor recruiters often become highly indebted. Traffickers control and manipulate these individuals by leveraging the non-portability of many temporary visas as well as the victims’ lack of familiarity with surroundings, laws and rights, language fluency, and cultural understanding.

Victims face many barriers accessing help. Their traffickers may confiscate their identification documents and money. They may not speak English. They may not know where they are, because they have been moved frequently. They are often not allowed to communicate with family or friends. And they may have trouble trusting others, due to their traffickers’ manipulation and control tactics.

Since December 2007, Polaris has identified nearly 30,000 human trafficking and labor exploitation cases in the United States through operating the National Human Trafficking Resource Center (NHTRC) hotline and the BeFree Textline. In approximately 18% of these cases, we were able to positively determine that at least one victim of the situation had a temporary visa. Through analysis of these situations, we have come to understand the individuals most vulnerable to exploitation, their experiences, and some of the structural reasons for their vulnerability.

This report focuses on six U.S. temporary visas commonly associated with labor exploitation and trafficking as reported to the NHTRC and the BeFree Textline. These include the A-3, B-1, G-5, H-2A, H-2B and J-1 visa

categories. In FY 2014, more than 500,000 of these visas were issued to people coming into the United States.²

To ensure that migrants on temporary visas are better protected from the risk of labor trafficking and labor exploitation, Polaris urges support for the following U.S. federal policy recommendations:

- Prohibit the application of recruitment fees to individuals who have obtained a temporary visa.
- Require employers to provide complete and accurate contracts directly to workers in a language the worker understands.
- Require foreign labor recruiters to register with the U.S. government and encourage companies to use registered labor recruiters.
- Ensure that temporary visa holders can change employers without losing their visa status.

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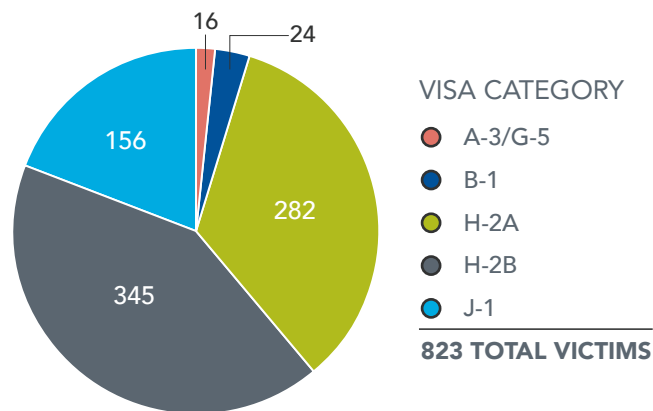
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THE DATA IN THIS REPORT IS BASED ON INFORMATION WHICH WAS PROVIDED TO THE NHTRC HOTLINE AND POLARIS BEFREE TEXTLINE BETWEEN AUGUST 1, 2014 AND JULY 31, 2015 ABOUT VICTIMS OF TRAFFICKING AND LABOR EXPLOITATION WHO HELD TEMPORARY WORK VISAS.

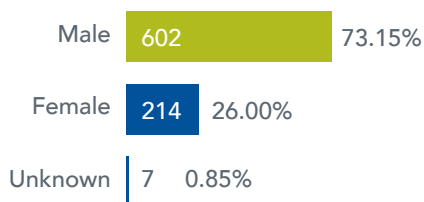
Supplemental data published by the Department of State and Department of Labor is referenced for the purpose of comparison.

During the time period, 805 total cases of potential labor trafficking and 1,275 total cases of potential labor exploitation occurring in the United States were reported to the NHTRC and BeFree Textline.³ Of these, there were 148 human trafficking cases and 644 labor exploitation cases which involved victims with A-3, B-1, G-5, H-2A, H-2B, or J-1 visas, which totals 38% of all cases referencing serious labor abuses. Polaris analyzed these cases and was able to identify 823 specific victims who held one of these particular visa types. Not all of the 823 victims contacted the NHTRC or BeFree Textline directly. In some cases, another victim from the same situation reported on behalf of a number of employees. In other situations, family or friends of the victim relayed information to the NHTRC and BeFree Textline.

TOTAL LABOR TRAFFICKING AND LABOR EXPLOITATION VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE



GENDER OF VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE* (N=823)



TOP 5 VICTIM NATIONALITIES REPORTED TO THE NHTRC AND BEFREE TEXTLINE

1. Mexico
2. Jamaica
3. Philippines
4. South Africa
5. Peru

TOP 10 INDUSTRIES ASSOCIATED WITH VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE

1. Agriculture/Farms/Animal Husbandry
2. Landscaping Services
3. Hospitality
4. Restaurant/Food Service
5. Domestic Work
6. Forestry/Reforestation
7. Recreational Facility
8. Construction
9. Traveling Carnivals
10. Transportation

NON-IMMIGRANT VISA TYPE	NUMBER OF VISAS ISSUED IN FY 2014 ⁴
J-1	331,068
H-2A	89,274
H-2B	68,102
B-1	44,880
A-3	1,203
G-5	643
Subtotal	535,170
Other Non-Immigrant Visas	9,397,310
All Non-Immigrant Visas	9,932,480

Recruitment

“We all suffer the same mistreatment. We come with illusions that they will pay a lot here. They offer us many things. They bring us here deceived... They bring women who don’t know anything about American laws. The only thing left for these women is to continue being abused. They don’t know where to go...I want there to be justice.”

- Liliana Martínez,
G-5 Visa Holder⁵

Despite variations between the type of industry involved, victim nationalities, and geographical locations, the recruitment process was remarkably similar between all of the six aforementioned temporary visa categories. Ninety-nine percent of all the victims identified by the NHTRC between August 1, 2014 and July 31, 2015 were recruited through job offers. The remaining 1% of victims ended up in their exploitative situations through such means as familial pressure or intimate partner abuse, or in connection with a human smuggling and ransom situation.

Twenty-nine percent of victims experienced fraud or false promises during the recruitment process, and reported that the nature or working conditions turned out to be substantially different than what they had been told during recruitment. Workers were also given misinformation about wages, schedules, associated fees, living conditions, and benefits.

Many of the victims had contracts with explicit stipulations which were later violated. Some of these contract violations varied by visa type. For example, in many H-2A cases, potential victims reported their contracts for agriculture work explicitly stipulated an hourly wage. However, upon arrival to their job, potential victims later learned they would be paid on a piece-rate basis, making their earnings almost entirely dependent on weather and other agricultural conditions beyond their control. In cases involving J-1 visas, some victims’ contracts specified they would be placed in positions where they could gain vocational experience, such as hospitality management, only to find themselves working in housekeeping at a hotel. Contract violations that spanned across visa categories included false promises of transportation between work and living sites, reimbursement or provision of food, living expenses, travel to the U.S., and the supply of uniforms or protective safety gear. Other victims never received

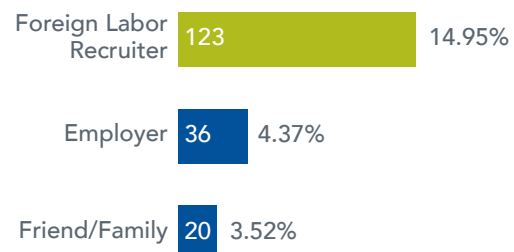
contracts, were given contracts in a language they could not read, or signed a contract but then were not given a copy of that contract to reference later.

There was a general sense of confusion among victims as to the relationship between the person or agency who facilitated their recruitment and their employer. In the case of 15% of victims, there was enough information to identify the involvement of a foreign labor recruiter and 5% of victims appeared to have been directly recruited by their employer. However, there were 6 victims who had contact with both a foreign labor recruiter and their direct employer during the recruitment process and were unable to ascertain the relationship between the two entities. About 4% of victims had obtained their jobs with the assistance of a friend or family member who connected them to either a foreign labor recruiter or the direct employer.

A significant number of victims had to pay fees associated with the recruitment process which ranged from \$100 to \$5,000, but typically fell closer to the \$1,000 mark. Some victims did not have to pay lump sums, but instead, had deductions taken out of their paychecks on an ongoing basis which were explained vaguely as covering expenses related to recruitment, visas, and transportation. Because of the general sense of confusion regarding the visa process, many victims were not sure to whom they had paid recruitment fees or why they had been required. Victims mentioned paying the fees to foreign labor recruiters, their employers, or their direct supervisors at their jobs. Some specified that the fees were to cover the cost of obtaining a visa while others described the fees more vaguely as necessary “to get the job” which may indicate a more informal and inconsistent system of exploitative practices used by some recruiters.

RECRUITER TYPES ASSOCIATED WITH VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE* (N=823)

The data reflects only the information contacts of the NHTRC and BeFree Textline elected to disclose. This information is not the result of a systematic survey.



*These statistics are non-cumulative. Cases may reference multiple recruiter or may not provide this type of information.

Labor Violations and Methods of Control

"I felt trapped. My debts were mounting, but I was scared to leave the farm without my passport. I didn't want to get deported and ruin my chances of getting another visa in the future."

Cirilio,
H-2 Visa Holder⁶

Each of the 823 victims identified by the NHTRC and BeFree Textline had experienced some form of exploitation. The nature of their exploitation ranged from relatively minor contract disputes to severe human rights abuses which constituted force, fraud, or coercion under the Trafficking Victims Protection Act (TVPA).⁷

Among the victims who had indicators of trafficking, the most common method of control was economic abuse which could involve their exploiters confiscating some or all of their earnings, keeping the victims in a situation of debt bondage, preventing the victims from accessing their earnings, or threatening to blacklist the victims and prevent them from obtaining gainful employment in the United States in the future. While economic abuses were reported in all industries, the use of debt was most commonly reported by those in agriculture and forestry in which a real or perceived debt was often attributed to initial recruitment and transportation costs. Furthermore, the use of quotas in the agriculture or forestry industries were also common, where potential victims were mandated to produce or complete an often unattainable amount of work related products or tasks, or face often serious repercussions.

VISA CATEGORY	IS TEMPORARY VISA SPECIFIC TO A PARTICULAR EMPLOYER?
A-3/G-5	Yes
B-1	No ⁸
H-2A	Yes
H-2B	Yes
J-1*	No*

**In most cases, sponsors must approve a change of employer.*

Aside from economic abuse, the next most frequent method of coercive control were threats of deportation or reports to immigration officials. The majority of the visas analyzed in this report tie workers directly to one employer. Workers without visa portability who leave their jobs lose their legal status to work in the United States and are at risk for deportation proceedings. This can significantly limit their ability to re-enter the U.S. in the future. For many temporary workers in the United States, this is an impossible choice, as leaving these jobs may mean the economic ruin of the worker or his or her family. Exploiters often take advantage of this lack of visa portability by using it as a constant tactic to gain and maintain control and remind potential victims of this unbalanced power dynamic. Seventy-nine out of the 153 potential trafficking victims reported to the NHTRC and BeFree Textline reported their exploiters used these explicit threats to make them hesitant to file complaints or to compel them to remain in their exploitative jobs. While the process of transferring employers under the J-1 program may be cumbersome, as the only visa category which both allows for this and outlines the steps of this process, callers with J-1 visas reported the lowest percentage of potential trafficking compared with other temporary visa holders identified by the NHTRC and BeFree Textline.

SURVIVOR STORY: CHRISTOPHER

Cristopher was thrilled to be fulfilling his lifelong dream to work in the United States. After his labor recruiter in the Philippines showed him a signed job offer at a resort in the Appalachian mountains, he paid them nearly \$5,000 for the opportunity. But when he arrived in the U.S., he was

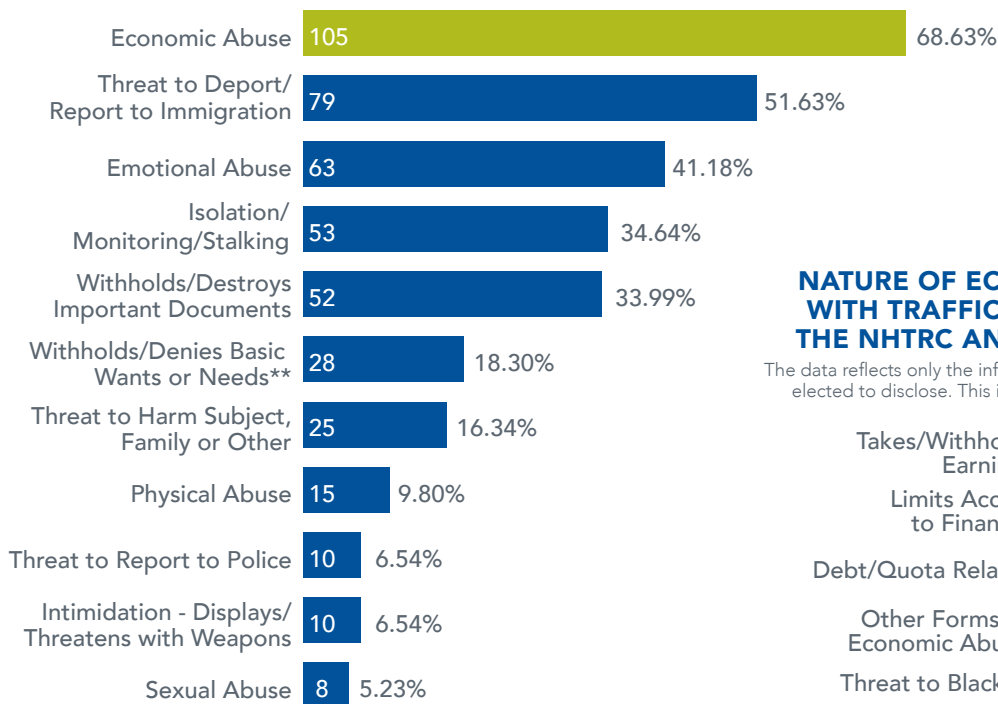
told the job didn't exist. He was told to get on a bus to a Gulf state and travelled for 3 days with no money for food or water. When he arrived, he had to clean hotel rooms for 15-18 hours per day at a significantly lower wage, was constantly monitored, and threatened with deportation.

Cristopher was worried for his family and unsure how he would repay his debt to his recruiter.

Cristopher is a client of Polaris and wanted to share his story. His name has been changed for his safety.

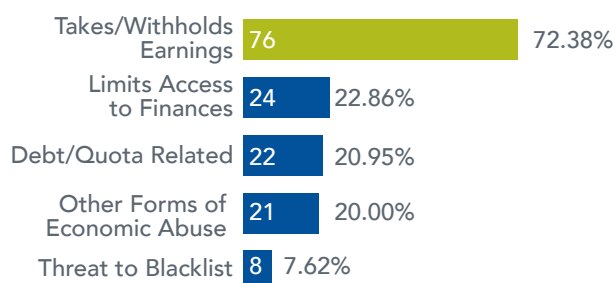
METHODS OF FORCE, FRAUD, AND COERCION ASSOCIATED WITH TRAFFICKING VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE* (N=153)

The data reflects only the information contacts of the NHTRC and BeFree Textline elected to disclose. This information is not the result of a systematic survey.



NATURE OF ECONOMIC ABUSE ASSOCIATED WITH TRAFFICKING VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE* (N=105)

The data reflects only the information contacts of the NHTRC and BeFree Textline elected to disclose. This information is not the result of a systematic survey.



*These statistics are non-cumulative. Cases may reference multiple methods of force, fraud, or coercion or may not provide this type of information.

**Withheld or denied basic wants or needs include, but were not limited to, food, water, protective safety gear, and shelter. This selection was only made when there was evidence that the trafficker restricted or refused access to these necessities as a form of control.

While methods of force, fraud, and coercion were generally similar across visa types, there were some unique differences. For domestic workers with A-3, G-5, and B-1 visas in particular, it was far more likely that exploiters used sometimes extreme methods of isolation and monitoring. Potential victims reported various methods such as confinement to the household, creating distrust of others, deliberately limiting a potential victim's access to a support system, preventing or limiting a potential victim's access to necessary medical services, confiscating personal cell phones, or monitoring phone records. The denial of food or other needs was also a common punitive measure used against domestic workers, but was also referenced frequently in cases of H-2A and H-2B visas, often when work related quotas were not met or the exploiter deemed the potential victim disobedient. Verbal abuse, degradation, and emotional manipulation were common tactics used across cases. Sometimes these particular abuse methods coincided with employment discrimination based on nationality or gender.

In addition to contract violations detailed in the Recruitment section of this report, the NHTRC and

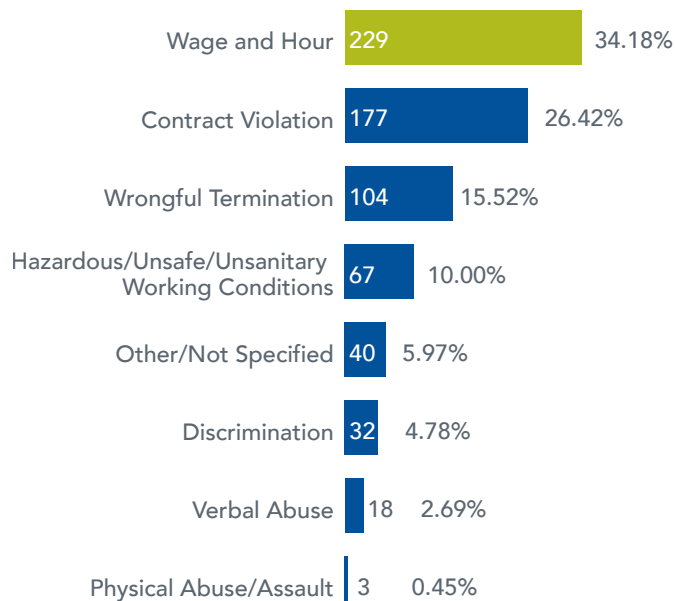
BeFree Textline have identified additional workplace abuses such as wage and hour issues, discrimination, hazardous/unsafe/unsanitary workplace/living conditions, wrongful termination, verbal and physical abuse. These workplace violations most often occurred in situations of labor exploitation. Potential victims with H-2A and J-1 visas, in particular, often reported inadequate or squalid living quarters provided by their employers. Some examples of these conditions included no running water, heat, or air conditioning, inadequate plumbing, pest infestation, a lack of proper food storage or cooking sources, and overcrowding. While the amount of potential victims occupying one residence varied widely, overcrowding was often so severe that some victims reported not having their own bed, forcing them to sleep on floors, with others, or even outside. These hazardous/unsafe/unsanitary conditions were not just limited to potential victims' home lives, as evident by the large number of reports from H-2A guest workers working primarily with tobacco. Despite the risk of contracting Green Tobacco Sickness (GTS),⁹ tobacco workers frequently reported that their employers did not provide them with protective safety equipment necessary when directly handling tobacco leaves and pesticides.

Of the workers who were afforded the opportunity to wear safety gear, some had to pay for their own equipment out-of-pocket.

In many cases, victims were unable to definitively answer whether or not their exploiter was their direct employer because of a general sense of confusion regarding the role of labor contractors and foreign labor recruiters. When victims had concerns regarding wage and hour issues, safety issues, or contract violations, the victims most typically reported these to their direct supervisor at the work site. In many instances, this supervisor transferred blame to corporate entities of which the victims had little to no knowledge. Because of a lack of understanding of the structure of the labor supply chain and confusion over the involvement and legal obligations of each entity involved, victims were often unable to ascertain who was directly responsible for wrongdoing, who was complicit in the wrongdoing, and who was completely unaware of the exploitation occurring. The complexity of these labor supply chains creates huge obstacles for the implementation and regulation of labor laws as even the individuals most directly affected by these systems are unsure of their positions.

PRIMARY TYPE OF LABOR ABUSE ASSOCIATED WITH LABOR EXPLOITATION VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE* (N=670)

The data reflects only the information contacts of the NHTRC and BeFree Textline elected to disclose. This information is not the result of a systematic survey.



*This information was only recorded for victims with no indicators of human trafficking. Many trafficking victims also experienced these forms of labor abuse. NHTRC and BeFree Textline operators were asked to select the primary for of labor exploitation even if multiple forms of labor abuse were reported. This selection was determined by considering both the most severe form of abuse reported and the primary focus of the individual making the report.

U.S. V. ALEKSANDR MAKSIMENKO

"Aleksandr Maksimenko and his co-defendants were ringleaders in a conspiracy to bring women from Eastern Europe to work as exotic dancers in strip clubs in Detroit, Michigan. Posing as a legitimate business, Beauty Search Inc., the defendants promised participants through the J-1 Cultural Exchange Program an opportunity to learn English and work at local restaurants. These

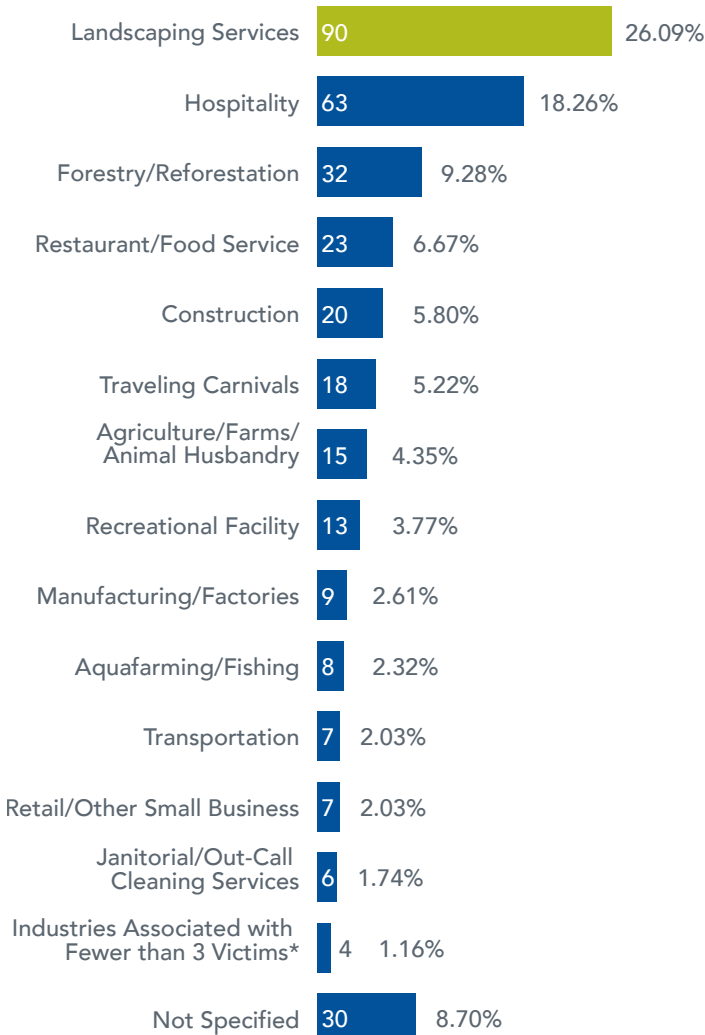
young women were forced to dance at strip clubs by threats of physical violence and deportation, document confiscation, debt bondage, and confinement. In particular, one woman was forced to dance for 12 hours a day, six days a week, and forced to meet a daily quota of \$1,000 a day, or face physical and sexual abuse. Similarly, the victims were made to believe that they incurred

significant debt for travel and entry into the U.S. The defendants pleaded guilty to involuntary servitude, money laundering, and immigration conspiracies. Maksimenko was sentenced to 14.5 years in prison and ordered to pay \$1.5 million in restitution and his co-defendants received similar sentences."¹⁰

H-2B Visa

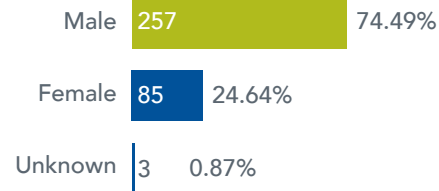
The H-2B visa program allows for temporary or seasonal foreign workers to hold non-agricultural jobs which are not deemed the specialty occupations associated with the H-1B visa program. As such, H-2B visa holders work in more diverse industries than holders of other types of visas. The Department of Labor's Office of Foreign Labor Certification reported that H-2B holders most commonly held occupations associated with landscaping, forestry, housekeeping, amusement and recreation, and food production.¹¹ While the NHTRC and BeFree Textline classify work only by industry and not by occupation, the industries associated with the 345 H-2B visa holders identified by the NHTRC from August 1, 2014 - July 31, 2015, roughly correspond to

INDUSTRY ASSOCIATED WITH VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE* (N=345)



*In order to protect the identity of the people we serve, the NHTRC and the Polaris BeFree Textline do not disclose information about industries associated with fewer than three victims.

GENDER OF VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE (N=345)



the occupations highlighted by DOL. Landscaping was the industry most frequently reported in both situations of labor trafficking and labor exploitation reported to the NHTRC and BeFree Textline.

Department of State data demonstrates that Mexican nationals received 72% of all H-2B visas issued in fiscal years 2010 through 2014.¹² While the nationality of the H-2B holding victims was not known in all the labor exploitation and trafficking cases reported to the NHTRC and BeFree Textline, Mexican nationals were the most frequently referenced. Mexican nationals were most commonly reported in connection with landscaping, forestry, construction, traveling carnivals, and agriculture, while Jamaican nationals are the most commonly reported in the tourism and service-related industries of hospitality, recreational facilities, and restaurants.

TOP COUNTRIES OF ORIGIN

- Mexico
- Jamaica
- Philippines
- Guatemala
- South Africa

TOP 3 STATES IN WHICH LABOR TRAFFICKING OR EXPLOITATION VICTIMS WERE REPORTED TO THE NHTRC OR BEFREE TEXTLINE INVOLVING H-2B VISAS

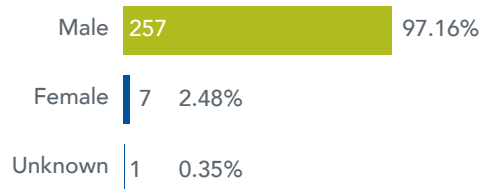
- Florida
- Texas
- Colorado

H-2A Visa

H-2A visas are issued to foreign temporary agricultural workers and allow these individuals to work legally for a single designated employer. There has been a significant increase in the number of H-2A visas each year since 2012, most notably in 2014 with a 20% increase over 2013.¹³

Between August 1, 2014 and July 31, 2015, the NHTRC identified 282 H-2A visa holders who were potential victims of labor trafficking or labor exploitation. The majority of these individuals were males from Mexico, a country that supplied 94% of

GENDER OF VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE (N=282)



America's H-2A visa holders over the past five fiscal years.¹⁴ A total of 85% of these victims identified that they worked in the agricultural industry as stipulated by their visa. Of the potential labor trafficking victims identified, 20% worked in tobacco, a crop which requires intensive manual labor to harvest and dry. Oranges, tomatoes, and other fruits and vegetables were also referenced.

The remaining victims often named industries which are closely related to agriculture. For example, victims working in the transportation industry usually explained that they were responsible for transporting produce from farms.

TOP INDUSTRIES ASSOCIATED WITH VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE

Agriculture/Farms/Animal Husbandry
 Transportation
 Landscaping Services
 Construction
 Aquafarming/Fishing
 Forestry/Reforestation

TOP COUNTRIES OF ORIGIN

Mexico
 South Africa
 Peru
 Guatemala

TOP 3 STATES IN WHICH LABOR TRAFFICKING OR EXPLOITATION VICTIMS WERE REPORTED TO THE NHTRC OR BEFREE TEXTLINE INVOLVING H-2A VISAS

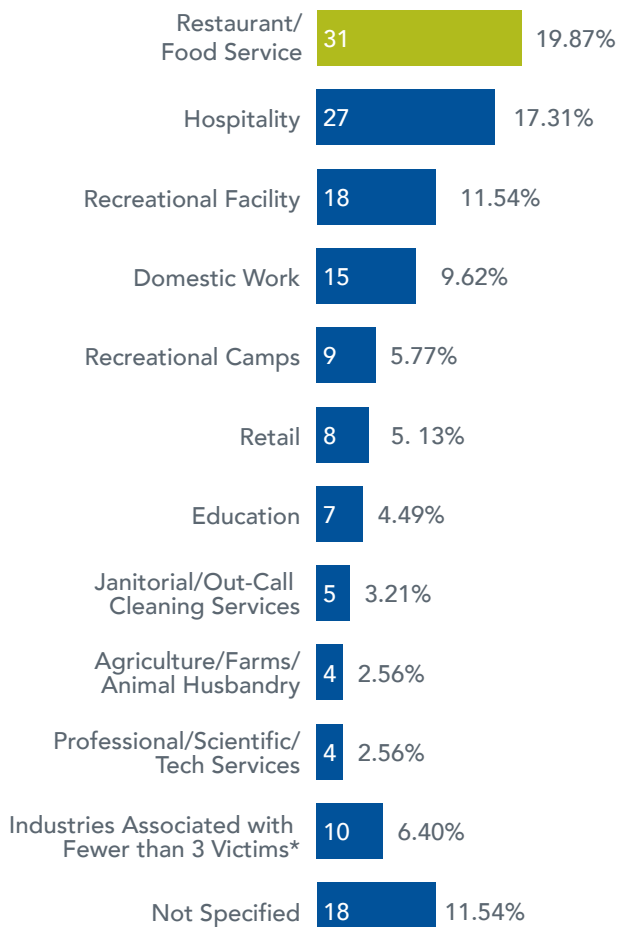
Florida
 North Carolina
 Kentucky & Texas (tied for 3)

J-1 Visa

The J-1 visa is the most diverse in terms of industries referenced, victim demographics, and experiences. Created to foster international understanding through cultural exchange, the J-1 program allows foreign individuals to work temporarily in the United States for educational purposes. The Department of State, which manages the program, has outlined 14 distinct subcategories of qualifying J-1 visa recipients, which include research scholars, teachers, college and high school students, au pairs, camp counselors, international visitors, and the summer work and travel program. The latter is the largest J-1 subcategory and allows college students to “work in jobs that require minimal training and are seasonal or temporary” for three months before spending one month traveling in the United States.¹⁵ Regulations and protections between J-1 subcategories vary significantly.

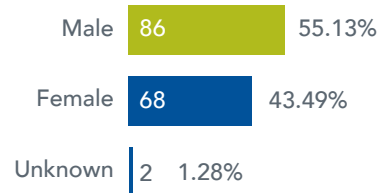
J-1 program participants obtain visas through sponsoring agencies that are responsible for their job placement.

INDUSTRY ASSOCIATED WITH VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE* (N=156)



*In order to protect the identity of the people we serve, the NHTRC and the Polaris BeFree Textline do not disclose information about industries associated with fewer than three victims.

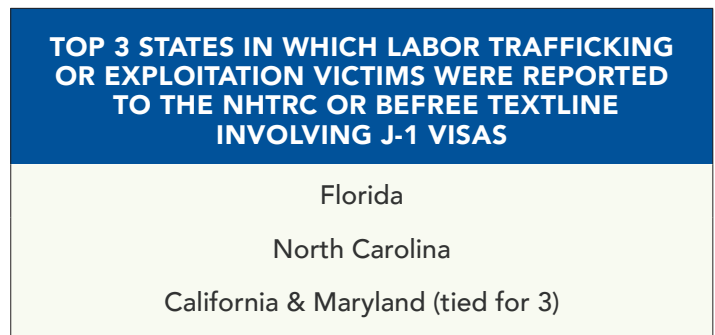
GENDER OF VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE (N=156)



While J-1 visa holders conducting research are usually sponsored by universities, the other J-1 subcategories are typically sponsored by large companies whose primary focus is facilitating these exchanges. Unlike other visa types, J-1 visa holders are not tied to a single employer but must receive approval from their visa sponsor before changing employers.

Between August 1, 2014 and July 31, 2015, the NHTRC identified 156 J-1 visa holders who were believed to be victims of trafficking or labor exploitation. Of these victims, 11% were believed to be potential victims of trafficking. Notably, two of the 17 potential trafficking victims were identified as potential sex trafficking victims. This was the only visa category in which potential victims of sex trafficking were reported.

The NHTRC and BeFree data reflects the diversity of this program, as the demographic profiles of the victims identified varied considerably without any significant trends when compared across industries.



A-3 and G-5 Visas

A-3 and G-5 visa categories allow for diplomats and employees of international organizations working in the United States to employ foreign domestic workers. These categories are often viewed in combination because the regulations pertaining to them are similar and both visas tie workers to a particular employer. A-3 visas are given to the employees of foreign diplomats or foreign government officials who typically receive A-1 or A-2 visas. G-5 visas are given to employees of individuals working for international organizations, such as the United Nations and World Bank, who are given G-1, G-2, G-3, or G-4 visas.

Despite constituting only 0.02% of all non-immigrant visas issued in the past five years, the A-3 and G-5 visa categories have received a lot of attention due to several high-profile trafficking cases such as the 2014 indictment of Indian Diplomat Devyani Khobragade on charges related to trafficking and exploitation of her domestic worker.¹⁶ In 2014, the *New York Times* reported finding 20 lawsuits related to diplomats and foreign officials trafficking domestic workers in the United States since 2004.¹⁷ These cases are steeped in controversy because the accused are often eligible for diplomatic immunity.

Between August 1, 2014 and July 31, 2015, the NHTRC and BeFree Textline identified 16 potential victims of labor trafficking or labor exploitation who held either A-3 or G-5 visas. All 16 victims had notable similarities; the majority were located in the Northeast Corridor of the United States, all were females, and 25% were Filipina. The prevalence of Filipina victims is not surprising as 20% of all A-3 and G-5 visas issued over the last five years went to Filipino nationals.¹⁸ Additionally, all 16 victims were reported to be doing domestic work, as stipulated by their visa type.

Notably, 81% of these individuals were victims of human trafficking. This was the highest percentage of all visa categories tracked by the NHTRC and the Polaris BeFree Textline. The prevalence of trafficking among the group is due to the same factors which make all domestic workers vulnerable: isolation, lack of labor protections afforded to workers in most other industries, and lack of regulation of work done within private households. Employment by individuals who have a reasonable expectation of immunity from legal and civil repercussions also increases the vulnerability of A-3 and G-5 visa holders.

B-1 Visa

The B-1 Visa category allows foreign nationals to travel to the United States for business purposes. A common use of the B-1 visa is to allow foreign nationals to enter the U.S. for short periods of time to have meetings or attend conferences on behalf of their foreign employer. The B-1 visa was not intended to allow long-term work in the United States and is not technically considered a work-visa. However, the B-1 category includes several programs created by regulation and administrative guidance which allow visitors to perform work in the United States. Notably, one subclass includes domestic workers employed by nonimmigrants or U.S. citizens residing abroad.

The NHTRC and Polaris BeFree Textline identified 24 victims of potential trafficking and labor exploitation between August 1, 2014 and July 31, 2015, and almost 70% of them were reported to be doing domestic work. Similar to victims identified in the A-3 and G-5 visa categories which also cover domestic workers, B-1 victims were predominantly female and Filipina nationals.

U.S. V. JOHN PICKLE COMPANY

"John Pickle of Tulsa, Oklahoma and owner of John Pickle Company (JPC), an oil industry parts manufacturer, was sued by the Equal Employment Opportunity Commission (EEOC) for fraudulently recruiting 52 male foreign workers under the B-1 Temporary Business Visa. JPC contracted with Al-Samit International to handle the overseas recruitment of skilled welders from India who were promised travel, accommodation, medical

insurance, overtime, and the opportunity for salary increases. Instead, these workers were subjected to contract fraud, wage abuse, forced to live on their worksite in substandard conditions, falsely imprisoned, subjected to phone tapping, food rationing, restrictions on their religious freedom, and repeated threats. Their passports, visas, and return airfares were confiscated under the guise of 'safekeeping' and they were denied further access to these

documents. They were forced to perform janitorial work and other menial tasks not previously outlined in their contracts. The EEOC case was joined with related civil actions filed by the workers that alleged false imprisonment, minimum wage violations under the Fair Labor Standards Act (FLSA), deceit, and intentional infliction of emotional distress. In the case ruling, the federal judge ordered the JPC to pay \$1.24 million to 52 foreign workers."¹⁹

Other Visas

This document focuses on the A-3, B-1, G-5, H-2A, H-2B and J-1 visa categories because they are the categories most commonly associated with labor trafficking as reported to the NHTRC and BeFree Textline. However, this subset of non-immigrant visas account for only about 6% of all non-immigrant visas issued during fiscal years 2010-2014.²⁰

From August 1, 2014 - July 31, 2015, the NHTRC received at least 70 reports of trafficking or labor exploitation involving the F-1, H-1B, K-1, and L-1 visa categories. The most notable of these categories was the H-1B visa category which was referenced in a total of 52 different situations of trafficking and labor exploitation. The H-1B visa allows for skilled and entry level professionals to work in specialty occupations in the United States. The majority of these cases involved minor contract disputes though 15 situations exhibited signs of trafficking. In 2013, the U.S. Department of Labor cited six technology consulting companies or labor brokers for imposing or attempting to impose illegal penalties on workers who quit.²¹ This challenges the common misconception that labor trafficking only affects unskilled workers.

As increased attention is paid to the visas with the most commonly referenced cases of exploitation, more oversight should also be given to these visas.

VISA CATEGORY	TOTAL CASES REPORTED TO THE NHTRC AND BEFREE TEXTLINE*
H-1B	52
F-1	15
K-1	6
L-1	2

*Cases may reference multiple victims. Because these visa categories fell outside of the scope of this report, Polaris did not analyze these cases to determine the number of victims identified.

Obtaining Assistance

"I was so devastated by our situation. I wanted to go home, but I couldn't because I had no money. I also couldn't get another job. I came to the United States to work so I could help my family and save to go back to school. I had never been treated so badly before, and I felt like there was nothing I could do about it."

Julia, H-2B Visa Holder²²

By far the most successful effort to reach a diverse population of temporary visa holders is the Department of State's Know Your Rights Brochure, which is available to every individual receiving a temporary work visa in their native language prior to entering the United States. Without this initiative, which began in the fall of 2009, it is unlikely that much of this population would even be aware that their rights had been violated. Even with this document, which ambitiously tries to communicate complex labor laws across visa categories to a linguistically diverse audience with huge variations in literacy and education levels, confusion over worker rights and protections remains.

Once a temporary worker is aware that their rights have been violated, reporting the matter and obtaining redress is challenging. At present, the only operational helpline provided in the Know Your Rights Brochure is the NHTRC. However, while the NHTRC is well-equipped to assist victims of trafficking, it is not in a position to address all of the non-trafficking labor violation reports it receives on a daily basis. Instead, the NHTRC must refer these victims to legal assistance programs, worker and immigrants rights groups, and the Department of Labor. None of these resources possess adequate funding to meet the overwhelming demand for their services and have to selectively choose cases based on limited capacity.

Some victims who contacted the NHTRC disclosed that they had attempted to report to DOL previously but had not been able to successfully make a report. This is likely

HEALTH CARE

While there is a growing awareness about the intersection of healthcare and sex trafficking, it is important to note that healthcare professionals are also in a unique position to identify victims of labor trafficking and labor exploitation.²³ At least 7% of the

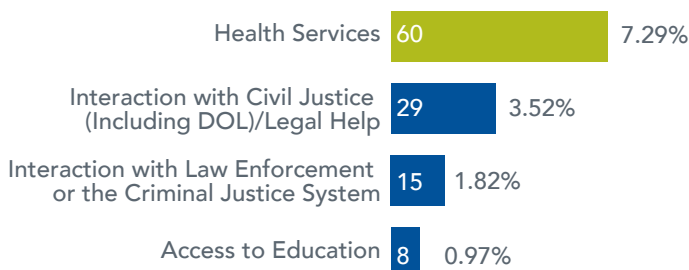
victims studied in this report had received some form of healthcare or medical assistance while in their trafficking and exploitation situations. The vast majority of these victims were H-2A and H-2B visa holders who received medical treatment after sustaining moderate

to severe injuries at work. It is important that frontline professionals like healthcare providers are trained on labor trafficking indicators so that more victims may be identified and connected to services.

because reporting to DOL can be an arduous process. Calls made to DOL's Occupational Safety and Health Administration (OSHA) and Wage and Hour national hotline, as well as most local offices, are frequently routed to a recording which plays in English and Spanish. Individuals who speak neither language are not given instructions in their native language about how to proceed. Once a caller has advanced beyond the initial recording, the response depends on capacity. While some calls are answered by a live operator, wait times vary and a DOL recording suggests that callers leave a message with contact information in lieu of waiting. While DOL goes to great lengths to protect the identity of workers who file complaints, many victims report being hesitant to leave their contact information with a large government entity without explicit reassurance about how their information will be handled. NHTRC staff and legal advocates must often explain DOL and OSHA policies to callers in detail prior to that individual agreeing to file a report with the DOL.

Connecting victims of labor trafficking and labor exploitation to services is critical to ensuring that they have every opportunity to recover from the abuse they've suffered and seek redress. Common service needs include emergency shelter, transportation, food, clothing, and medical and dental examinations. Labor trafficking survivors on temporary visas should also be provided with legal assistance for immigration, criminal, or civil litigation. Foreign victims that are granted Continued Presence or a T-Visa from the U.S. government can receive a certification letter from HHS, making them eligible for public benefits and services to the same extent as refugees. Stable housing as well as job training and job placement are also important long-term services for victims.

ACCESS POINTS ASSOCIATED WITH VICTIMS REPORTED TO THE NHTRC AND BEFREE TEXTLINE (N=823)



Methodology

The information contained in this document was obtained through Polaris's regular interactions with individuals contacting the NHTRC hotline and BeFree Textline and is not the result of a systematic survey. As these individuals told their stories or the stories of their friends and family members, Polaris staff noted key elements of each account. This information constitutes the basis for this document. Individuals contacting the NHTRC and BeFree Textline were asked to share only as much information as they were comfortable providing. Individuals contacting the NHTRC and BeFree Textline can decline to provide any piece of information and we will still serve them to the best of our ability.²⁴

The NHTRC and Polaris BeFree Textline are not research-oriented programs. Instead, the staff of these programs are focused on helping survivors of trafficking and exploitation obtain security and achieve success. Victims and third parties reporting these situations were not asked a set of standardized questions and only provided information that was deemed relevant to their interactions with Polaris staff. As such, the data points in this document represent only what those contacting the NHTRC and BeFree Textline chose to disclose and should not be considered a comprehensive statement on the total number of survivors who qualify for a particular category. The number of survivors in each category would likely have been significantly higher if Polaris staff had systematically asked a standardized set of questions to each individual contacting the NHTRC and BeFree Textline. Furthermore, since awareness of both human trafficking and the existence of a victim service hotline is still relatively limited, this data set is far from representative of the actual incidences of human trafficking and labor exploitation within the United States.

The statistics presented in this document cannot be compared to the findings of more academic studies which included systematic reports. Our analysis focused on key elements of experience which Polaris has historically found to be significant in situations of trafficking and labor exploitation. Additionally, Polaris is unable to authenticate details of the accounts provided.

To learn more about human trafficking, request a training, and to find out what you can do to get involved, visit polarisproject.org or traffickingresourcecenter.org. To get help or report suspected trafficking, call the National Human Trafficking Resource Center at 1-888-373-7888, or send a text to BeFree (233733).

ENDNOTES

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- ³ The NHTRC and BeFree Textline recorded a total of 5,359 cases of potential human trafficking from August 1, 2014 to July 31, 2015.
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- ¹² Department of State. (2015). Non-Immigrant Visa Statistics.
- ¹³ *ibid.*
- ¹⁴ *ibid.*
- ¹⁵ 22 C.F.R. § 62.32(b).
- ¹⁶ Benjamin Weiser, “After Being Indicted, Diplomat Is Allowed to Leave the Country”. (9 January 2014). *The New York Times*. Retrieved from: <http://www.nytimes.com/2014/01/10/nyregion/indian-diplomat-indicted-in-employment-case.html>.
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- ²¹ Matt Smith, Jennifer Gollan, and Adithya Sambamurthy, “Job Brokers Steal Wages, Entrap Indian Tech Workers in US.” (27 October, 2014). The Center for Investigative Reporting. Retrieved from: <https://www.revealnews.org/article/job-brokers-steal-wages-entrap-indian-tech-workers-in-us/>.
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- ²⁴ Please see Polaris’s confidentiality policy at www.polarisproject.org/privacy-policy.



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