

The International Labor Organization estimates that globally, traffickers make \$150 billion dollars per year by exploiting men, women, and children for labor, services, and commercial sex. Human trafficking cases can be difficult and expensive to investigate and justice in these cases can be elusive. Thus, policymakers must ensure that law enforcement have the right tools to combat this crime. Examples of some of these tools include: use of criminal enterprise statutes, authorization to intercept communications, and asset forfeiture.

### **Criminal Enterprise Statutes**

Criminal enterprise statutes refer to laws that facilitate the investigation and prosecution of crimes committed by a group of individuals. These statutes typically take the form of racketeering statutes or gang offense statutes. At the federal level, human trafficking offenses have been incorporated into the Racketeer Influenced and Corrupt Organizations (RICO) statute, which allows for any member of a criminal enterprise, regardless of that person's role within the enterprise, to be charged with racketeering. Racketeering statutes make investigating cases with multiple perpetrators more efficient. RICO has been used successfully by the Department of Justice to bring down trafficking rings. Many states have followed the federal example and designated human trafficking offenses as a racketeering offense, allowing investigators to pursue an investigation of all members of a criminal enterprise. Successful prosecution of a racketeering case can lead to increased penalties.

Some states have street gang statutes, which make the crime to knowingly aid street gangs engaging in criminal activities a felony. Gang offense statutes, similar to racketeering statutes, allow for law enforcement to hold all members of a gang accountable for their actions regardless of which offenses an individual member participated in. Several states have incorporated human trafficking offenses into the state gang offense statute, recognizing the increasing number of people trafficked by street gangs.

### **Interception of Communications**

Telecommunications networks are used by traffickers to facilitate their criminal activity. Authorizing the interception of these communications (via a wiretap) provides law enforcement with valuable evidence that can later be used in prosecutions. Use of this type of evidence can reduce risk to law enforcement because officers will not necessarily have to make direct contact with perpetrators. Evidence obtained through wiretaps also reduces the need for victim witness testimony, which is safer and less traumatic for victims. Current federal law and many states have authorized the interception of communications during human trafficking investigations.

### **Asset Forfeiture**

Asset forfeiture is a powerful tool used by law enforcement following a successful investigation. Forfeiture ensures that traffickers do not financially benefit from the exploitation of their victims by authorizing the state to seize the assets that are used for or are the result of criminal activity. Currently, forty-four states and the District of Columbia have authorized asset forfeiture for human trafficking offenses. The federal Trafficking Victims Protection Act (TVPA) also provides for asset forfeiture. The Uniform Law Commission (ULC) included a section on asset forfeiture in its Uniform Act on the Prevention of and Remedies for Human Trafficking (Uniform Act). The Uniform Act, which is drafted and approved by legal experts from across the country, reinforces the need for these types of statutes and serves as a recommendation for states that have not yet enacted this type of legislation.

The Uniform Act provides:

Section 11. Forfeiture

- (a) On motion, the court shall order a person convicted of an offense under Section 3, 4, or 5 of this [act] to forfeit any interest in real or personal property that:
  - (1) that was used or intended to be used to commit or facilitate the commission of the offense; and
  - (2) constitutes proceeds or was derived from proceeds that the person obtained, directly or indirectly, as a result of the offense.
- (b) In a proceeding against real or personal property under this section, the person convicted of the offense may assert a defense that the forfeiture is manifestly disproportional to the seriousness of the offense. The person has the burden to establish the defense by a preponderance of the evidence.
- (c) Proceeds from the public sale or auction of property forfeited under subsection (a) must be distributed in the manner otherwise provided for the distribution of the proceeds of [criminal forfeitures] [judicial sales].

Once assets are forfeited, the money can be used by states to fund state action to combat the crime. Many states authorize that forfeited assets be given to the law enforcement agency that investigated the crime, which can then be used to pay for more investigations. States also authorize money from forfeited assets to be deposited into a fund that is used to pay for victim services.

The challenges for investigating and prosecuting human trafficking cases can be more easily overcome when investigators and prosecutors have the right tools. Successful cases against traffickers are needed to achieve justice for victims and to begin to eradicate this crime.