

# Human Trafficking: Law, Myths & Current Trends

December 11, 2014

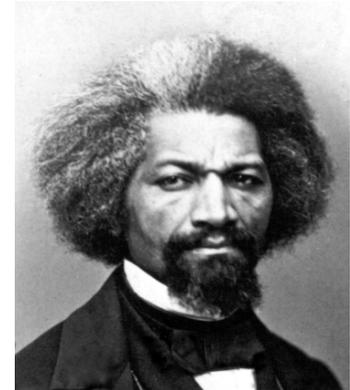
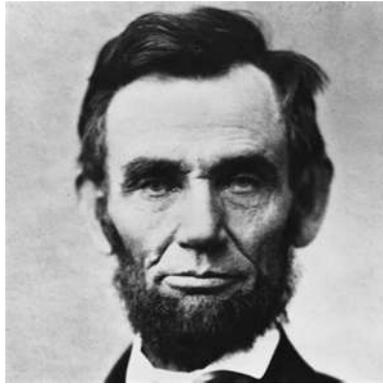


**John Cotton Richmond**  
U.S. Department of Justice  
Human Trafficking Prosecution Unit  
[john.richmond@usdoj.gov](mailto:john.richmond@usdoj.gov)

# Myths

## About Human Trafficking

**Myth 1:  
Slavery is a historic blight and not a current crisis.**



## **Myth 1:**

**Slavery is a historic blight and not a current crisis.**

### **Global Estimates**

27.0 Million (Kevin Bales 1999)

28.4 Million (Siddhartha Kara 2009)

20.9 Million (ILO 2012)

29.8 Million (Walk Free 2013)

35.8 Million (Walk Free 2014)

**Myth 2:  
Human trafficking is motivated by bias, anger,  
and hate.**



# **Myth 3: Foreigners Must Be Involved**



# Myth 4: About Movement and Borders



**Myth 4:  
About Movement and Borders**

Trafficking

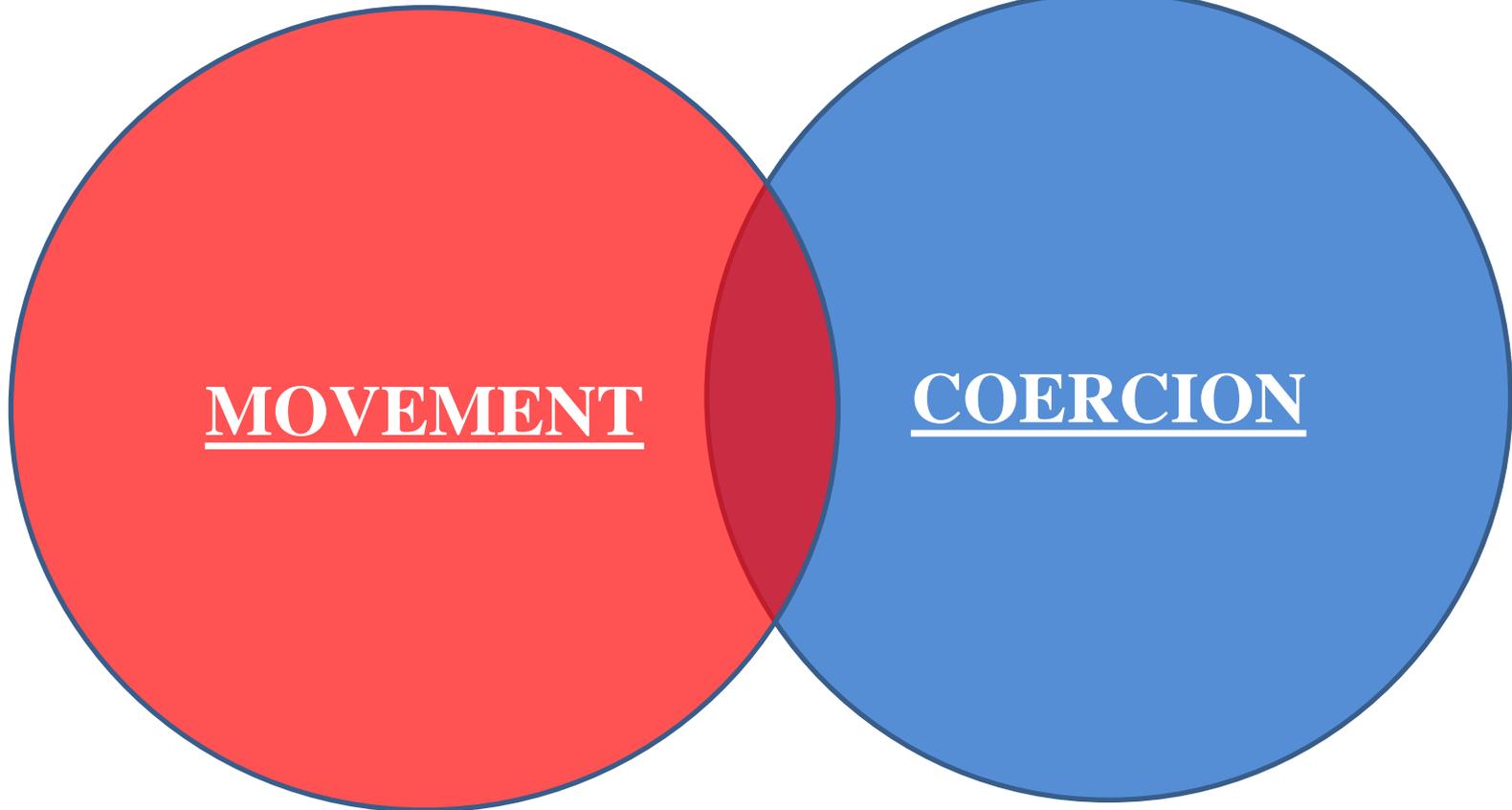


COERCION

**Myth 4:  
About Movement and Borders**

Smuggling

Trafficking



# Myth 4: About Movement and Borders

Smuggling

Trafficking

MOVEMENT

Undocumented  
Voluntary or Involuntary  
Crime against borders  
Transportation

COERCION

Citizen or Undocumented  
Involuntary  
Crime against Person  
Exploitation

**Myth 5:  
All Human Trafficking is Sex Trafficking**



**Don't Forget About the Labor Cases**

**Myth 6:  
All Victims Are Minors**



- **Most forced labor victims are adults**
- **Sex trafficking victims can be adults and minors**  
(force, fraud, and coercion not needed for minors)

## **Myth 7: Victims Self Identify**



# Myth 8: There Must Be Chains and Beatings



# **Myth 8:**

## **There Must Be Chains and Beatings**

### Look for More Subtle Methods of Coercion

- False promises
- Physical isolation
- Cultural isolation
- Document confiscation
- Monitoring/surveillance
- Threats of deportation/arrest
- Threats of violence to others
- Threats of reputational harm
- Punishment/verbal abuse
- Bad living and working conditions
- Denial of sleep
- Economic dependence
- Debt manipulation
- Threats of financial harm

## **Myth 9: Animals Can be Trafficked**

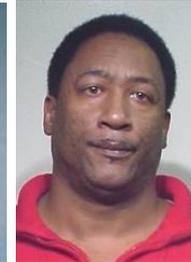
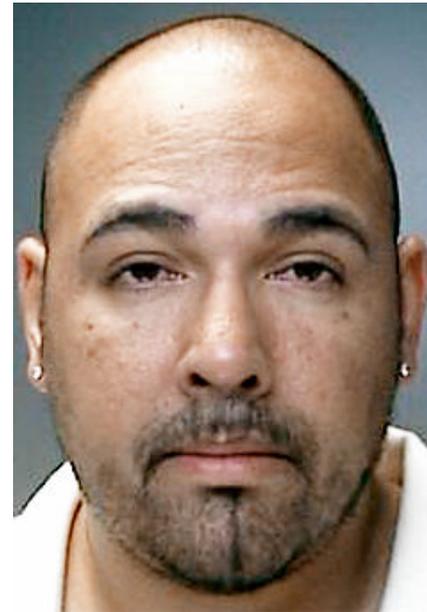


PETA v. Sea World, 842 F.Supp.2d. 1259 (S.D.Ca. 2012)  
 (“The Thirteenth Amendment does not afford Plaintiffs any relief as non-humans.”)

**Myth 10:  
Damsels in Distress – They Want to be Rescued**



# Myth 11: Criminal Prosecution is Not Needed



## Human Adversaries

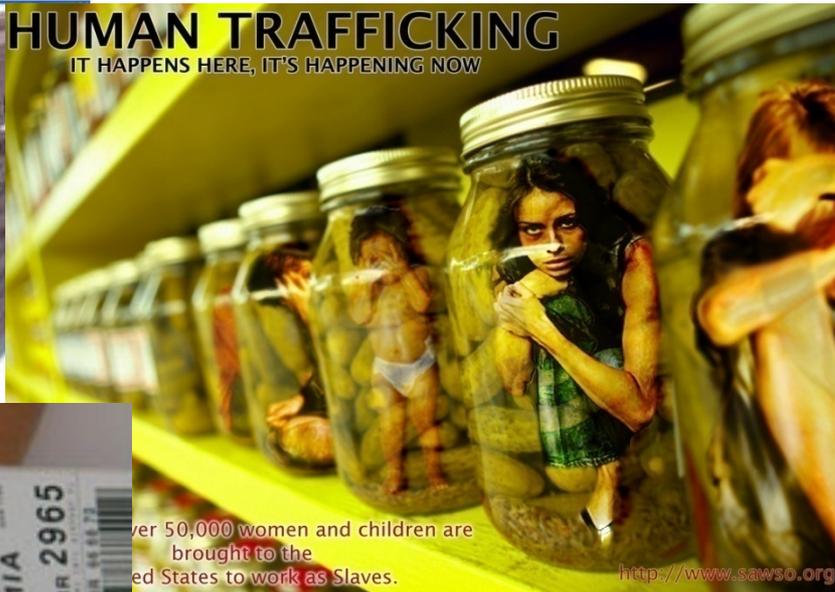
# Why the Myths Persist?



# Why the Myths Persist?



**HUMAN TRAFFICKING**  
IT HAPPENS HERE, IT'S HAPPENING NOW



**HELP ABOLISH  
HUMAN SLAVERY**



**HUMAN TRAFFICKING IS  
MODERN-DAY SLAVERY**

Over 50,000 women and children are brought to the United States to work as slaves.

<http://www.sawso.org>

**LOOK BENEATH THE SURFACE**

**HUMAN TRAFFICKING IS MODERN-DAY SLAVERY**

A victim of trafficking may look like many of the people you see everyday.

Ask the right questions and look for clues. You are vital because you may be the only outsider with the opportunity to speak with a victim.

There are safe housing, health, transportation, food, income, employment, legal and interpretation services available to victims, but they must be found.

If you think someone is a victim of trafficking, call 1.888.3737.888  
For more information about human trafficking visit [www.acf.hhs.gov/trafficking](http://www.acf.hhs.gov/trafficking).



# Victim Centered Approach

*Victim Relief*



*Prosecution*

- Bifurcated process
- Prosecution not required for immigration relief, stabilization services, or civil suits

# The Law

## Statutes and Protocols

1781  
1788  
1818  
1865  
1948  
1988  
2000



Force &  
Restraint

# Subtle Forms of Coercion

Reputational Harm

Threats to Others

Fraud

Force &  
Restraint

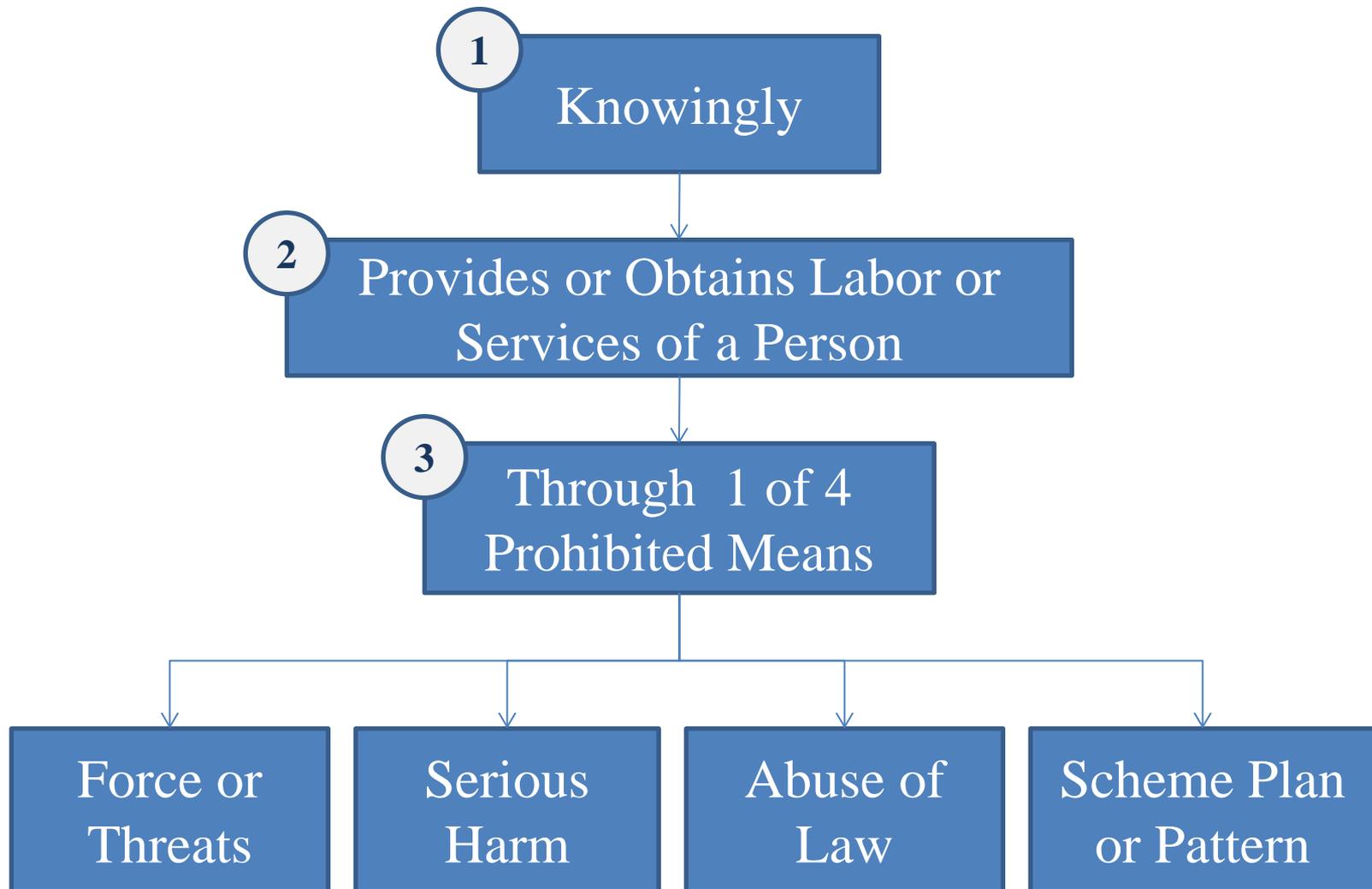
Debt Manipulation

Sexual Violence

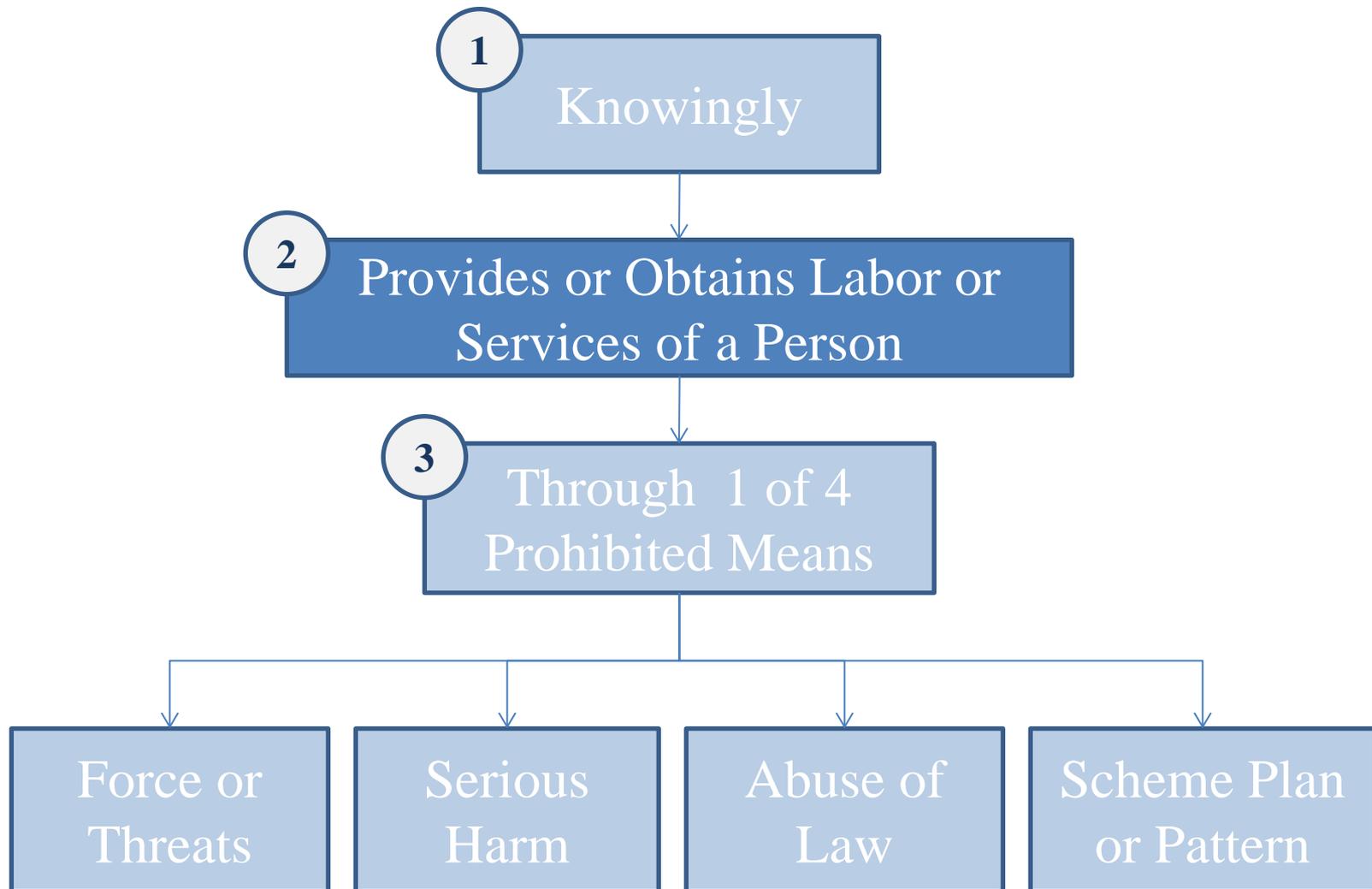
Financial Harm

Psychological Harm

# Forced Labor: 18 U.S.C. § 1589



# Forced Labor: 18 U.S.C. § 1589

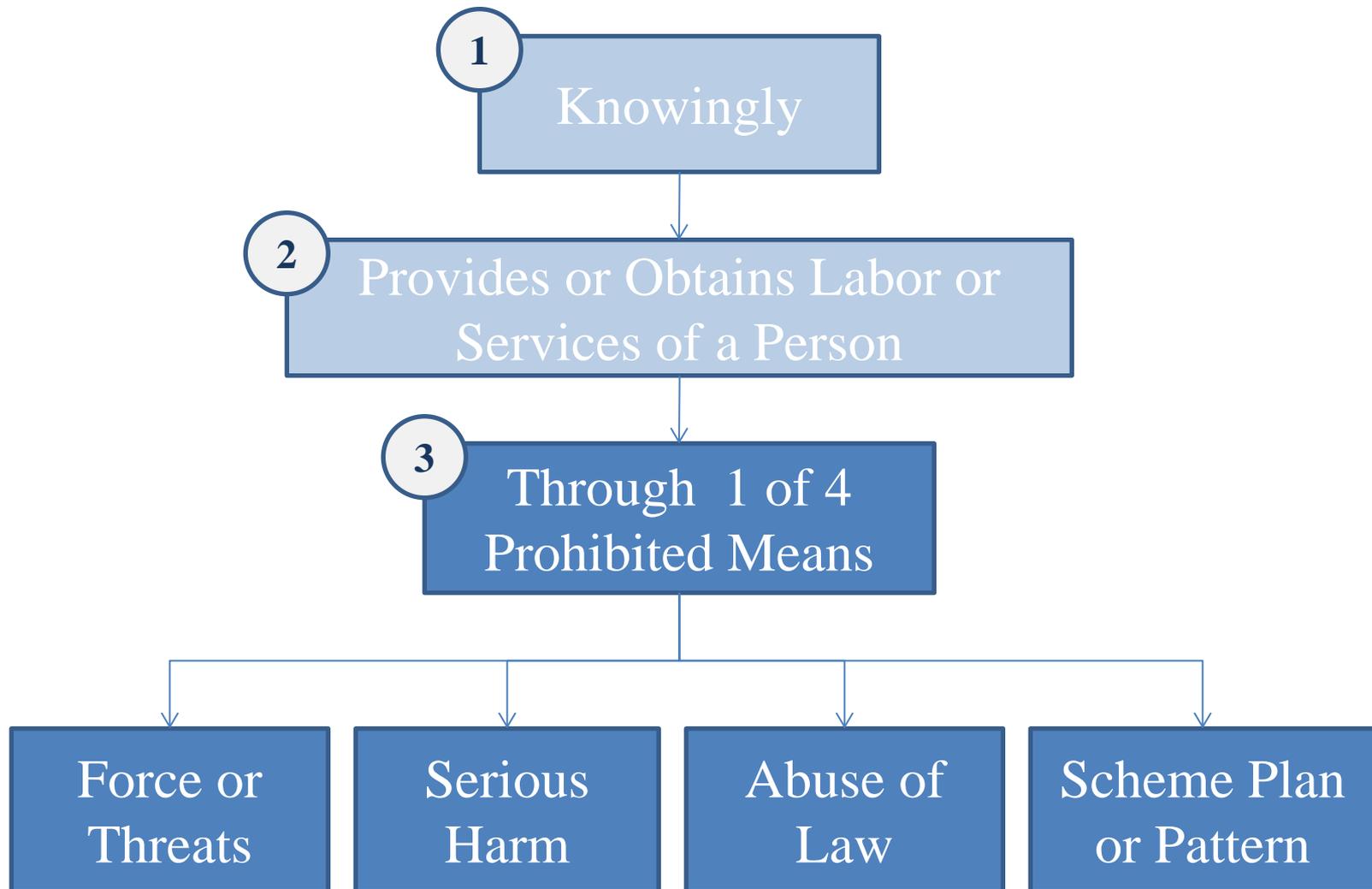


# Forced Labor: 18 U.S.C. § 1589

Labor and services should **not** be narrowed to only mean **“work for which compensation is ordinarily given.”**

- United States v. Marcus, 487 F.Supp.2d 289 (EDNY 2007) (involving recorded acts of bondage, domination, & sadism).
- United States v. Kaufman, 546 F.3d 1242, 1262-63 (10th Cir. 2008) (involving mentally disable adult farm workers forced to perform videotaped sex acts).

# Forced Labor: 18 U.S.C. § 1589



# Forced Labor: 18 U.S.C. § 1589

## Prohibited Means: Serious Harm:

### Physical Harm

- \* Threats
- \* Beatings
- \* Sexual Violence

### Nonphysical Harm

- \* Psychological Harm
- \* Financial Harm
- \* Reputational harm

“that is **sufficiently serious**, under all the surrounding circumstances, to compel **a reasonable person** of the **same** background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.”

U.S.C. § 1589(c)(2)

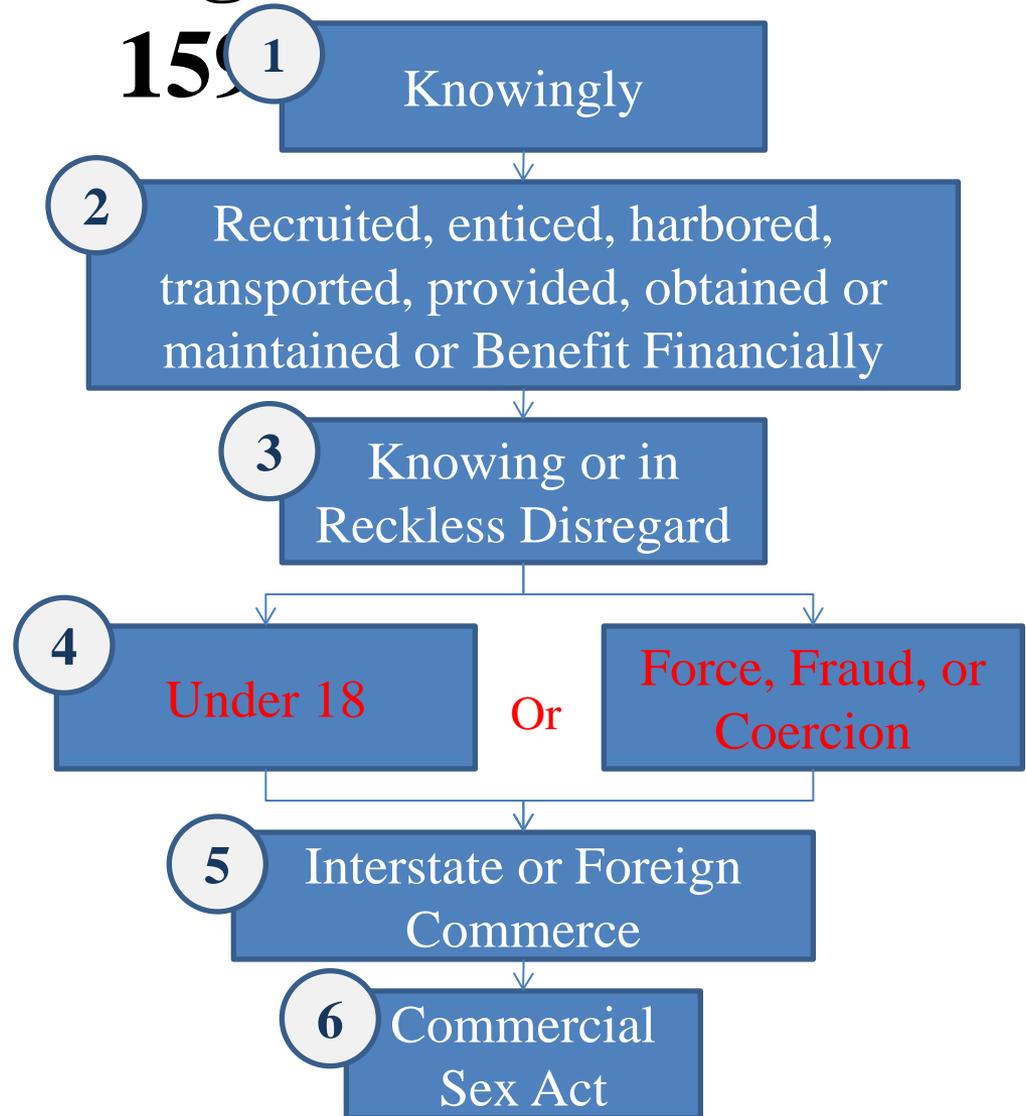
# Sex Trafficking: 18 U.S.C. §

1591



# Sex Trafficking: 18 U.S.C. §

1591



# Sex Trafficking: 18 U.S.C. §

1591

1

Knowingly

2

Recruited, enticed, harbored, transported, provided, obtained or maintained or Benefit Financially

3

Knowing or in Reckless Disregard

4

Under 18

Or

Force, Fraud, or Coercion

5

Interstate or Foreign Commerce

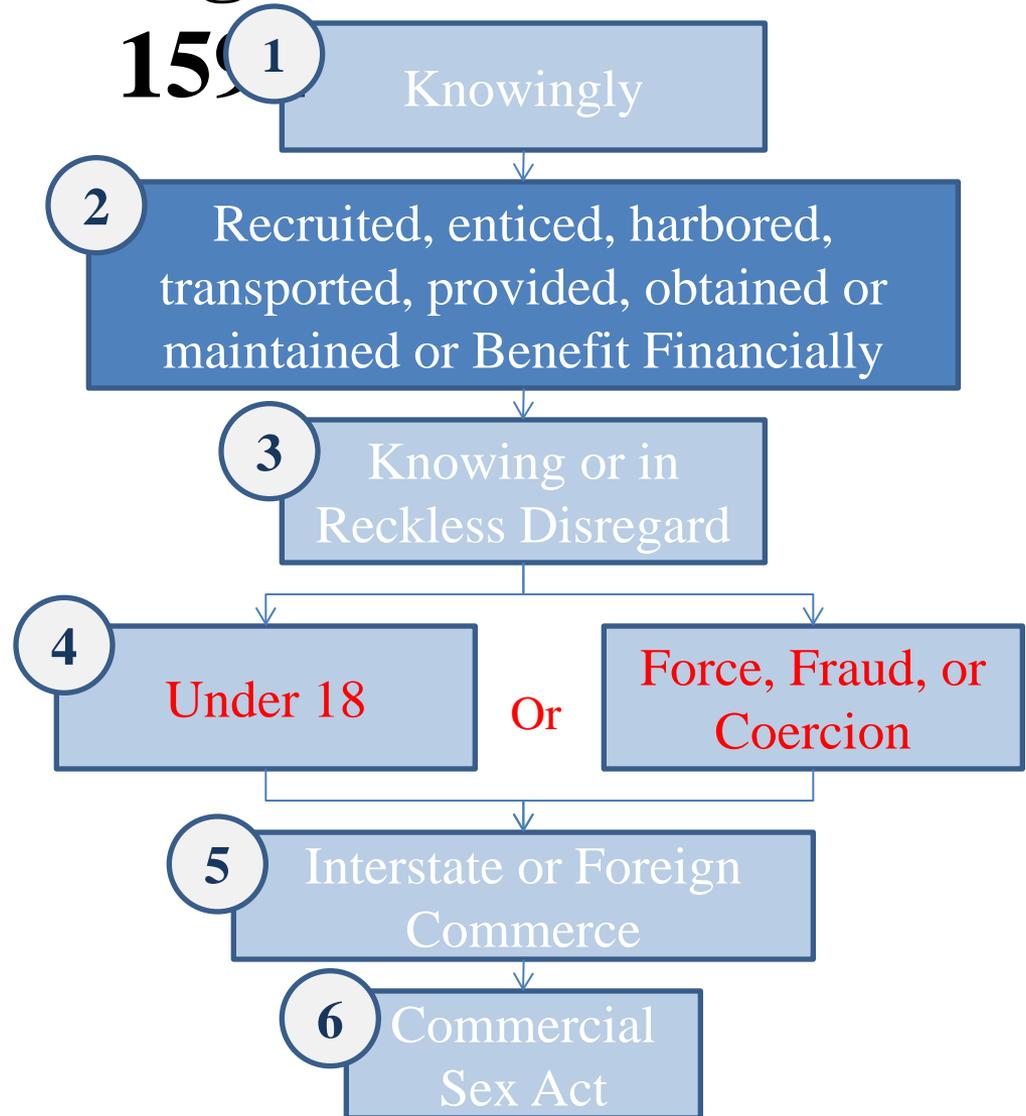
6

Commercial Sex Act

Two Intent Requirements

# Sex Trafficking: 18 U.S.C. §

Two Processes



# Sex Trafficking: 18 U.S.C. §

## The 7 Verbs 1590 Customers

Recruited • Enticed • Harbored • Transported  
Provided • Obtained • Maintained



United States v. Jungers, 702 F.3d 1066, 1075 (8<sup>th</sup> Cir. 2013).

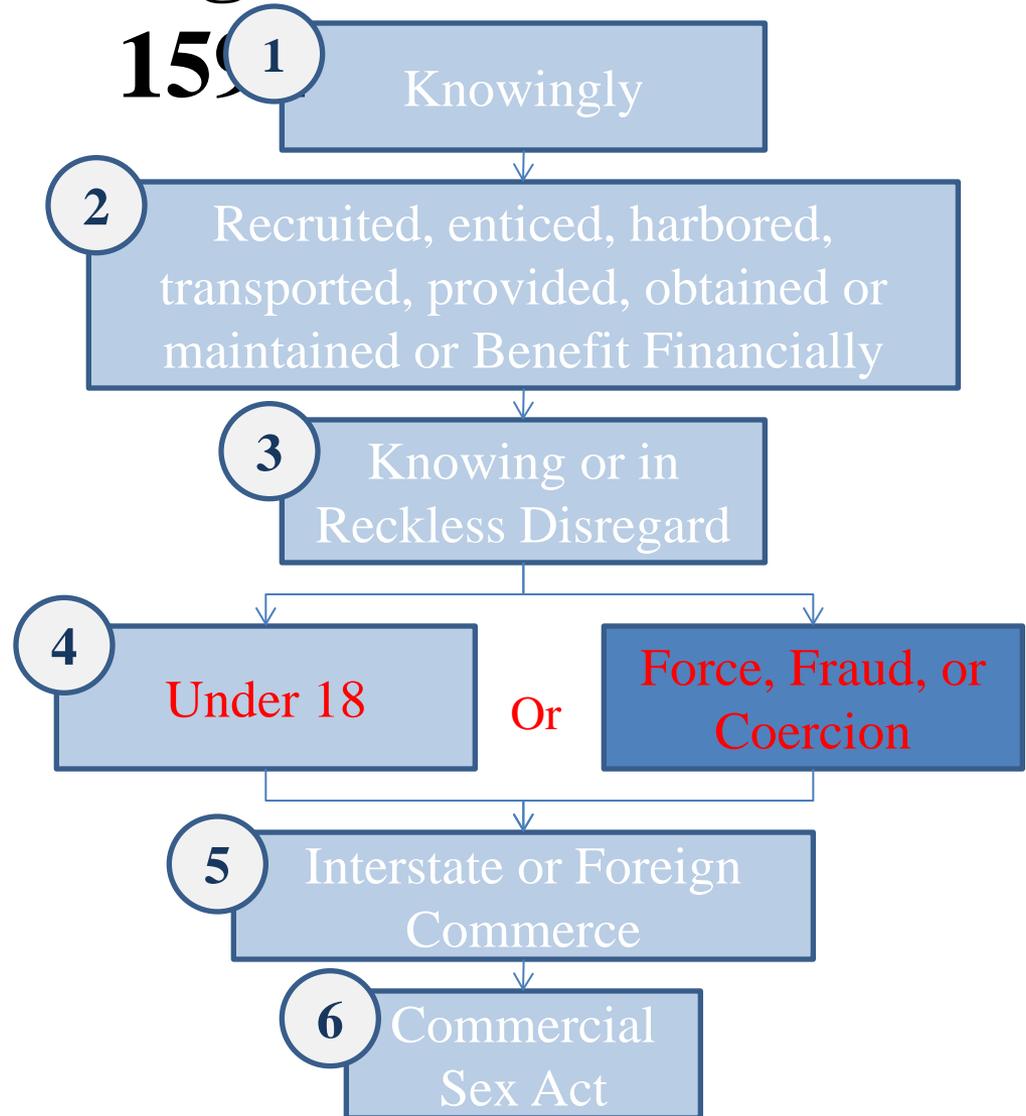
**Sex Trafficking: 18 U.S.C. §  
1591  
Benefiting**



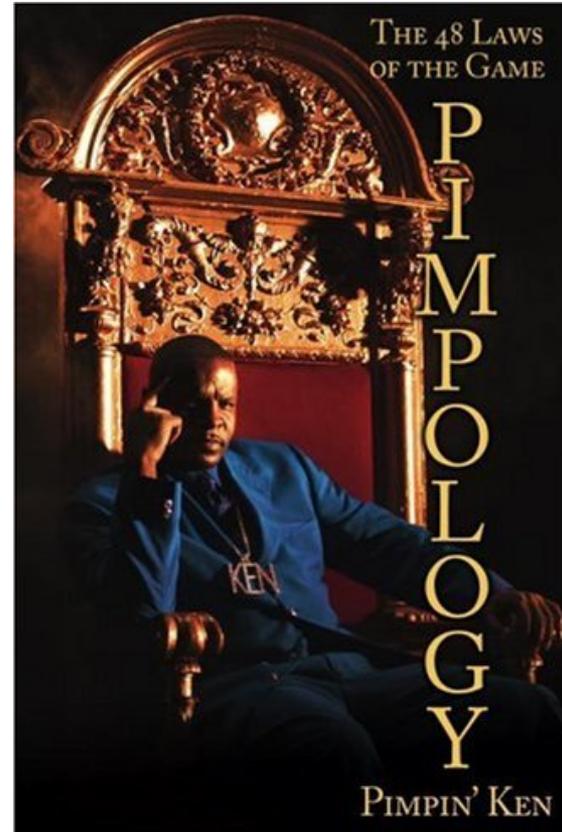
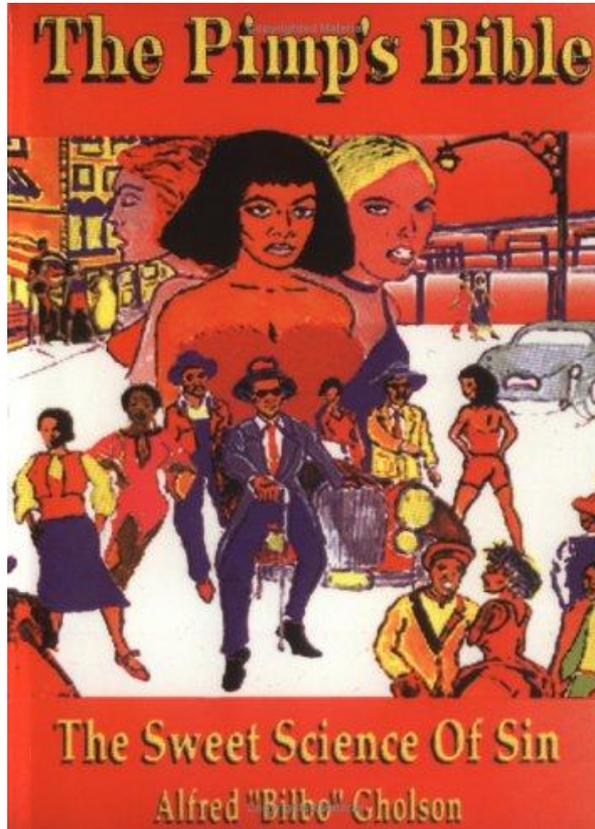
**Inc.**

# Sex Trafficking: 18 U.S.C. §

1591



# Force



Slaps • Punches • Assaults • Sexual Violence  
Burns • Physical Restraints

# Fraud



Misrepresentation • False Promises • Lies  
Tricks • Bait and Switch

# Sex Trafficking: 18 U.S.C. §

1591

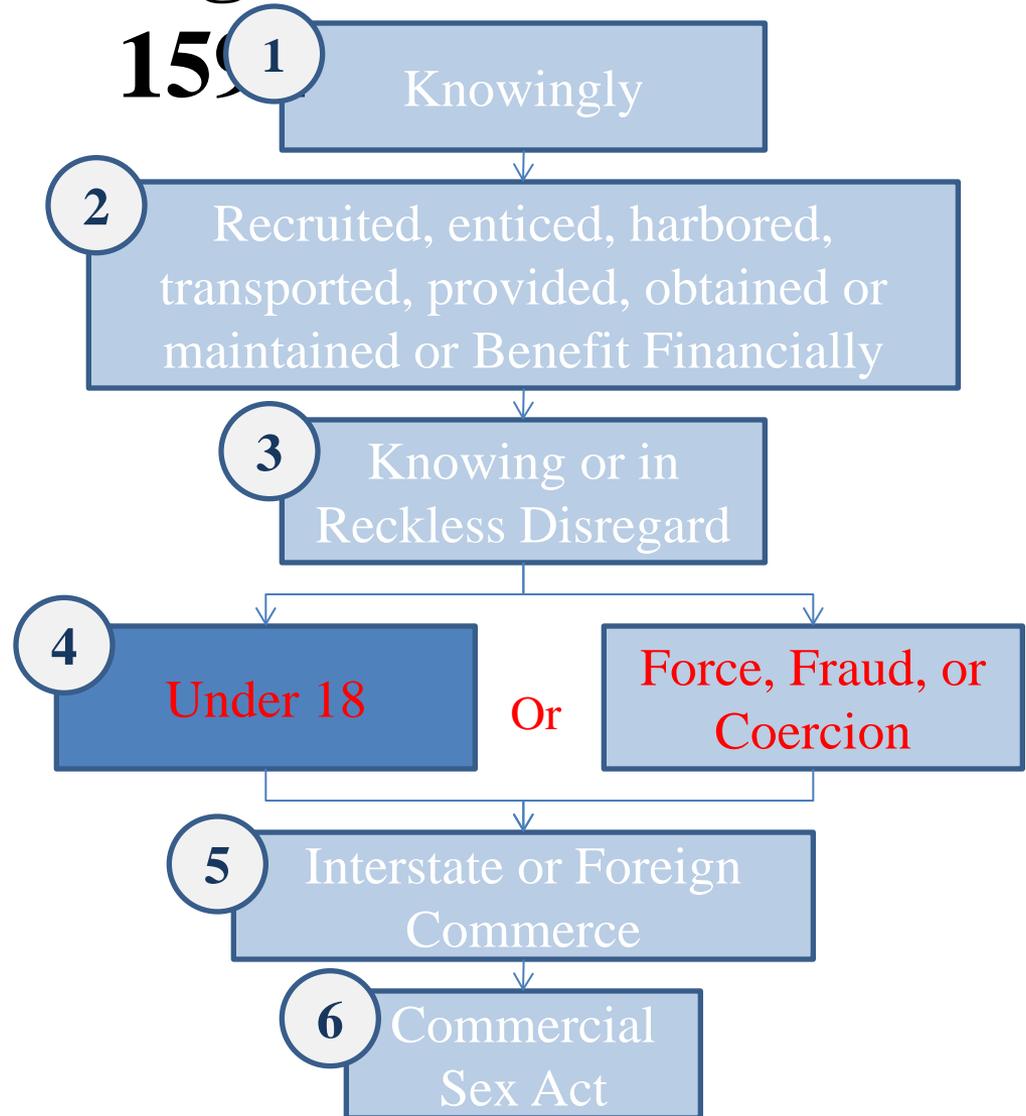
## What is Coercion?

- 18 U.S.C. § 1591(e)(2) defines “coercion” as
- threats of **serious harm** to or physical restraint against any person
- any **scheme, plan, or pattern** intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint
- abuse or threatened **abuse of the legal process**

\*\*Basically the same as the prohibited means in § 1589\*\*

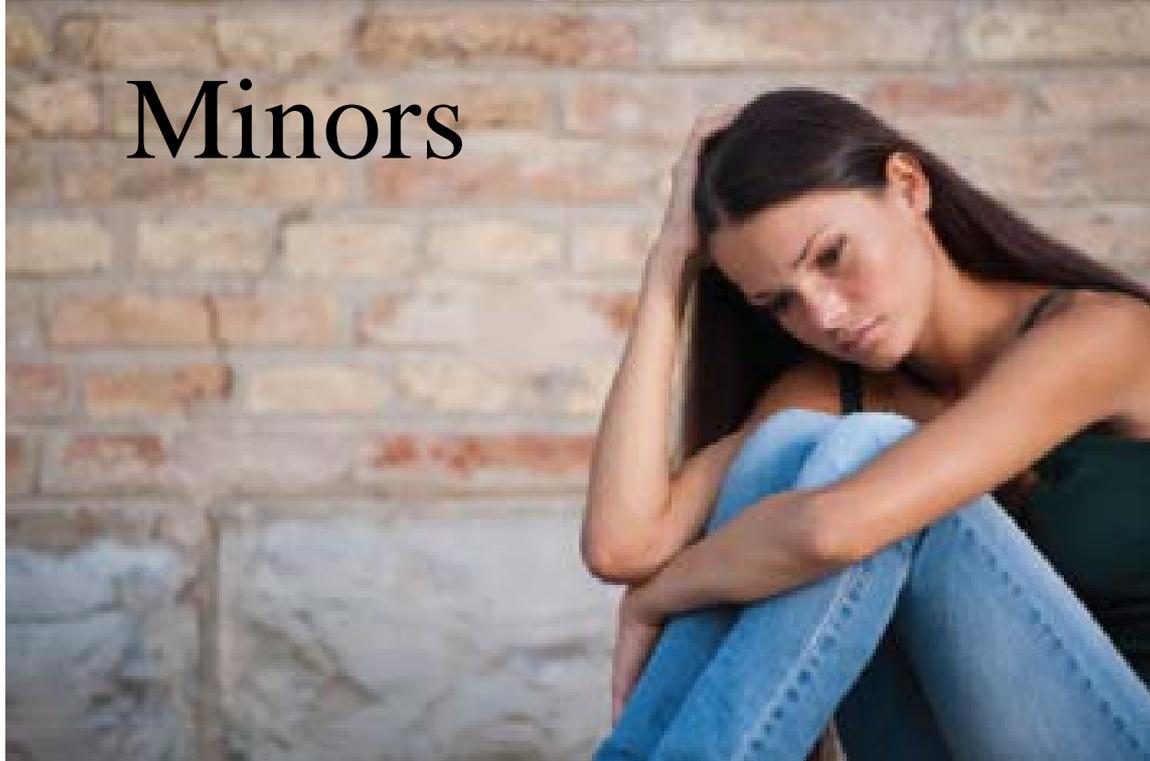
# Sex Trafficking: 18 U.S.C. §

1591



# Sex Trafficking: 18 U.S.C. § 1501

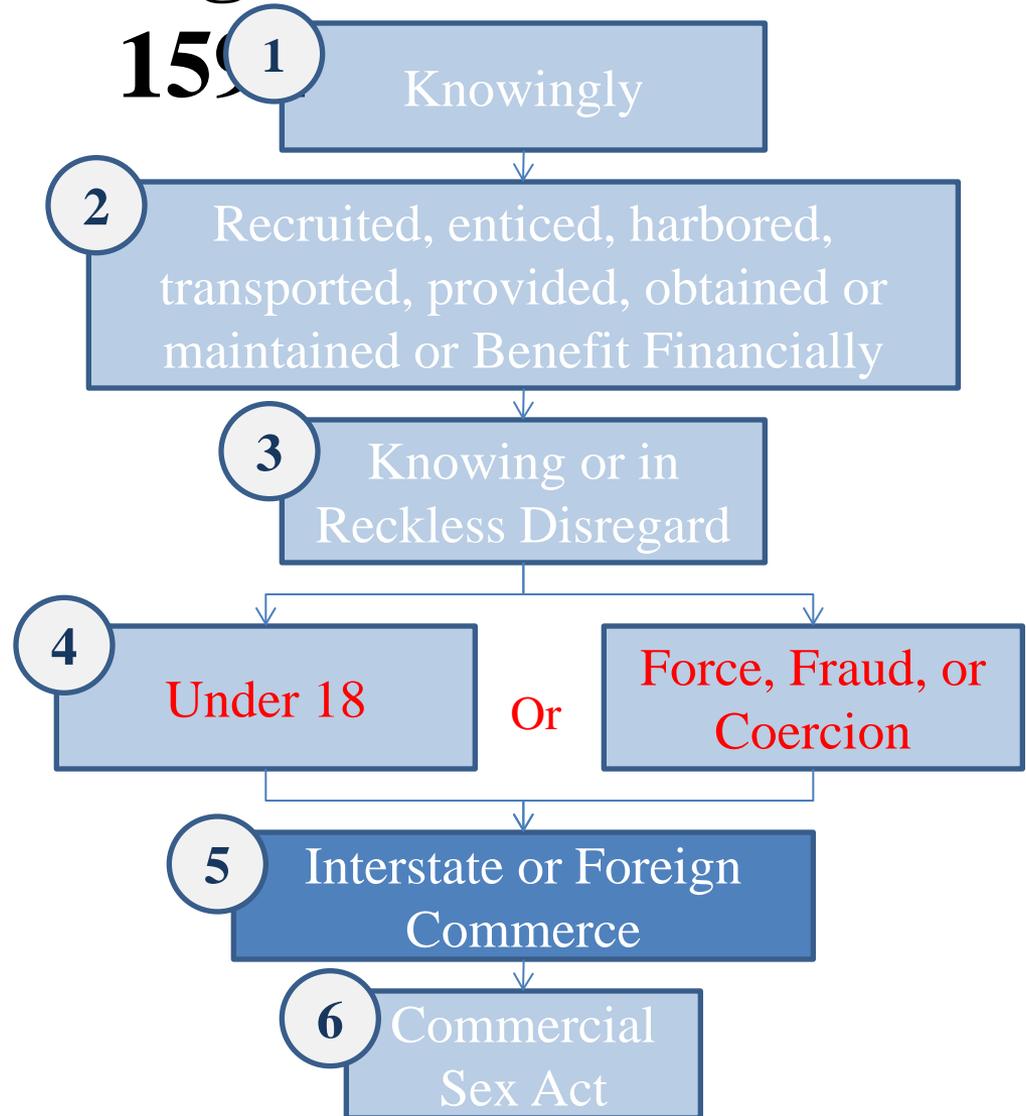
Minors



- Strict Liability? U.S. v. Robinson, 702 F.3d 22 (2nd Cir. 2012).
- Do not have to prove force, fraud, or coercion, but . . .

# Sex Trafficking: 18 U.S.C. §

1591



Compare  
Forced Labor

# Sex Trafficking: 18 U.S.C. §

In or Affecting Interstate or Foreign Commerce **1591**



# Sex Trafficking: 18 U.S.C. §

**In or Affecting Interstate or Foreign Commerce**

Hotel Bills • Internet Sites • Cell Phones • Alcohol



United States v. Flint, 2010 WL 3521922 (6th Cir. 2010).

# Sex Trafficking: 18 U.S.C. §



■ Home ■ News ■ Travel ■ Money ■ Sports ■ Life ■ Tech ■ V

**Money** ■ Markets ■ Economy ■ Companies/Execs ■ Personal Finance ■ Mutual Funds ■ ETFs ■ Cars

■ GET A QUOTE:

Enter symbol(s) or Keywords



## U.S. condom factory losing U.S. contract to Asian companies

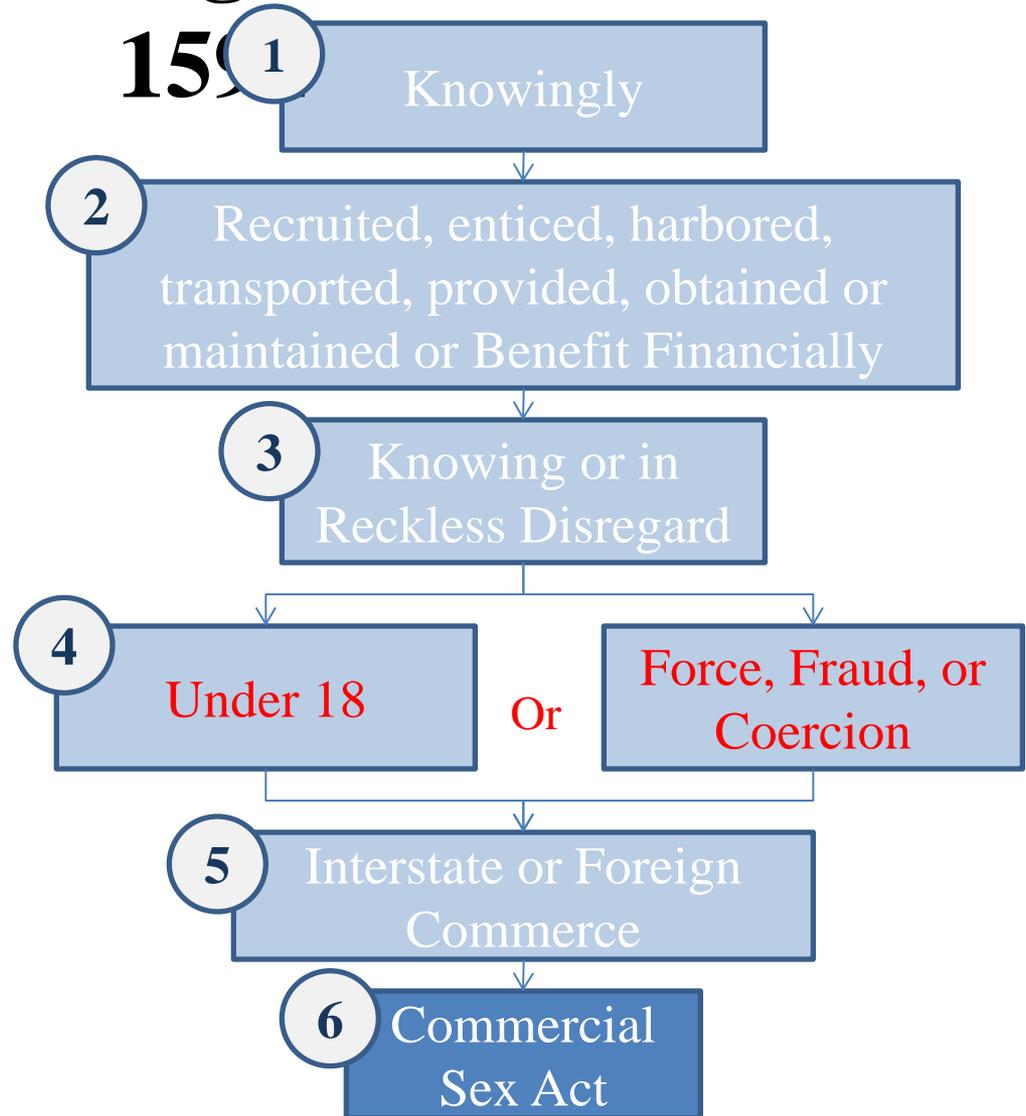
Posted 3/25/2009 6:43 PM | Comment | Recommend

By Ben Evans, Associated Press Writer



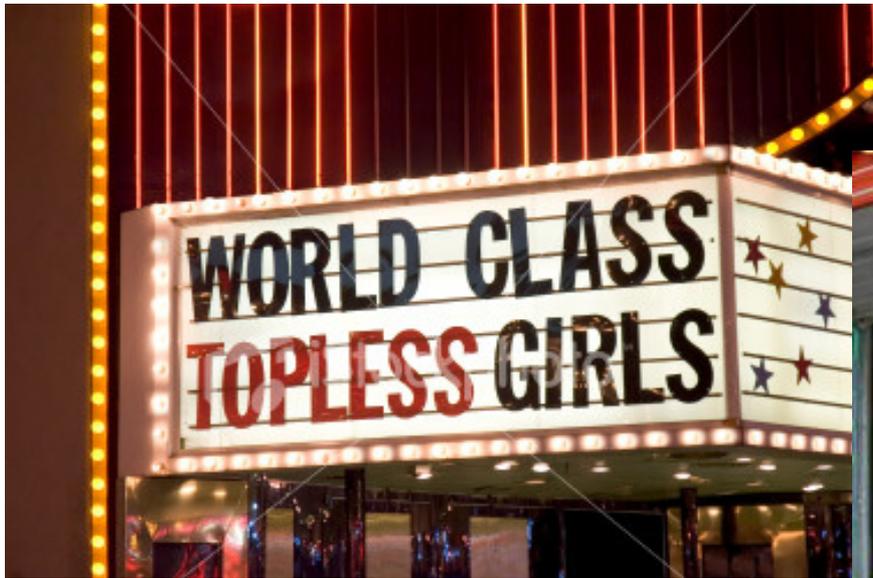
# Sex Trafficking: 18 U.S.C. §

1591



# Sex Trafficking: 18 U.S.C. § 1591

What is a Commercial Sex Act?



# Hidden Crime



# Victims

The Core of the Case



# Victims



- Victim Testimony is Essential
- Only Victims Can Answer: “Why?”
- Crime requires showing of “labor obtained by coercion” - subjective component
- Only the Victim can explain the Climate of Fear
- We Lose Cases without Victims

# Victims



## ... BUT Victims Have Problems

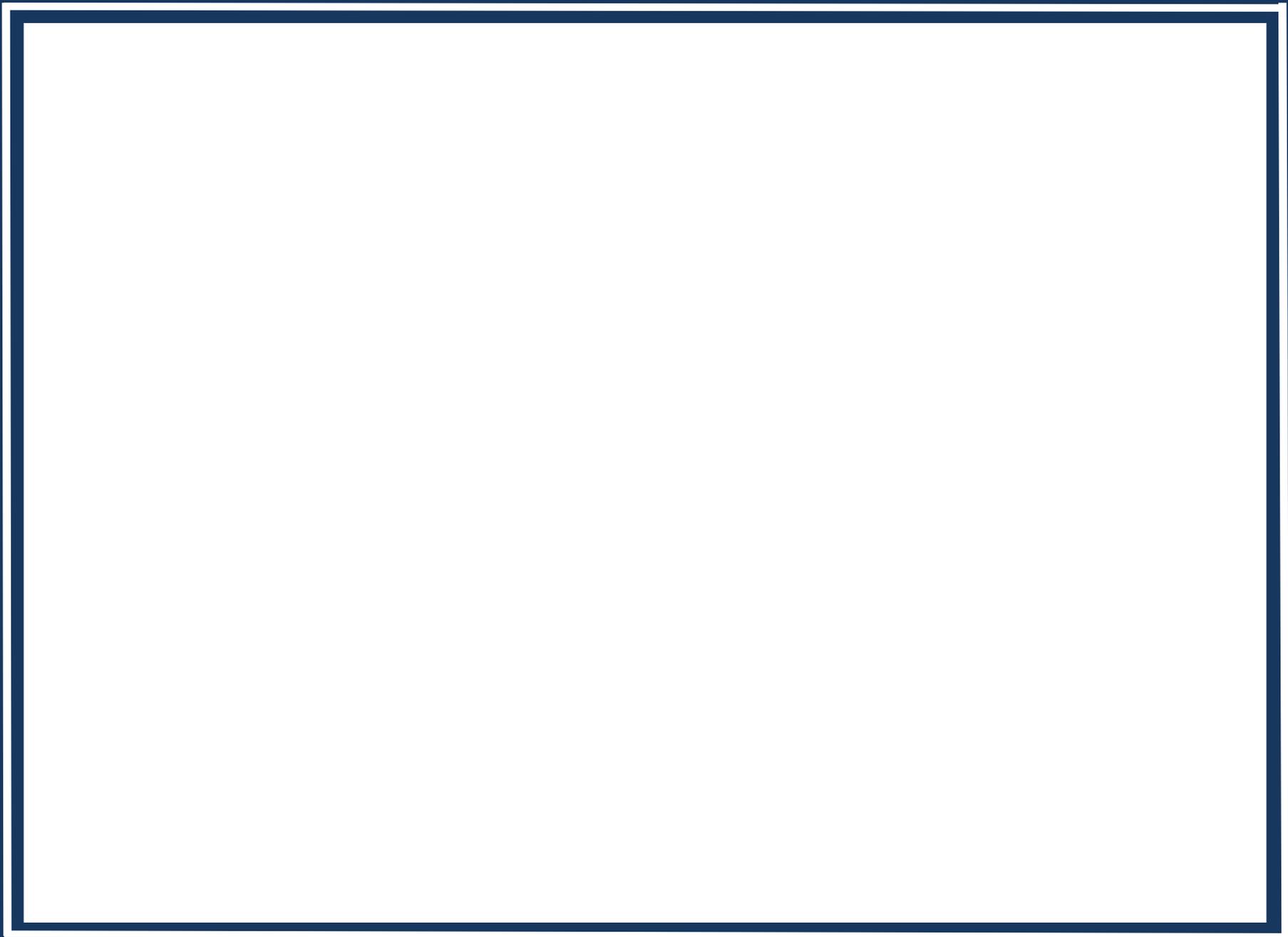
- Past criminal activity
- Self inflicted social problems
- Prior or subsequent prostitution
- Skeptical of law enforcement
- Immigration Problems
- Legal Problems
- Bad Judgment

# Victims

## Victim's Story

- Building Trust
- Victim trauma, shame, fear, loyalty, and distrust
- “What?” & “How?” v. “Why?”
- Avoid Pointed - Direct Questions
- Assume prostitution, illegal status
- Be prepared for bad judgment
- CP & T





# Indicators

## **Isolation**

Monitoring and surveillance

Restricted or monitored communication

‘Spokesperson’ for group

Locks and fences

## **Debts and Wages**

Loans

Deposits

Owed Back Pay

Low or No Pay

## **Working and Living Conditions**

Poor living or working conditions

Transportation patterns

Location of personal items

Not promised work or location

Harsh penalties and work rules

## **Statements**

Inconsistent or rehearsed stories

Distrust of Law Enforcement

## **Control of Documents**

Control over identification documents



**Think of Indicators Like Balloons.**

**Poor Work Conditions**

**Employment  
Discrimination**

**Debts**

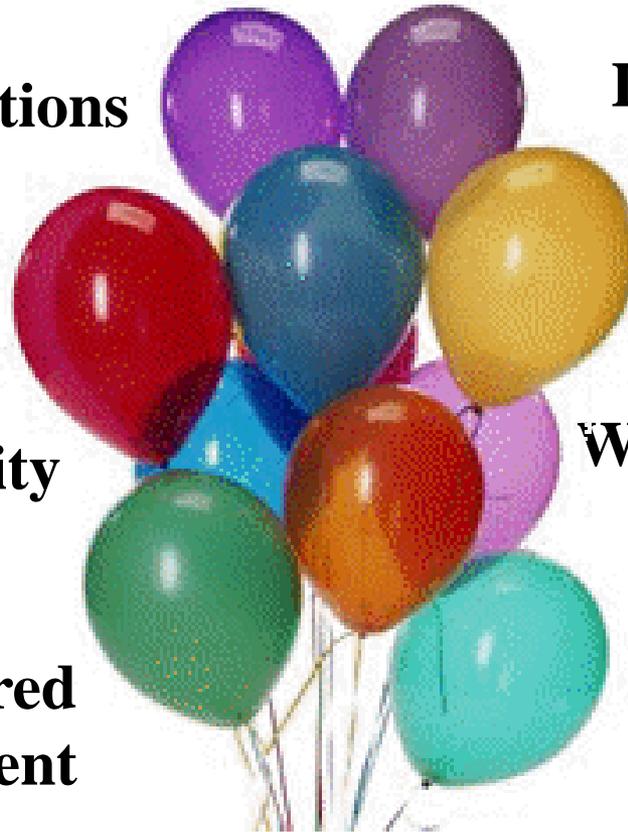
**Workplace  
Assault**

**Location of Identity  
Documents**

**Wage and Hour  
Violations**

**Monitored  
Movement**

**Surveillance**



**Tether Them To The Coercive Scheme.  
Not all exploitation is human trafficking.**

*Indicator 1*

*Indicator 2*

*Indicator 3*

*Indicator 4*

Coercion Continuum



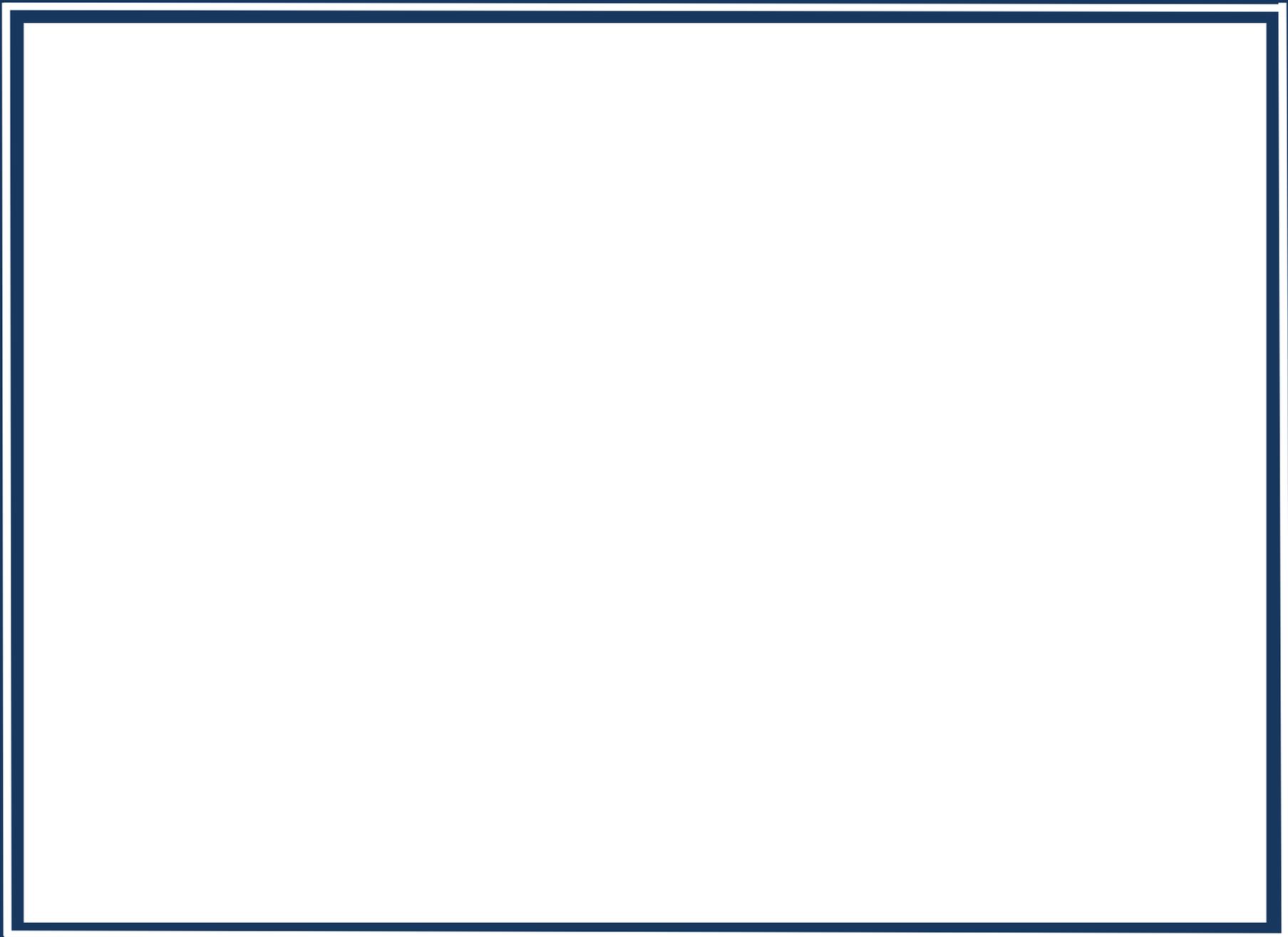
**When does worker exploitation shift to human trafficking?**



**When does worker exploitation shift to human trafficking?**



**When does worker exploitation shift to human trafficking?**



## Common Sources

Local Law Enforcement

Hotline Report

Non-Governmental Organizations (“NGO”)

Federal Law Enforcement

Direct Victim Outcry

Report of Concerned Citizen

Referral by Prior Victim



## Identifying Sex v. Labor

Both have human victims

Both use coercion to compel their victims

Both are motivated by profit

Commercial Sex

Prostitution

Vice Squads



Labor or  
Services

# Current Trends

Real Time Updates

# Dual Use of Debt

## Victim owes Owner

- Smuggling Debts
- Room and Board Debts
- Tools of Trade Debts

## Owner owes Victim

- Back Wages
- Pyramid Schemes
- Deposits

**Distinguish Third Party Debt Not Related to Labor**



## Gang Directed Trafficking

- Gangs are branching out from other illicit activity into human trafficking.
- Benefit from established networks.



# Use of Technology in The Crime and Prosecution

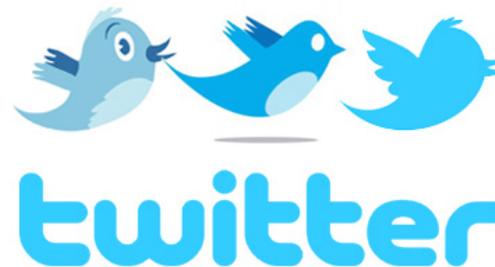


*backpage.com.*



*Instagram*

**G**Mail™  
by Google



craigslist   
CLAS12112C 



Seeking  
Arrangement®



# Drugs and Intoxicants

- Carrot and Stick
- Wages
- Anesthesia
- Create Dependency
- Reduce Victim Credibility
- Reduce Victim Knowledge



# Human Trafficking: Law, Myths & Current Trends

December 11, 2014



**John Cotton Richmond**  
U.S. Department of Justice  
Human Trafficking Prosecution Unit  
[john.richmond@usdoj.gov](mailto:john.richmond@usdoj.gov)