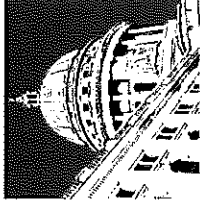


Wisconsin Legislative Council

Anne Sappenfield
Director



Human Trafficking *Wisconsin Law and Examples from Other States*

Amber Otis, Senior Staff Attorney, and Tom Koss, Staff Attorney
Speaker's Task Force on Human Trafficking | September 27, 2023

Background

- ▶ We will be providing nonpartisan staff services to the task force.
- ▶ At the chair's request, this brief presentation will summarize current Wisconsin law and examples of recent enactments in other states.
- ▶ We will attend future task force meetings and can provide information to the task force, upon request.

Wisconsin's Trafficking Crimes

- ▶ Wisconsin has 2 crimes specific to trafficking.
- ▶ One crime prohibits any act of trafficking, while the other is specific to trafficking of a child.
- ▶ Each has numerous elements to prove.

Crime of Human Trafficking

- ▶ Created in 2007 Wisconsin Act 116.
- ▶ Prohibits the act of knowingly engaging in “trafficking” if:
 - ▶ For the purposes of:
 - ▶ A commercial sex act OR
 - ▶ For labor or services.
 - ▶ AND the trafficking is done through certain acts.
 - ▶ Examples: threatening or causing harm, violating a law, restraining a person, extortion, controlling access to an addictive controlled substances, or means of coercion or intimidation, among several others.

Crime of Human Trafficking

Human Trafficking (Wis. Stat. § 940.302)

| ACTION: | DONE BY ANY OF THE FOLLOWING: | FOR THE PURPOSE OF: |
|---|--|---|
| Recruiting or Enticing or Harboring or Transporting or Providing or Obtaining ...an individual --OR-- Attempting to do so | Causing or threatening to cause bodily harm to any individual or Causing or threatening to cause financial harm to any individual or Restraining or threatening to restrain any individual or Violating or threatening to violate a law or Destroying, concealing, removing, confiscating, or possessing, or threatening to destroy, conceal, remove, confiscate, or possess any actual or purported passport or any other actual or purported official identification document of any individual or Extortion or Fraud or deception or Debt bondage or Controlling any individual's access to an addictive controlled substance or Using any scheme, pattern, or other means to directly or indirectly, coerce, threaten, or intimidate any individual or Using or threatening to use force or violence on any individual or Causing or threatening to cause any individual to do any act against the individual's will or without the individual's consent | Labor or Services or A commercial sex act |

Source: Wisconsin Department of Justice, *Human Trafficking Laws in Wisconsin* (Jan. 2019) available at: www.doj.state.wi.us/oevs/human-trafficking#laws.

Crime of Human Trafficking

- ▶ Trafficking is penalized as a Class D felony.
- ▶ Other penalties exist if a person is benefiting from the crime of trafficking (Class D felony) or knowingly receiving compensation from related acts (Class F felony).

Crime of Child Trafficking

- ▶ 2007 Wisconsin Act 116 also created the more specific crime of trafficking of a child.
- ▶ Current law requires proof of the following elements:
 - ▶ A person knowingly recruits, entices, provides, obtains, harbors, transports, patronizes, or solicits (or knowingly attempts such acts) a child.
 - ▶ For the purpose of commercial sex acts.
- ▶ Child trafficking is penalized as a Class C felony.

Related Criminal Laws

- ▶ Trafficking crimes are typically included as a “violent” or “serious” crime for various purposes.
- ▶ Criminal statute of limitations is extended for child trafficking.
- ▶ Other related crimes may apply in trafficking circumstances, such as patronizing or soliciting a child or prostitution, among others.

Statutes Specific to Victims

- ▶ Trafficking victims have an affirmative defense to any offense that the victim committed as a direct result of a trafficking violation.
- ▶ Upon request, a court may vacate or expunge a prostitution conviction if certain conditions are met, including if the person was a victim of trafficking for purposes of a commercial sex act.
- ▶ A court may order a defendant to pay restitution to a trafficking victim for certain costs and expenses.
- ▶ Victims may pursue a civil cause of action.

Wisconsin Trafficking Legislation

- ▶ 2007 Wisconsin Act 116 first created the crimes specific to trafficking, among other related provisions.
- ▶ Since 2007, several legislative enactments have addressed trafficking and related issues.

Laws Relating to Trafficking

- ▶ Expansion of child welfare system.
- ▶ Trafficking is included within the definition of “child abuse” prompting involvement of child protective services and law enforcement.
- ▶ Children’s court has jurisdiction over child trafficking victims.
- ▶ Requirements to increase awareness.
- ▶ Examples: Commercial driver license training; DOJ-created poster.
- ▶ Funds for services to child trafficking victims.
- ▶ \$3M each fiscal year to DCF to provide treatment and services to child trafficking victims in all geographic areas of the state.

Examples of Other States' Laws

- ▶ Many states' laws, including Wisconsin's, have been influenced by federal legislation.
- ▶ Examples of topics addressed in other states include:
 - ▶ Child welfare administration.
 - ▶ Coordinating or studying trafficking efforts.
 - ▶ Prevention and awareness.
 - ▶ Purchasers and business regulations and licensing.
 - ▶ Services and protections for victims.
 - ▶ Substantive criminal prohibitions.

Thank you

- ▶ This was a basic overview of human trafficking.
- ▶ Other stakeholders will provide more specific details about trafficking-related issues in Wisconsin.
- ▶ Please let us know how we can assist you as the task force proceeds with its work.



Human Trafficking in Wisconsin Director Jake Jansky WI DOJ-DCI

Defining Human Trafficking

Action: Recruiting, Enticing, Harboring, Transporting, Providing, Obtaining (or attempting to do so)

Means:



Purpose:

LABOR

SERVICES

COMMERCIAL SEX ACTS

Wis. Stat. § 940.302

Defining Sex Trafficking of a Child

Action: Recruiting, Enticing, Harboring, Transporting, Providing, Obtaining, Patronizing, or Soliciting (or attempting to do so)

~~Means:~~

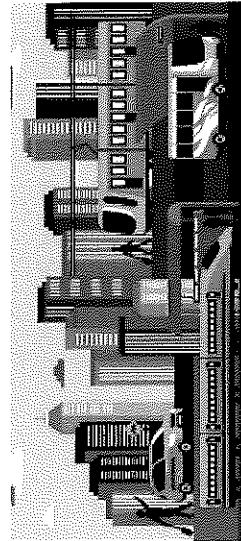
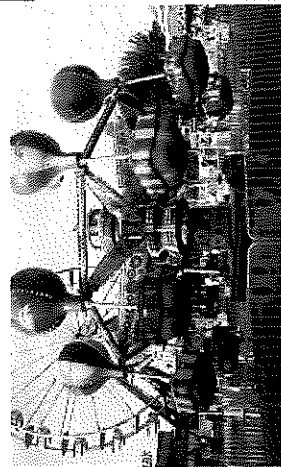
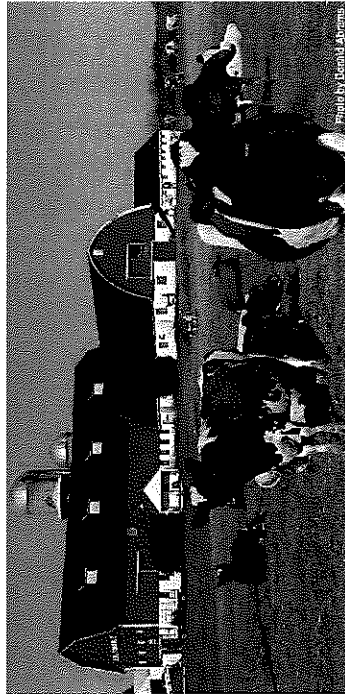
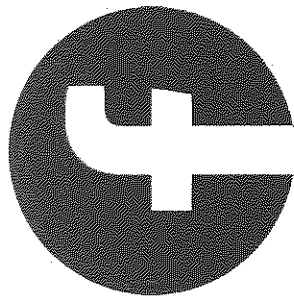
~~FORCE~~ ~~COERCION~~

Purpose:

COMMERCIAL SEX ACTS

Wisc. Stat. § 948.051

NO BOUNDARIES

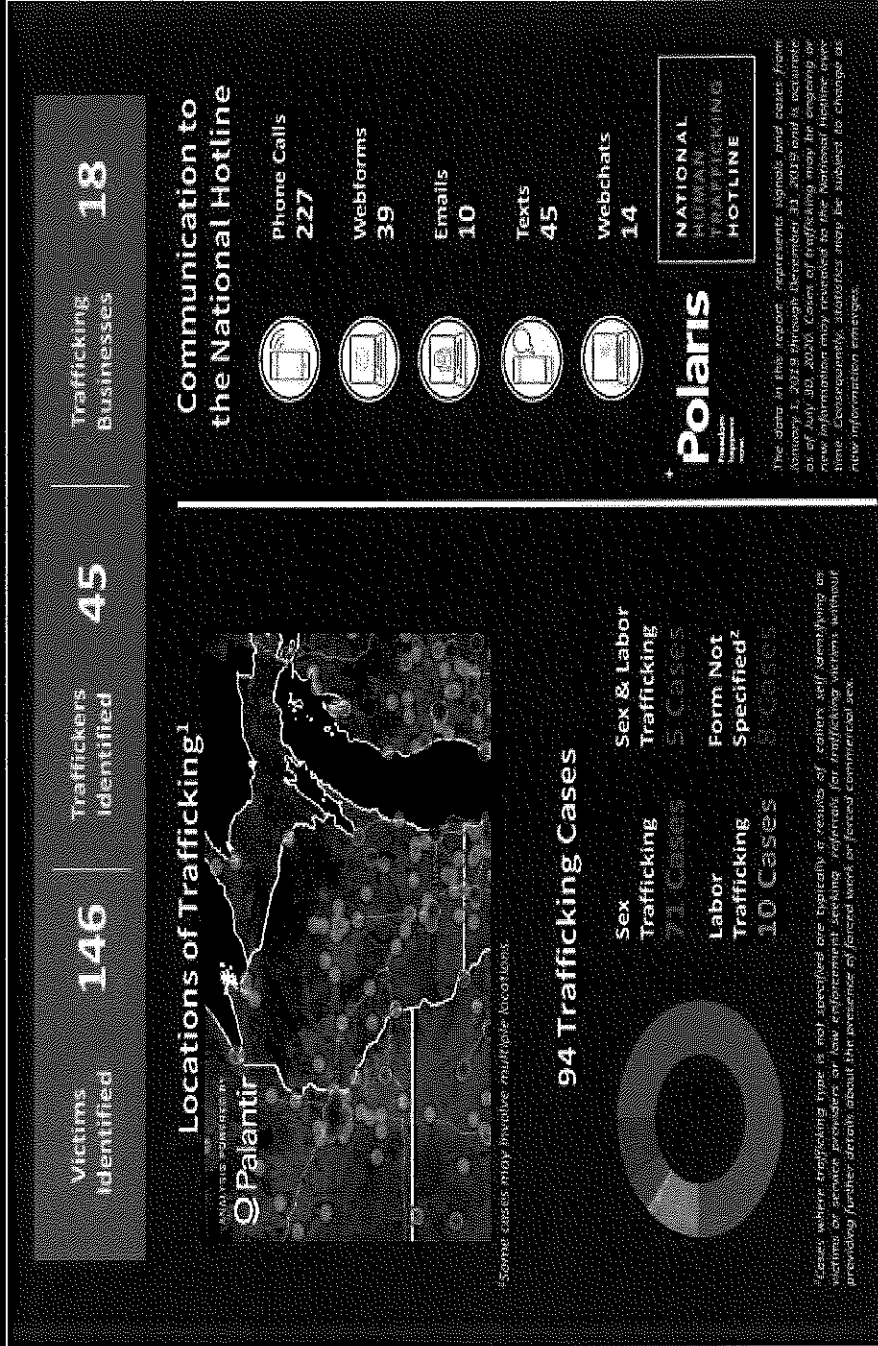


<https://www.doi.state.wi.us/>

WI TRENDS

- Most Child Sex Trafficking (CST) cases involve runaways, relocated, or are in the CPS system
- Recruitment amongst juveniles takes place in all forms – internet, schools, group homes, malls, familial
- Many adult sex trafficking cases have the narcotic control / addiction
- Delay disclosures is common for juvenile cases – most times adult when disclosing
- Limited options for juvenile runaways – repeat and leave group homes to be re-victimized
- Limited LE experience, training, capacity
- Minimal reporting for labor trafficking

Wisconsin Heat Map



<https://www.doj.state.wi.us/>

2021 Reporting Statistics



Get Help | 24/7 Confidential | 1-888-373-7888 | TTY: 711 | Text: 233733 | Chat

Español | English



Get Help | 24/7 Confidential | 1-888-373-7888 | TTY: 711 | Text: 233733 | Chat

Español | English

Web Chat

3

Signals Received in 2021

390 signals were received by the Hotline in 2021 from Wisconsin.

111 signals received were from victims or survivors of human trafficking

Cases Identified in 2021

95 cases were identified in 2021.

166 victims were involved in these cases. Cases can involve multiple victims.

What types of trafficking cases were reported?

The Hotline receives tips about situations involving sex trafficking, labor trafficking, sex & labor trafficking, as well as situations where the type of trafficking may be unknown or not specified.

Types of Trafficking

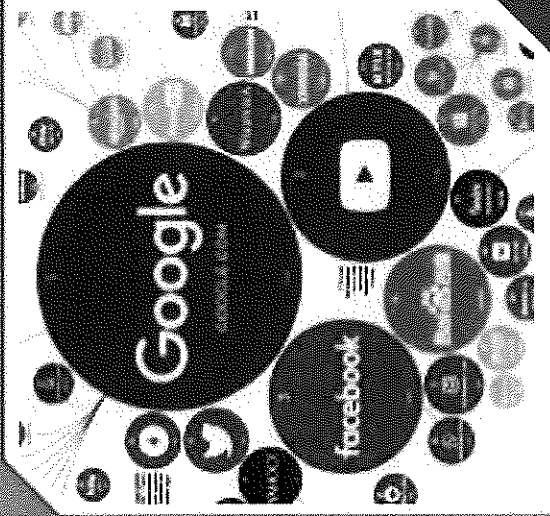
| | |
|---------------|----|
| Sex | 72 |
| Labor | 7 |
| Sex and Labor | 6 |

<https://www.doj.state.wi.us/>

Victim Vulnerabilities

- Poverty
- Recent migration / relocation
- Substance Use
- History of sexual abuse/assault
- Child abuse/neglect
- Runaway
- Homeless
- Youth Involved with the Child Welfare and/or Juvenile Justice System
- Domestic Violence
- LGBTQ
- Mental Health Concerns
- Inability to distinguish fun and excitement
- Unwilling to acknowledge victimization
- Language

Internet Based Prostitution



**WEBSITES
USED FOR
PROSTITUTION**

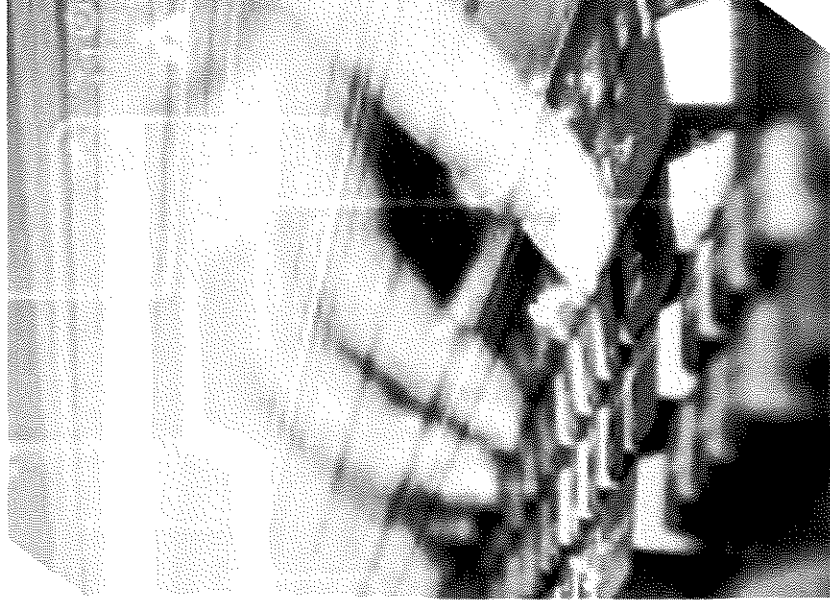
- ▶ Facebook/Instagram
- ▶ Skipthegames.com
- ▶ Escortfish.com
- ▶ Onebackpage.com
- ▶ Adulthook.com
- ▶ Snapchat Premium
- ▶ Plenty of Fish (POF)
- ▶ Onlyfans
- ▶ Megabornials.com
- ▶ Erotmonkey.com

Trafficker Characteristics

- Traffickers – exploit victims by any means necessary
- The most common traffickers in Wisconsin are for commercial sex
- Most traffickers involved in other criminal activity
- Traffickers groom, manipulate, and control the victims (physically/mentally/documents)
- Normalize the trafficking

PANDEMIC STATS

- Online recruitment increased a significant 22%. During the lockdowns, as the proportion of victims from common recruitment sites such as strip clubs (-46%), foster homes (-70%) and schools (-38%) went down drastically, the internet was reported as the top recruitment location for all forms of trafficking.
- Most notably, the analysis found a significant increase in the proportion of potential victims for whom Facebook and Instagram were the sites for recruitment into trafficking (120%). There was a 125% increase in reports of recruitment on Facebook over the previous year and a 95% increase on Instagram



<https://www.doj.state.wi.us/>

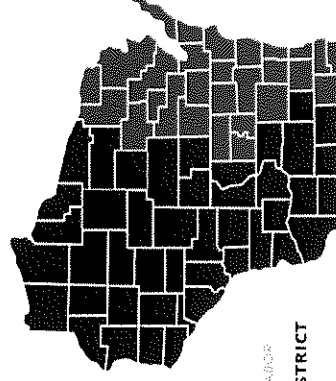
DATA COLLECTION CHALLENGES

- No centralized data collection system – VSP, CPS, LE
- Current data collections are small piece of the pie
- Difficult to obtain accurate reflection for the state
- Additional factors:
 - Delayed disclosures
 - Victims do not identify as victims
 - Victims do not seek assistance

FEDERAL CASES

2021
Report of
**HUMAN
 TRAFFICKING**
Report

WISCONSIN STATE REPORT

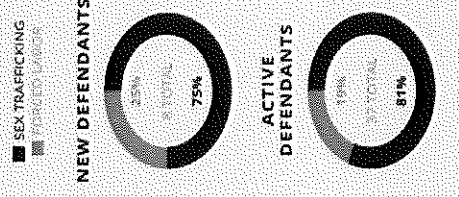


■ SEX TRAFFICKING ■ FORCED LABOR

NEW CRIMINAL CASES BY DISTRICT



CONVICTIONS BY DISTRICT

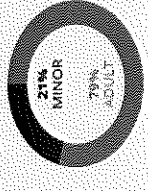


CONVICTED DEFENDANTS



CONVICTION RATE
 100%
 1 resolved at trial court

VICTIMS



RESTITUTION
 29%
 (4 of 14) of defendants in cases w/ at least one IDed victim(s) ordered to pay RESTITUTION.
* Excludes defendants not included in cases without identifiable victims.

IMPRISONMENT
 100%
 136
Month-to-month average of 136 prisoners in custody.

2
2 defendants were referred to the Probation Dept.

WI STATE CASES

- 940.302 / 948.051
- October 1, 2020 – April 20, 2023
- Referrals made
- A single referral became multiple charges
- Or sometimes multiple referrals became no charge

| County | Cases Filed |
|------------|-------------|
| Barron | 1 |
| Brown | 7 |
| Columbia | 1 |
| Dane | 5 |
| Dodge | 2 |
| Eau Claire | 5 |
| Green | 1 |
| Jackson | 1 |
| Jefferson | 1 |
| Juneau | 1 |
| Kenosha | 1 |
| Lacrosse | 6 |
| Lincoln | 1 |
| Manitowoc | 3 |
| Marathon | 1 |
| Milwaukee | 37 |
| Monroe | 1 |
| Outagamie | 3 |
| Pierce | 1 |
| Polk | 1 |
| Rock | 1 |
| Sauk | 1 |
| Sheboygan | 1 |
| Waukesha | 3 |
| Winnebago | 2 |
| TOTAL | 88 |



Wisconsin Anti-Human Trafficking Task Force
WI DOJ-DCI Human Trafficking Bureau
Project Respect



<https://www.doj.state.wi.us/>

What is WAHTTF?

- “OJP FY2020 Enhanced Collaborative Model to Combat Human Trafficking”
- ECM: Co-lead agencies are 1 Victim Service Provider, 1 Law Enforcement
- Statewide multidisciplinary task force
- Eight member agencies



WAHTTF Members

- Department of Justice -
Division of Criminal
Investigation (DCI)
- Federal Bureau of Investigation
(FBI) Human Trafficking Task
Force
- Homeland Security
Investigations (HSI)
- Oneida Tribal Police Department
- US State Department -
Diplomatic Security Service
(DSS)
- Project Respect (Dane County)
- Family Support Center (Eau Claire,
Chippewa)
- United Migrant Opportunity Services
(UMOS) (Oshkosh, Milwaukee)



Victim-Centered Approach

WI DOJ DCI, and the WAHTTF utilizes a victim-centered approach when investigating sex trafficking cases.

- This approach has been used nationwide; recognizing human sex trafficking as a crime with victims and centering the investigation on these survivors in order to charge the trafficker has shown success in many states
- WI DOJ DCI has also shown success with charges in many state and federal human sex trafficking crimes using this approach
- For a victim-centered approach to work effectively, working with victim service providers, social services, and child protective services from the first contact with a potential victim is a priority

LABOR TRAFFICKING MDT

- Private donor
- 3 year grant
- MDT – includes DCI, UMOS, additional victim service providers, DWD, and Civil Rights/Immigration Attorneys, and AAG’s office
- Partners with federal law enforcement for labor trafficking
- Funds two special agents and a partial AAG

Grading Wisconsin

F



WISCONSIN

2022 Report Card on Child & Youth Sex Trafficking

TIER II

| Issue | Grade | Score | Highlights |
|--|----------|--------------------|---|
| 1. Criminal Provisions | F | 10 17.5 | Policy goals accomplished in areas related to buyer accountability under the trafficking law, buyer and trafficker accountability under state CSEC laws, and mistake of age defenses. Gaps remain in areas related to decoy defenses, business entity liability under the trafficking law, and non-familial trafficking cases. |
| 2. Identification of and Response to Victims | F | 9.5 27.5 | Policy goals accomplished in areas related to third party control, affirmative defenses for violent felonies, and child abuse definitions. Gaps remain in areas related to foreign national victims, screening through child welfare and the juvenile justice system, non-criminalization for prostitution offenses, expanded non-criminalization, juvenile court jurisdiction, and non-familial trafficking cases. |
| 3. Continuum of Care | F | 3 15 | Gaps remain in all areas, including community-based services, MDJ responses, services through child welfare and the juvenile justice system, extended foster care services, and appropriations. |
| 4. Access to Justice for Trafficking Survivors | C | 11.5 15 | Policy goals accomplished in areas related to civil orders of protection, restitution, and civil remedies. Gaps remain in areas related to crime victims' compensators, recidiv, and statutes of limitation. |
| 5. Tools for a Victim-Centered Criminal Justice Response | F | 5.5 10 | Policy goal accomplished related to privileged communications. Gaps remain in areas related to hearsay exceptions, alternatives to live, in-court testimony, and victim support. |
| 6. Prevention and Training | F | 0 15 | Gaps remain in all areas, including training for child welfare, juvenile justice agencies, law enforcement, prosecutors, and school personnel as well as prevention education in schools. |
| Youth | | 3 | Protections related to affirmative defenses for violent felonies, civil remedies, and privileged communications are extended to sex trafficked youth. |
| Child Labor Trafficking | | 4 | Protections related to affirmative defenses for violent felonies, restitution, civil remedies, and privileged communications are extended to child labor trafficking victims. |

OVERALL GRADE F 46.5

TIER II



Protecting
Justice for all
Since 1977

Wisconsin State Public Defender

17 S. Fairchild St. - 5th Floor
PO Box 7923 Madison, WI 53707-7923
Office Number: 608-266-0087 / Fax Number: 608-267-0584
www.wisspd.org

Kelli S. Thompson
State Public Defender

Katie R. York
Deputy State
Public Defender

Speaker's Task Force on Human Trafficking Wednesday, September 27, 2023

Representatives O'Connor and Emerson and Members,

Thank you for this opportunity to address the task force on human trafficking. The State Public Defender (SPD) provides representation for individuals charged with crimes and in certain civil cases statewide. With around 120,000 appointments per year, we see a broad range of clients and the lifetime, or oftentimes generational, trauma that has impacted them. It is a frequent misperception that there is an easy distinction between the accused and the alleged victim. But that oversimplifies and ignores the prior trauma. Frequently, today's defendant was yesterday's victim. In cases of human trafficking, those distinctions are even more blurred and both labels - defendant and victim - can be applied to our client at the same time.

This makes human trafficking a complex issue that requires a multi-faceted approach. There have been various multi-disciplinary task forces in Wisconsin to look at the issue over time. SPD participated in one of these efforts led by the Department of Children and Families under the leadership of Secretary Eloise Anderson.

One issue that repeatedly came up in those conversations was related to awareness at a local level that human trafficking exists in communities statewide. Young people are trafficked throughout Wisconsin, in both cities and small towns. Vulnerable populations such as youth who are homeless, LGBTQ, youth of color, have an intellectual or developmental disability, or involved in the child welfare system are at higher risk of experiencing sex trafficking.

The true prevalence of sex trafficking in Wisconsin is difficult to measure as sex trafficking is often underreported. This could be due to a variety of factors such as lack of identification, misidentification, or non-disclosures due to safety concerns. In 2021, there were 445 allegations of child sex trafficking across Wisconsin. This figure represents 406 unique individuals with a child sex trafficking allegation. Of the 445 allegations, 142 occurred in Milwaukee County, representing 31.9% of all sex trafficking allegations statewide.

In *State v. Kizer*, the Wisconsin Supreme Court recently interpreted Wis. Stat. 939.46(1m), which provides that a trafficking victim has an affirmative defense for any offense committed as a direct result of being trafficked. The Court concluded that a direct result exists if "there is a logical causal connection between the offense and trafficking such that the offense is not the result, in significant part, of other events, circumstances, or considerations apart from the trafficking violation." Both the affirmative defense and the *Kizer* decision highlight a common occurrence: trafficking survivors ensnared in the criminal legal system as defendants. Although



September 27, 2023

Assembly Speaker's Task Force on Human Trafficking

Department of Public Instruction Testimony

Thank you, Chair O'Connor, Vice-Chair Emerson, and task force members, for the invitation to speak with you today. We appreciate the opportunity to speak about anti-human trafficking efforts and how the department supports schools, educators, and learners. My name is Tom McCarthy, and I am the Executive Director for the Office of the State Superintendent.

The department and education community is situated within a greater context of statewide efforts to combat human trafficking. Our role - in a big-picture sense - is to accomplish three goals with our anti-human trafficking efforts: to build understanding and awareness among adults, to educate and raise skills among our learners, and to support and protect youth at risk or who are experiencing trafficking. I will take some time to address those three areas with the committee.

Building Understanding and Awareness Among Adults

One of the highest leverage strategies we rely on is building capacity in adults - specifically school employees. Understanding within adults can be used to support our learners before they find themselves in compromising circumstances. The department relies on partnerships with the Department of Justice and the Department of Children and Families to create and administer professional development opportunities through webinars and gatherings, online learning modules, and written resources.

These professional learning opportunities are geared toward equipping adults with the skills and knowledge needed to identify, prevent, and support professionals. That starts with the understanding that while some youth are at greater risk, trafficking happens everywhere and can happen to any child. The adults within the school system must understand the risk factors and signs and how to respond when trafficking is suspected.

In addition to awareness, schools are encouraged to develop a plan for addressing human trafficking that incorporates more than just school personnel. Like many social issues schools are confronted with, the connections and impact move beyond the school building. Schools must work across government structures to support youth experiencing trafficking and prevent future harm to the community.