



Human Trafficking Study

August 22, 2022

Fiscal Year 2021 Report to Congress



**Homeland
Security**

U.S. Immigration and Customs Enforcement

Message from the Acting Director

August 22, 2022

I am pleased to present the following report, "Human Trafficking Study," which has been prepared by U.S. Immigration and Customs Enforcement (ICE).

This report was compiled pursuant to the Joint Explanatory Statement and House Report 116-458 accompanying the Fiscal Year 2021 Department of Homeland Security Appropriations Act (P.L. 116-260).

Pursuant to congressional guidelines, this report is being provided to the following Members of Congress:



The Honorable Lucille Roybal-Allard
Chairwoman, House Appropriations Subcommittee on Homeland Security

The Honorable Chuck Fleischmann
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Chris Murphy
Chair, Senate Appropriations Subcommittee on Homeland Security

The Honorable Shelley Moore Capito
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries related to this report may be directed to the ICE Office of Congressional Relations at (202) 732-4200.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tae D. Johnson", with a long, sweeping horizontal line extending to the right.

Tae D. Johnson,
Acting Director
U.S. Immigration and Customs Enforcement



Human Trafficking Study

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I. Legislative Requirement

This report was compiled in response to direction in the Joint Explanatory Statement and House Report 116-458, accompanying the Fiscal Year (FY) 2021 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-260).

The Joint Explanatory Statement states:

Human Trafficking Study.—The Secretary is directed to provide a report, not later than 270 days after the date of enactment of this Act, describing the extent of human trafficking in the United States. The report shall be consistent with the appropriate partnerships and consultations described below, and all applicable laws, including provisions enacted to protect the privacy of victims and those intended to ensure the participation of victims and witnesses without regard to immigration status.

In completing the report, the Secretary shall consult with the Federal Bureau of Investigations (FBI), the Department of State, the Department of Labor, the Interagency Task Force to Monitor and Combat Trafficking, and other federal departments, agencies, task forces, state, local, tribal, and territorial government entities the Secretary determines appropriate. The Secretary shall determine the appropriate time period to be addressed by the report in describing the current extent of trafficking and identify which data on the incidence of human trafficking is currently reported to any federal department or agency, or state, local, tribal, or territorial government entities, and whether the Department has access or could appropriately obtain access to such data. Such access should be consistent with privacy protection laws, applicable state laws, or other applicable laws. The report shall also identify any data that is not currently available that would be useful in informing prevention efforts.

The report shall also include the following information, if reasonably available:

- (1) the estimated number of human trafficking victims, disaggregated by whether the victim was—
 - (A) trafficked within a state;
 - (B) trafficked in interstate commerce; or
 - (C) trafficked from an international location; and
- (2) a description of industries and geographical regions in which the practice of human trafficking is most prevalent.

For the purposes of the report, human trafficking shall have the same meaning as in section 7102 of title 22, United States Code, including but not limited to sex and labor trafficking. It does not include conduct described in Section 212(a)(6)(E) of the Immigration and Nationality Act unless such conduct was for the sole purpose of human trafficking. Information collected for the report shall not be shared or accessed by any person for the purpose of enforcement or

investigation of potential immigration law violations.

House Report 116-458 states:

Section 107. The Committee includes a provision requiring the Secretary to conduct a survey and report to Congress on the extent of human trafficking in the United States.

II. Background

The Joint Explanatory Statement and House Report 116-458 accompanying the FY 2021 DHS Appropriations Act (P.L. 116-260) direct DHS to submit a report that “describes the extent of human trafficking in the United States.” The extent of human trafficking, or human trafficking prevalence in the United States, is an issue long debated and studied. The Federal Government has invested millions of dollars in this area, examples of which are outlined in Section III, only to be able to document the many challenges in accurately determining the prevalence of this crime within the United States and globally. Because of these challenges, lack of appropriated resources, and current efforts led by the Department of State (DOS) and the Department of Justice’s National Institute of Justice (NIJ) and Bureau of Justice Statistics (BJS), preparation of this report by DHS is not feasible.

III. Analysis/Discussion

Limitations/Challenges to Conducting Requested Study

A. Data Collection and Measurement

Many studies and discussions during the past 20 years have highlighted the challenges in estimating prevalence (e.g., Barrick, Lattimore, Pitts, & Zhang, 2013; Dank et al., 2014; Farrell et al., 2012; Farrell et al., 2019; Zhang, 2012). These studies were not able to measure or provide national estimates accurately. Instead, they focused on geographical locations or industry sectors. The studies provided detailed information regarding existing data quality issues at the state and federal levels, as well as the human factors that make measuring this crime set challenging. Below are a few of the known issues related to law enforcement data.

1. Incomplete and Inconsistent Data

Law enforcement data are able to capture the information of only those with whom they come into contact for reasons related to their trafficking. Trafficking victims may be arrested and may encounter law enforcement for reasons other than their victimization (e.g., loitering, drug peddling, child abuse, domestic violence). Additionally, individuals usually do not identify themselves to service providers or law enforcement as victims of trafficking (e.g., victims may be unaware that their situation meets the definition of trafficking or they may be fearful of law enforcement). Not all law enforcement agencies formally screen and/or have electronic case record systems that specify human trafficking cases, or human trafficking cases may be coded as a sexual offense or prostitution. There still exists a lack of understanding about trafficking crimes, and they may go unrecognized or misclassified as a result. Additionally, human trafficking cases are difficult to prosecute because of the exacting criminal elements that must be proved to secure a conviction. Research has found that law enforcement and prosecutorial agencies therefore may classify and prosecute the crime as a lesser offense in order to achieve a conviction, which impacts data collection efforts concerning those tried and convicted of human trafficking.

2. Focus on Sex Trafficking

Most encounters with law enforcement as they relate to human trafficking involve sex trafficking, while labor trafficking victims remain hidden in plain sight. Human trafficking studies thus underestimate victims of labor trafficking, as they typically are more difficult to identify. Victims of forced labor or labor trafficking may not identify as trafficking victims, and labor trafficking often is conflated with labor exploitation. The lack of knowledge of the elements of labor trafficking by law enforcement also can contribute to the underreporting of victims of labor trafficking. Currently, there is a lack of consensus within anti-trafficking and victim assistance communities regarding the best practices to identify labor trafficking victims. Although labor trafficking is defined in the Trafficking Victims Protection Act of 2000, its

indicators are difficult to identify by individuals without the appropriate training and experience, and it often is confused with human smuggling and other labor abuses.

B. Resources and Expertise

Based on the challenges of conducting prevalence estimates, NIJ has taken the lead on domestic efforts to fund rigorous research that develops methods, fills evidence gaps, and builds knowledge surrounding the complex issue of human trafficking. Currently, NIJ is funding six studies that will aid in increasing identification and future prevalence efforts. Additionally, NIJ has a multitude of closed studies that address the challenges of producing accurate prevalence estimates (examples of which are noted above). NIJ's FY 2022 funding calls for the following:

1. Estimating Prevalence

According to NIJ's Notice of Funding Opportunity, published on March 7, 2022, "NIJ seeks proposals for research that produces estimates of the prevalence of human trafficking in the United States, improves upon current methodologies for estimating the prevalence of human trafficking (for sex and labor), and monitors the impact of anti-trafficking efforts on those prevalence estimates. Proposals must focus on generating a statistically sound estimate of trafficking prevalence of one or more trafficking types, sectors, industries, and/or geographic area(s). Such proposals may inform future activities associated with producing national estimates of prevalence. Applicants are expected to demonstrate familiarity with other efforts to arrive at prevalence estimates, such as DOS's Prevalence Reduction Innovation Forum, and should propose research complementary to these efforts."

DOS's Office to Monitor and Combat Human Trafficking also is taking a lead in prevalence methodology development, but is funding pilot work globally to understand better the methods that will aid in estimating sex and labor victimization more accurately.

2. Statistical Expertise

If a prevalence study is desired, the level of statistical expertise to oversee this effort lies within BJS, whose mission is to "collect, analyze, publish, and disseminate information on crime, criminal offenders, victims of crime, and the operation of justice systems at all levels of government." Additionally, if resources are available, BJS provides financial and technical support to state, local, and tribal governments to improve both their statistical capabilities and the quality and utility of their criminal history records. This level of technical assistance would be needed to assist state and local law enforcement in building data collection and capacity to capture trafficking in a uniform and analytical manner. These efforts will have a direct and immediate impact for the anti-trafficking community to increase identification and to understand specific populations better.

BJS currently oversees the National Criminal Victimization Survey ([National Crime Victimization Survey | Bureau of Justice Statistics \(ojp.gov\)](#)), which is the Nation's primary source of information on criminal victimization. Additionally, BJS oversees the National Crime Statistics Exchange ([National Crime Statistics Exchange \(NCS-X\) | Bureau of Justice Statistics](#)

ojp.gov), which aims to develop a statistical system of incident-based data, on crimes reported to law enforcement, to generate nationally representative estimates of the volume and characteristics of crimes. These examples could inform better data collection systems and could build law enforcement's capacity to capture both actual and suspected labor and sex trafficking victimization.

3. Resources and Timeline

The appropriation language carries no associated funding for DHS to carry out the study. Based on previous grants conducted by NIJ and DOS, which were conducted on much smaller scales, this would be a multi-million-dollar study. However, even with the financial resources dedicated to this effort, as noted above, it likely would not result in capturing the full extent of trafficking and merely would add to the language of already known challenges.

The timeline and human subjects' approval needed to conduct a study of this magnitude would take longer than 270 days. This study would require a minimum of 5 years, and likely much longer for a national-level effort, based on available data.

IV. DHS Action Plan

Current Initiatives to Enhance DHS's Countertrafficking Mission

In October 2020, DHS established the Center for Countering Human Trafficking (CCHT) as its first unified, intercomponent coordination center for countering sex trafficking and forced labor, including the importation of goods produced with forced labor. It is a DHS-wide effort comprised of 16 supporting Offices and Components and is led by ICE Homeland Security Investigations. Its mission is to advance counter-human trafficking law enforcement operations, to protect victims, and to enhance prevention efforts by aligning DHS's capabilities and expertise.

DHS is focused keenly on developing its implementation plan for the *Department of Homeland Security Strategy to Combat Human Trafficking, the Importation of Goods Produced with Forced Labor, and Child Sexual Exploitation* and President Biden's *The National Action Plan to Combat Human Trafficking*. This implementation plan is the roadmap for the CCHT, which oversees DHS's countertrafficking mission. Included are efforts to bolster DHS's administration of evidence-based programming and policymaking. In 2021, in coordination with the Intelligence Community, law enforcement, and other federal partners, the CCHT coauthored an interagency intelligence assessment on human trafficking for the White House National Security Council, pursuant to the National Action Plan. The assessment characterizes the top human trafficking threats with a nexus to the United States so that operators are better equipped to identify, deter, and respond to such threats.

As additionally proposed, the Counter Human Trafficking Act of 2021 includes a Human Trafficking Information Modernization Initiative that aims to modify systems and processes throughout DHS that are related to its countertrafficking mission. If passed, it will provide the necessary resources to allow DHS to increase data analytics efficiency and efficacy.

Appendix A: Bibliography

Barrick, K., Lattimore, P., Pitts, W., & Zhang, S. (2013) *Indicators of Labor Trafficking Among North Carolina Migrant Farmworkers*. National Criminal Justice Reference Service (NCJRS): [Indicators of Labor Trafficking Among North Carolina Migrant Farmworkers | Office of Justice Programs \(ojp.gov\)](#)

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Farrell, A., Owens, C., McDevitt, J., Dank, M., et al. (2012). *Identifying Challenges to Improve the Investigation and Prosecution of State and Local Human Trafficking Cases*. NCJRS: [Identifying Challenges to Improve the Investigation and Prosecution of State and Local Human Trafficking Cases | Office of Justice Programs \(ojp.gov\)](#)

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Zhang, S. X. (2012). *Looking for a Hidden Population: Trafficking of Migrant Laborers in San Diego County*. NCJRS: [Looking for a Hidden Population: Trafficking of Migrant Laborers in San Diego County | National Institute of Justice \(ojp.gov\)](#)

Appendix B: Abbreviations

Abbreviation	Definition
BJS	Bureau of Justice Statistics
CCHT	Center for Countering Human Trafficking
DHS	Department of Homeland Security
DOS	Department of State
FY	Fiscal Year
ICE	U.S. Immigration and Customs Enforcement
NCJRS	National Criminal Justice Reference Service
NIJ	National Institute of Justice