

JOINT INFORMATIONAL HEARING

The Role of Regulated Professions in Combatting Human Trafficking

Assembly Committee on Business and Professions - Chair, Rudy Salas, Jr.
Senate Committee on Business, Professions and Economic Development - Chair, Jerry Hill

Wednesday, June 8, 2016
9:30-11:30 a.m.
State Capitol, Room 4202

BACKGROUND PAPER

Introduction

Human trafficking continues to be a problem around the world and in the U.S., including California. According to the U.S. Department of State, the U.S. government considers trafficking to include all criminal conduct in forced labor and sex trafficking, "essentially the conduct involved in reducing or holding someone in compelled service."¹ According to the U.S. government, trafficking can be seen in a variety of forms including, but not limited to, forced labor, sex trafficking, and bonded labor.² The U.S. is a source and destination for trafficking victims, including men, women and children, both U.S. and foreign citizens.³ The trafficking of individuals can include both sexual trafficking and labor trafficking, and victims can be found in a wide range of businesses including massage establishments, hotels, and domestic service.⁴ The Coalition to Abolish Slavery states that traffickers threaten to, or use force, coercion, abduction, fraud or deception to bring their victims under their control.⁵ The common term "human trafficking" has been widely used to describe those activities which occur when a person is forced or compelled into service.⁶

The reach of human trafficking can evade professional and regulatory boundaries. Human trafficking can take place online and in brothels masquerading as massage businesses, nail

¹ United States Department of State, Civilian Security, Democracy and Human Rights, Office to Monitor and Combat Trafficking in Persons, June 2012. Retrieved from <http://www.state.gov/documents/organization/194942.pdf>.

² *IBID.*

³ US Department of State, 2015 Trafficking in Persons Report. Retrieved from <http://www.state.gov/j/tip/rls/tiprpt/2015/index.htm>.

⁴ US Department of Homeland Security, Blue Campaign. Retrieved from <https://www.dhs.gov/blue-campaign/myths-and-misconceptions>.

⁵ Coalition to Abolish Slavery and Trafficking, About the Issue. Retrieved from <http://www.castla.org/definition-of-the-issue>.

⁶ United States Department of State Civilian Security, Democracy and Human Rights, Office to Monitor and Combat Trafficking in Persons, June, 2012. Retrieved from <http://www.state.gov/documents/organization/194942.pdf>.

salons, or other types of businesses.⁷ According to the 2015 statistics summary released by the Polaris Project, the top three sex trafficking venues include: 1) commercial front brothels, 2) hotels and motels, and 3) residential brothels.⁸

The U.S. Department of Health and Human Services provides funding for the National Human Trafficking Resource Center Hotline (NHTRCH) administered by the Polaris Project. The NHTRCH is a free, twenty-four hour accessible hotline, available in numerous languages, where persons who suspect trafficking is occurring, or are being trafficked, are able to contact the hotline and be connected to find appropriate services for victim support, report potential trafficking or find additional resources for training opportunities. In the California Attorney General's report, *The State of Human Trafficking in California 2012*, the AG reported that while the hotline is available in all fifty states, in 2011 the highest numbers of cases or victims were reported in California—about 10%.⁹ Four years later, it was reported in the Polaris Project's 2015 U.S. data report, that California continues to lead the country in the highest number of calls.¹⁰ Because of California's large and diverse immigrant communities, its large economic base and its proximity to international borders, California is considered one of the top four destinations for human trafficking.¹¹

As noted earlier, human trafficking happens in various forms and can involve activities such as recruiting, smuggling, transporting, harboring, buying, or selling persons for prostitution, domestic servitude, and sweatshop labor, among others.¹² Dismantling human trafficking is a large and daunting task and appears to be best addressed through partnerships between federal, state, local governments, businesses, communities, and NGOs. Between 2004 and 2010, regional task forces, some funded through grants by the U.S. Department of Justice and the California Governor's Office of Emergency Services, formally known as, California Emergency Management Agency, were established throughout different regions of California to help aid in the identification and rescue of trafficking victims. According to the 2007 report, *Human Trafficking in California: the Final Report of the California Alliance to Combat Trafficking and Slavery Task Force*, the grants provided to those regional task forces required a "strong working relationships between law enforcement, other government entities and [non-governmental

⁷ Human Trafficking Report in San Francisco 2015, City and County of San Francisco, Department on the Status of Women. Retrieved from http://sfgov.org/dosw/sites/sfgov.org.dosw/files/HT%20Report_FINAL.pdf

⁸ Polaris Project, 2015 Statistics. Retrieved from <http://polarisproject.org/resources/2015-hotline-statistics>

⁹ Office of the Attorney General, *The State of Human Trafficking in California 2012*. Retrieved from <http://oag.ca.gov/sites/all/files/agweb/pdfs/ht/human-trafficking-2012.pdf>

¹⁰ National Human Trafficking Resource Center, 2015 NHTRC Annual Report. Retrieved from <http://traffickingresourcecenter.org/sites/default/files/NHTRC%202015%20United%20States%20Report%20-%20USA%20-%2001.01.15%20-%2012.31.pdf>

¹¹ California Human Trafficking Fact Sheet, Compiled by the Center for Public Policy Studies, February 2013. Retrieved from <http://www.htcourts.org/wp-content/uploads/CA-HT-Fact-Sheet-2.27.13.pdf?Factsheet=HT-CA>

¹² Office of the Attorney General, *The State of Human Trafficking in California 2012*. Retrieved from <http://oag.ca.gov/sites/all/files/agweb/pdfs/ht/human-trafficking-2012.pdf>

organizations (NGOs)] that provide direct services to victims of trafficking."¹³ As a result of those regional task forces and other NGOs, partnerships have led to successful efforts in California to tackle the challenging issue of human trafficking through increased victim services and protection and increased penalties for traffickers.

Recent news reports across the country note the ongoing issues surrounding trafficking and the relationship between businesses. A 2009 article from the *Orange County Register*, Secret victims: Sex trafficking in our midst, reported that nine Vietnamese women were caught in a police raid inside a chiropractic office that was alleged, at the time, to be a front for a brothel.¹⁴ In a February 2016, news report from Channel 4, Southern California, it was reported that the Los Angeles City Attorney was filing a lawsuit against operators of an alleged ring of brothels fronted by massage businesses. In an opinion editorial in *The Washington Post*, My Nail salon may be a front for a brothel; the author noted "Human trafficking really is everywhere. Despite increases in awareness campaigns, traffickers continue to hide in plain sight, fooling even those of us who remain vigilant to exploitation. Even experts in the field...fail to recognize human trafficking on a regular basis."¹⁵

According to a 2012 press release from the International Labour Organization, it is estimated that some 21 million people around the world are ensnared in human trafficking and 90 percent of those individuals are exploited in the private economy, by individuals, or enterprises which can include domestic servitude, agriculture, construction, manufacturing and entertainment.¹⁶ However, as noted by the U.S. Department of Justice, Office of Justice Programs, because of the underground nature of human trafficking, it is difficult to truly know the number of victims.¹⁷

State Efforts

In California and across the country, a variety of legislation has been proposed or enacted address human trafficking. Many of these laws or proposals attempt to address human trafficking through various levels of victim protection and support, law enforcement empowerment, perpetrator prosecution, and community awareness.

¹³ Office of the Attorney General, Human Trafficking in California: Final Report of the California Alliance to Combat Trafficking and Slavery Task Force, 2007. Retrieved from http://ag.ca.gov/publications/Human_Trafficking_Final_Report.pdf?

¹⁴ Cabrera, Yvette. Secret victims: Sex trafficking in our midst. *Orange County Register*. August 25, 2009.

¹⁵ Mehlman-Orozco, Kimberly. My Nail Salon may be a Front for a Brothel. *The Washington Post*. November 20, 2015. Retrieved from https://www.washingtonpost.com/opinions/my-nail-salon-may-be-a-front-for-a-brothel/2015/11/20/65cc15e6-84c0-11e5-8ba6-cec48b74b2a7_story.html.

¹⁶ International Labour Organization. Facts and Figures. Retrieved from http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_181961/lang--en/index.htm.

¹⁷ U.S. Department of Justice, Office of Justice Programs, National Institute of Justice. May 29, 2010. Retrieved from <http://nij.gov/topics/crime/human-trafficking/Pages/problem.aspx>.

AB 22 (Lieber), Chapter 240, Statutes of 2005, is regarded as one of California's first laws in addressing human trafficking. AB 22 established civil and criminal penalties for trafficking, allowed for the forfeiture of assets derived from human trafficking, created the California Alliance to Combat Trafficking and Slavery Task Force, and provided restitution to victims, among other provisions. Since the enactment of AB 22, there have been numerous legislative efforts in California and across the country aimed at addressing human trafficking.

Some legislative actions focus on the relationship between the potential for business and human trafficking corruption. To help address the ongoing issue of human trafficking, the California Legislature passed and the Governor signed SB 1193 (Steinberg), Chapter 515, Statutes of 2012, which required that the operators of bars, adult or sexually oriented businesses, massage businesses where those providing massage services were not certified by the California Massage Therapy Council, primary airports, rail stations, bus stations, truck stops, emergency rooms, urgent care centers, farm labor contractors, privately operated job recruitment centers, and roadside rest stops post a conspicuous notice publicizing human trafficking resources. SB 1153 also required the California Department of Justice to develop a model notice and make that notice available on its website in order for those required to post the notice to be able to do so without creating their own. According to Civil Code 52.6, the notice must include the following statement:

If you or someone you know is being forced to engage in any activity and cannot leave— whether it is commercial sex, housework, farm work, construction, factory, retail, or restaurant work, or any other activity—call the National Human Trafficking Resource Center at 1-888-373-7888 or the California Coalition to Abolish Slavery and Trafficking (CAST) at 1-888-KEY-2-FRE(EDOM) or 1-888-539-2373 to access help and services. Victims of slavery and human trafficking are protected under United States and California law. The hotlines are:

- Available 24 hours a day, 7 days a week.
- Toll-free.
- Operated by nonprofit, nongovernmental organizations.
- Anonymous and confidential.
- Accessible in more than 160 languages.
- Able to provide help, referral to services, training, and general information.

In 2014, the California Legislature changed the composition of the California Massage Therapy Council in order to include a member from the anti-human trafficking community. AB 1147 (Bonilla, Gomez, and Holden), Chapter 406, Statutes of 2014, required among many other things, that the composition of the California Massage Therapy Council be reduced from 20 to

13 members and board membership must now include a member of an anti-human trafficking organization.

Other legislation in California includes bills such as: 1) SB 657 (Steinberg) Chapter 556, Statutes of 2012, the California Transparency in Supply Chains Act, which encourages large businesses to voluntarily take steps to use their substantial economic leverage to deter forced labor from being used in their supply chains; 2) SB 1279 (Pavley), Chapter 116, Statutes of 2010, which established a pilot project in Los Angeles County to create, implement, and deliver standardized training curricula that would provide a protocol for law enforcement and social services to assess and recognize sexually exploited minors within the juvenile justice system; 3) AB 499 (Swanson), Chapter 359, Statutes of 2008, which established a pilot project in Alameda County to create, implement, and deliver standardized training curricula that would provide a protocol for law enforcement and social services to assess and recognize sexually exploited minors within the juvenile justice system; 4) AB 1595 (Campos) of 2016, which will require private or public employers that provide mass transportation services to train employees on human trafficking, as specified; and, 5) AB 1942 (Garcia) of 2016, which will require training of hotel and motel employees in recognizing the signs of human trafficking and how to report those signs to the appropriate law enforcement agency.

Numerous other states have taken action to address human trafficking through a variety of laws. In addition to California, 25 other states require some form of a posting or notification about human trafficking awareness or information about the national hotline¹⁸ Additionally, 31 states have passed a law to require or to encourage training requirements for law enforcement pertaining to human trafficking, while 20 states have either created or encouraged the development of a human trafficking task force.¹⁹

Recently, there have been studies and reports that support the concept of additional training for licensed healthcare professionals who may come into contact with human trafficking victims²⁰. In *Educating Health Care Professionals on Human Trafficking*; the authors noted that although emergency department providers have training in the recognition of child abuse victims and intimate partner violence, they are not routinely educated about common health problems associated with human trafficking.²¹ The State of Michigan recently passed a law to require the

¹⁸ 2014 State Rating on Victims Assistance Laws. Polaris Project. Retrieved from <http://polarisproject.org/sites/default/files/2014-State-Ratings.pdf>

¹⁹ *IBID.*

²⁰ Dovydaitis, Tiffany, RN, WHCNP. Human Trafficking, the Role of the Health Care Provider. *Journal of Midwifery Womens Health*. 2010; 55, 462-467. Retrieved from <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3125713/>

²¹ Grace, Aimee M., et al. Educating Health Care Professionals on Human Trafficking. *Journal of Pediatric Emergency Care*. December 2014. Vol. 30 (12), pp. 856-61. Retrieved from <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4392380/>.

Michigan Department of Licensing and Regulatory Affairs to establish training standards for identifying human trafficking victims, which encompasses licensed healthcare professionals in Michigan: including chiropractors, mental health professionals, medical professionals, nurses, and massage therapist, among others.

Professions

The devastating reach of human trafficking may evade professional boundaries as licensed or regulated professions are not immune from traffickers taking advantage of the legitimacy that is afforded to individuals with a state-issued license or state-sanctioned certificate to practice; providing a form of cover for a criminal enterprise to operate lawfully while harming victims and the communities in which they operate. However, some licensed professionals may be uniquely situated to identify victims of human trafficking. For instance, by being educated about the signs of trafficked individuals, licensees and other professionals may help to improve outcomes for trafficking victims through reporting, referrals to assistance, or other recommended methods.

In California, some regulated industries have taken steps to ensure that their professions meet the appropriate standards with respect to licensing and enforcement to ensure consumer protection and to attempt to maintain the integrity of the profession. Provisions within the Business and Professions Code allow boards and bureaus regulated under the Department of Consumer Affairs to establish, through regulations, professional standards for licensure and enforcement. Strict and enforceable disciplinary standards may help alleviate licensed professions being infiltrated by illegal enterprises attempting to use legitimate businesses within California for human trafficking.

Business and Professions Code § 4955 authorizes the California Acupuncture Board to, "deny, suspend, or revoke or impose probationary conditions upon, the license of any acupuncturist if he or she is guilty of unprofessional conduct."²² Business and Professions Code §4607 authorizes the California Massage Therapy Council to discipline an owner or operator of a massage business or establishment who is certified for the conduct of all individuals providing massage for compensation on the business premises. Additionally, the Business and Professions Code specifies that the California Massage Therapy Council may deny an application for certification or impose disciplinary conditions on a certificate holder for unprofessional conduct, which includes, but is not limited to, engaging in sexually suggestive advertising related to massage services and engaging in sexual activity while providing massage for compensation.²³

²² California Business and Professions Code, § 4955.

²³ California Business and Professions Code §§ 4607, 4609(a)(1)(A), (C).

Further, the Board of Chiropractic Examiners established the responsibility for conduct on premises and specifies that "the commission of any act of sexual abuse, sexual misconduct, or sexual relations by a licensee with a patient, client, customer, or employee is unprofessional conduct and is ground for disciplinary conduct."²⁴ Further, the regulations specify that every chiropractic licensee is responsible for the conduct of employees or other persons subject to supervision in a place or practice.

These types of regulations and statutes may help to ensure that professional license holders are subject to disciplinary actions for illicit behavior, potentially discouraging illegal activities in those businesses and providing a mechanism to shut down facilities which may be operating under the guise of a professional practice.

Conclusion

This hearing is intended to examine the role of regulated professions in combatting human trafficking by exploring new opportunities for regulated professions to partner with state, local and NGOs who are actively engaged in anti-human trafficking efforts. In addition, this hearing should provide guidance to the Legislature about whether or not additional legislation may be necessary to address this issue.

²⁴ Title 16, California Code of Regulations, § 316.