

# Assisting Victims of Human Trafficking in Protection Order Proceedings: Options and Challenges

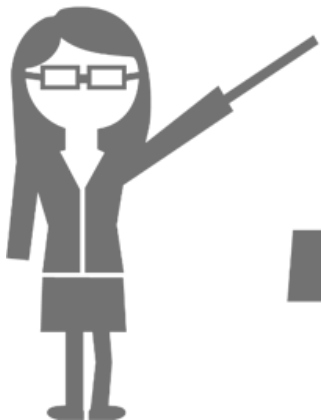


Cast

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- The opinions, findings, conclusions, and recommendations expressed in this presentation are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

## Presenters

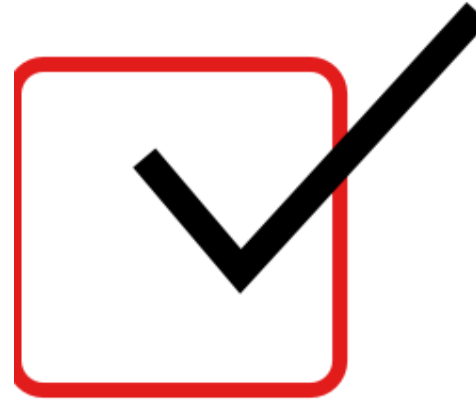
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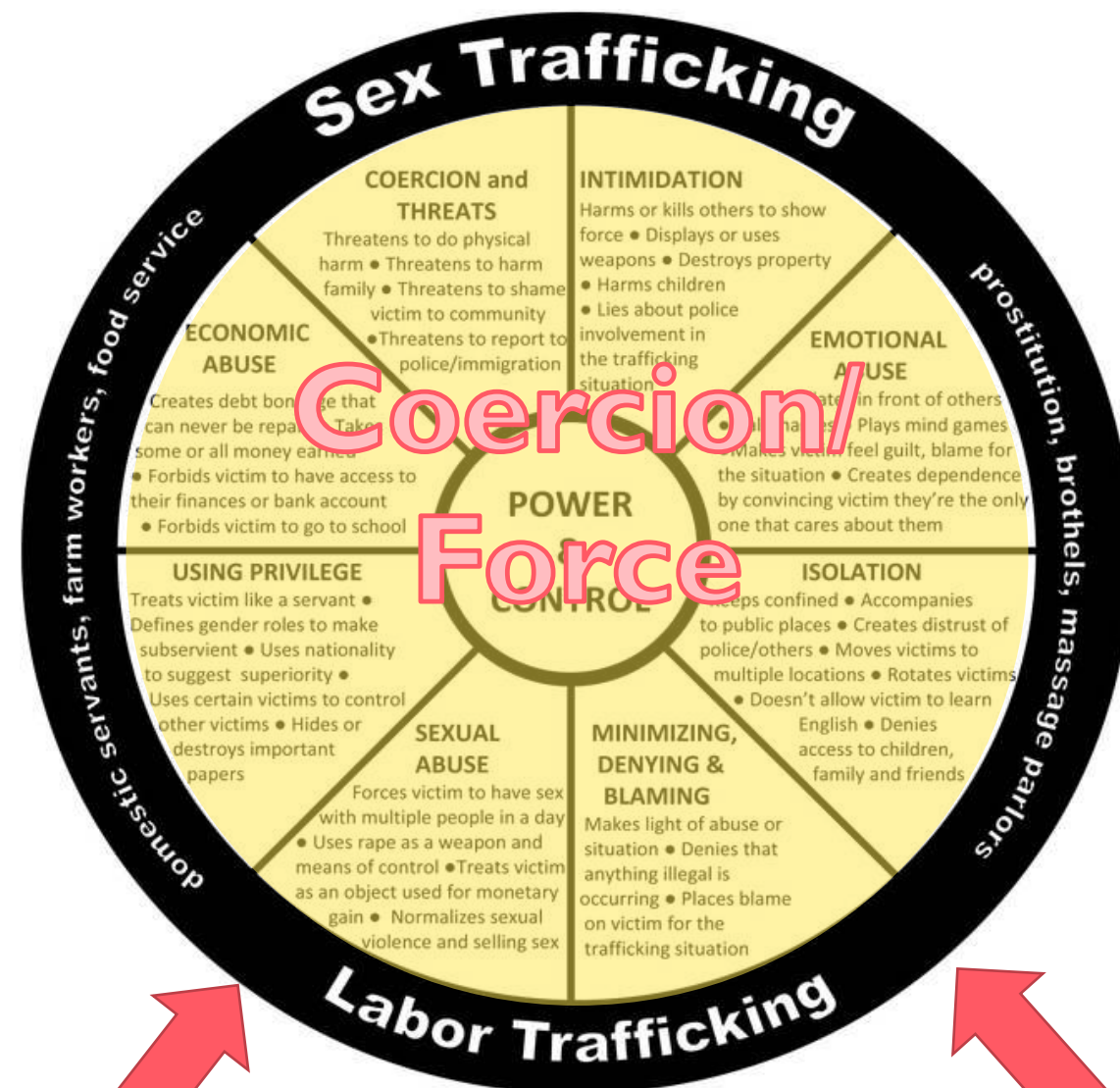
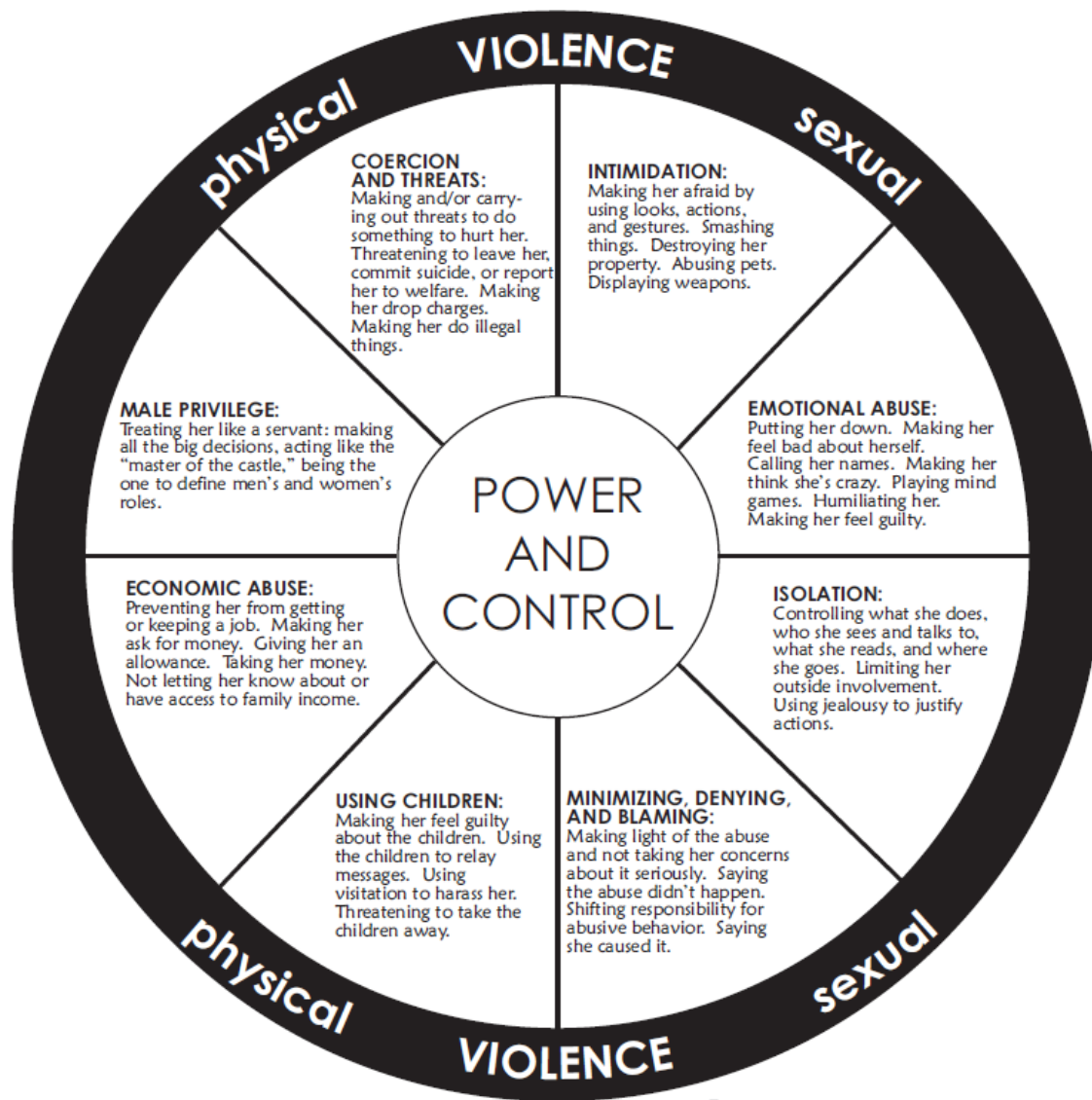
# Goals/Objectives

- Recognize the intersections between human trafficking and domestic violence/sexual assault as well as where they differ
- Define the legal definition of trafficking
- Identify legal considerations and concerns that human trafficking victims face when deciding whether or not to obtain a protection order





# Identifying Human Trafficking



# What has happened...



Reliance on red flag indicators and power-control wheel has led to both over/under identification of human trafficking survivors



Difficulty educating the field because of the lack of understanding of intersections/differences between HT/DV/SA

# Severe Form of Trafficking

**“Severe” = A or B  
definition**



(A) **sex trafficking** in which a commercial sex act is induced by **force, fraud, or coercion, or** in which the person induced to perform such act has **not attained 18 years of age**

(B) the **recruitment, harboring, transportation, provision, or obtaining** of a person for labor or services, through the use of **force, fraud, or coercion** **for the purpose** of subsection to **involuntary servitude, peonage, debt bondage, or slavery**

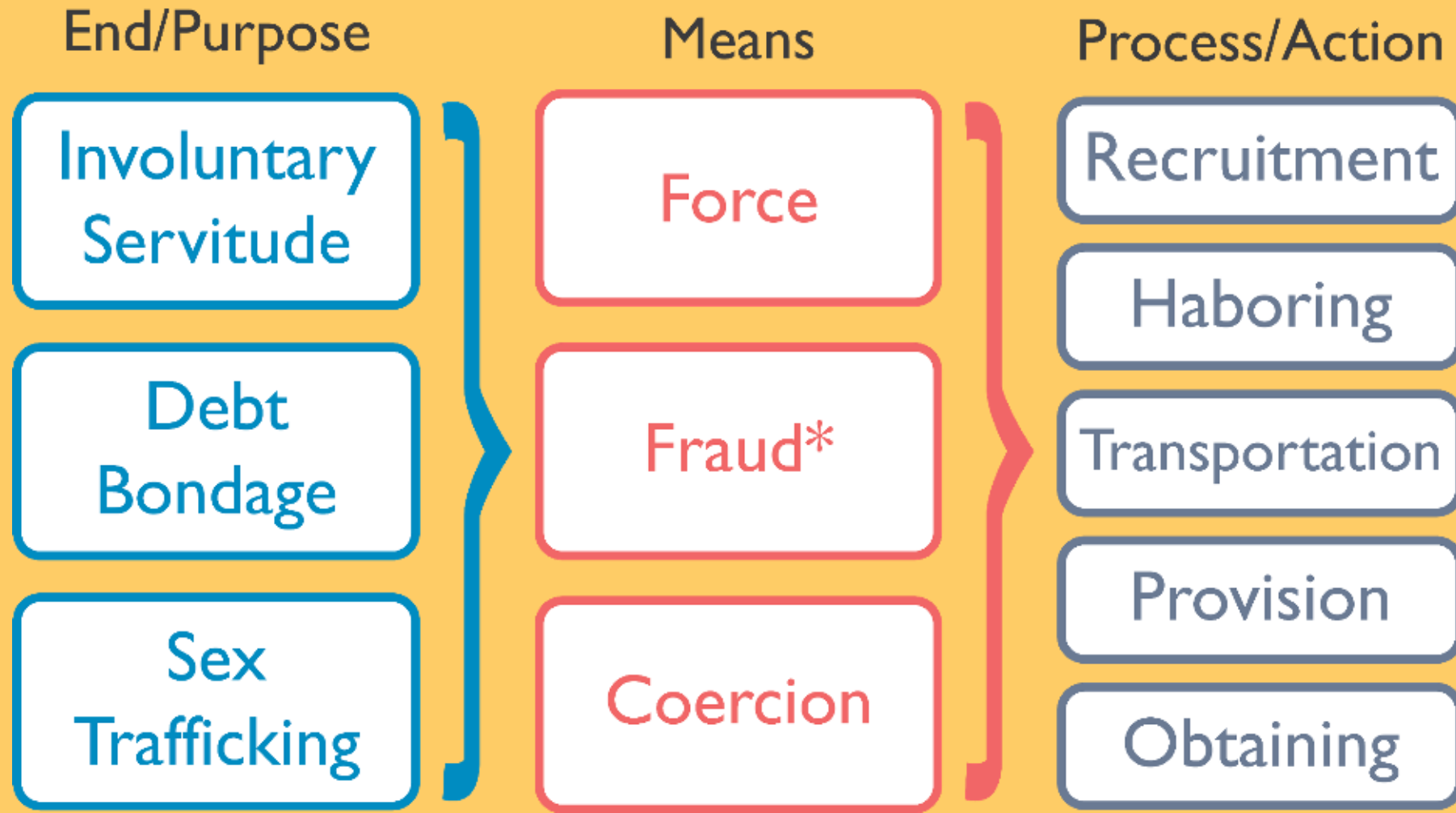




# “For the Purpose of”

- **Purpose:** “something set up as an object or an end to be attained.”
  - Also defined as “an objective, goal, or end; specifically the business activity that a corporation is chartered to engage in.”
- **Subjection:** “the act of subjecting someone to something.”
  - “Subjecting” is also defined as “bringing under control or dominion” or “causing or forcing to undergo or endure.”

## Intention of the Trafficker



# End/Purpose – What is the Ultimate Goal of the Trafficker?

## Involuntary Servitude

- Defined under [22 USC § 7102\(8\)](#)
- General forced labor
- Legal definition of coercion embedded
- Encompasses slavery (antiquated definition)

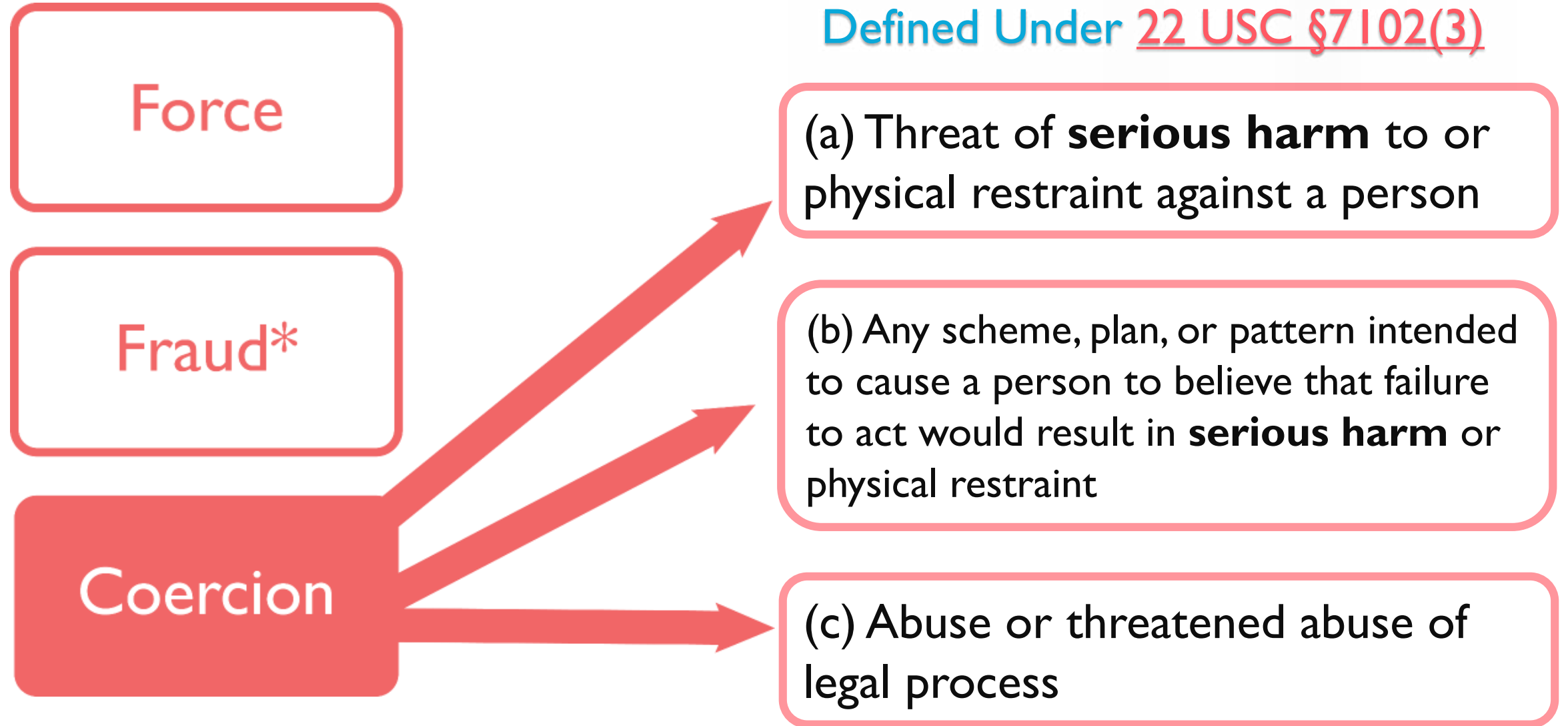
## Debt Bondage

- Defined under [22 USC §7102\(7\)](#)
- Bonded labor
- Encompasses peonage (antiquated definition)

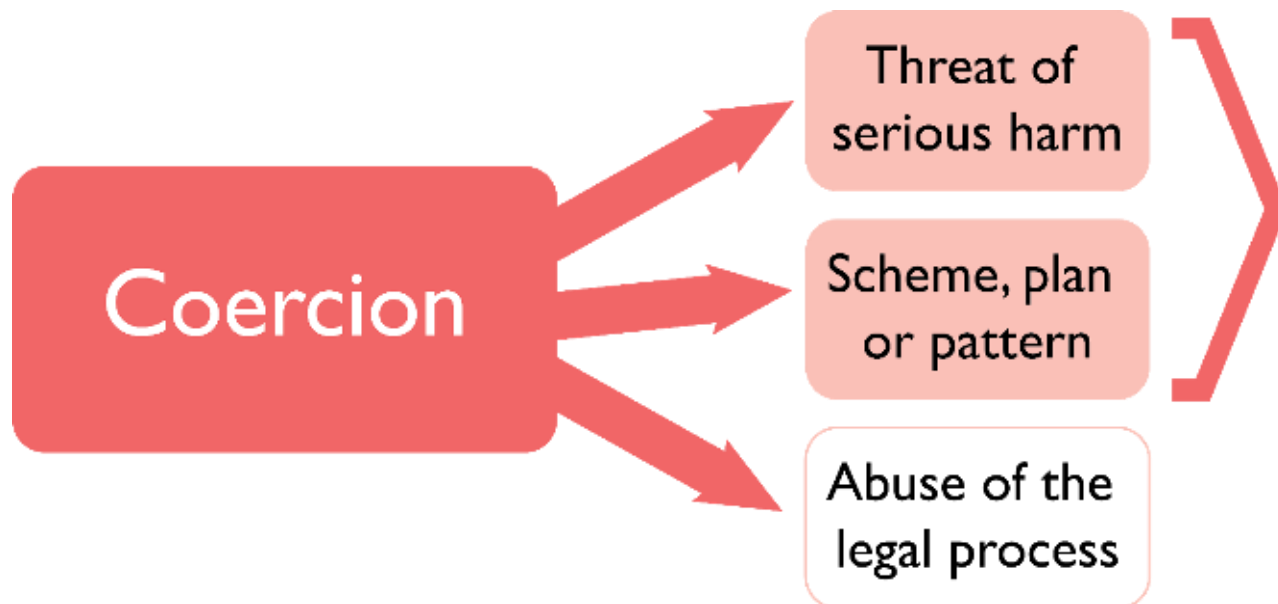
## Sex Trafficking

- Defined under [22 USC §7102 \(11\) & \(12\)](#)
- Commercial sex = something of value in exchange for sex

# Means – What did the Trafficker do to Keep the Victim in the Situation?



# Means – What is Serious Harm?



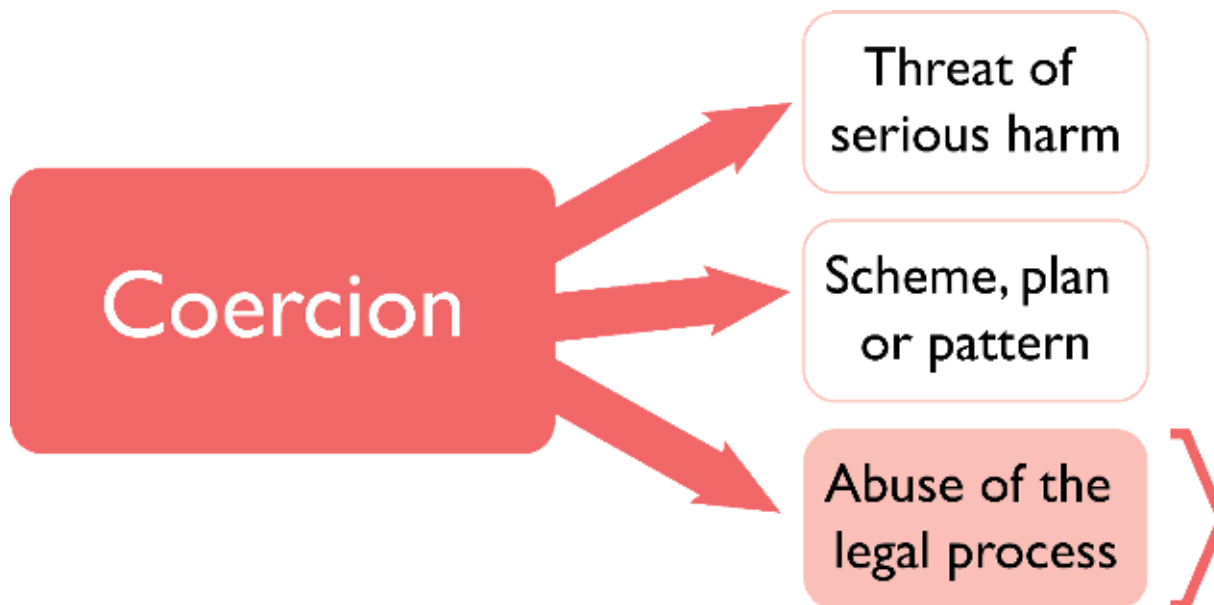
Any harm whether:

- Physical
- Psychological
- Financial
- Reputational

Sufficiently serious under **all surrounding circumstances** to compel a reasonable person of the ***same background and circumstances*** to act to avoid harm

18 USC § 1589(c)(2) Forced Labor,  
18 USC § 1591(e)(4) Sex Trafficking

# Means - What is Abuse of the Legal Process?



Use or threatened use of a legal or legal process whether:

- Administrative
- Civil
- Criminal

In any manner or purpose for which the **law was not designed** to exert pressure...to cause that person to take some action or refrain from taking some action

22 USC § 7102(1), 18 USC § 1589(c)(1) Forced Labor, 18 USC § 1591(e)(1) Sex Trafficking

# Means – What did the Trafficker do to Keep the Victim in the Situation?

Force

- Not defined in the TVPA
- To compel by physical means (*Black's Law*)

Fraud\*

- Not defined in the TVPA
- Knowing misrepresentation of the truth or concealment of material fact to induce another to act (*Black's Law*)

Coercion



### Coercion and Threats

- Threats to harm victim or family
- Threats to expose or shame victim
- Threats to report to police or immigration

Are these coercion/threats as described in the power and control wheel sufficient to show legal coercion for purposes of human trafficking?





### Emotional Abuse

- Humiliates in front of others
- Calls names
- Plays mind games
- Make victim feel guilt/blame for situation
- Convinces victim they're the only one that cares about them

Is emotional abuse as described in the power and control wheel sufficient to show legal coercion for purposes of human trafficking?



### Denying, Blaming, Minimizing

- Makes light of abuse or exploitation
- Denies that anything illegal or exploitative is occurring
- Places blame on the victim for the trafficking situation

Is “denying, blaming, minimizing” as described in the power and control wheel sufficient to show legal coercion for purposes of human trafficking?

# Process/Action – How did the Trafficker get them in the Situation?

Recruitment

Securing someone's services; encouraging or soliciting person to work

Haboring

Holding, sheltering someone to conceal them

Transportation

Moving of a person from one place to another

Provision

Supplying or making someone available

Obtaining

Gaining or attaining someone by action or effort

# Drill Down:

## Human Trafficking v. Domestic Violence



- Forced labor or services **for the purpose** of involuntary servitude, debt bondage, or sex trafficking
- Domestic violence is present
- More than typical duties as an intimate partner

- DV is abuse or threats of abuse by an intimate partner or immediate relative
- Power and control dynamics
- No subsequent forced labor/commercial sex



# Case Scenario: Human Trafficking v. Domestic Violence/Sexual Assault

Billy and Nancy were married right out of high school and had a daughter. Billy got a job as a janitor and they both agreed that Nancy would stay home to take care of their daughter. Everything was okay for the first year, but after a while Billy started becoming more aggressive including raping her when he wanted.

Clear DV/sexual assault, but no clear purpose for the spouse

Billy expected Nancy to have all his meals hot and ready when he got home from work. If they were not to his liking, he would hit her. He made her clean his clothes by hand even though they had a washing machine. Because Billy wanted the house spotless at all times, she had to clean even when sick. Once, when she had the flu, he dragged her out of bed and made her clean the floor by hand. Billy brought his mom to live with them and told Nancy that she had to take care of his mom's every need or else she would be punished.

Involuntary servitude facts:  
• Domestic servitude – cook/clean above and beyond stay-at-house spouse duties

# Common Pitfalls when Analyzing DV/SA/HT Cases

Pitfall	Issue	Adjustment
“Forced sex”	Force sex = rape	Identify the perp’s ultimate purpose or the “means” to get them to perform other labor
Sexual servitude	Hard to distinguish from rape/multiple rapes	Identify how this is distinct from an egregious sexual assault and the ultimate purpose of the perp
“Made to work in the home”	Intimate partners share household duties	Identify whether the perp’s goal is to put the victim in a condition of servitude or were the duties collateral to the other abuses
Sex in exchange for housing, food	Intimate partners share housing and food typically as part of an unspoken agreement	Identify whether the victim had knowledge that in order to get housing/food/etc. they had to have sex



# Role of Domestic Violence/Sexual Assault/Stalking Providers in Intakes

# DV/SA Agencies as Entry Point for Accessing Services

***DV/SA providers are often the first contact for survivors***

- DV/SA community agencies are well-trusted and accessible by community members
- Survivors can more easily self-identify their victimization through a DV/SA lens



# Where Assisting HT Survivors Differs

- Lack of Existing Laws Protecting HT Survivors
- Lack of Judiciary Training on Issue
  - Help the judge understand HT, the ramifications on children and why it leads people to make the choices they do
- Greater Credibility Issues with Engagement in Multiple Court Systems
- Different Safety Concerns
- Increase of Active Criminal/Civil Cases

# Transitioning DV/SA Practice to Identify HT

- Assess whether your agency has identified screening questions to catch potential trafficking in DV/SA situations
- Ensure that assessments/screening are tailored to protect privilege/confidentiality if survivor is ever subpoenaed
- Evaluate whether the internal DV/SA practices do in fact meet the needs of HT survivor and be ready to make adjustments
- Have an assessment ready for referrals to services not held in house
- Create or modify referral system to meet needs of HT survivors



# Legal Considerations in Protection Order Proceedings

# The Importance of Advocacy

- Help victim identify needs and preferred outcome.
  - Provide assistance in identifying strengths and resources, as well as the barriers to achieve the identified goals.
  - Assist in challenging dysfunctional processes and creating system changes where needed.
  - Training and technical assistance to system actors.
- Explain how the system works, its rules, structures, and procedures, including limitations.
  - Explore all available options and possible consequences.
  - Develop strategies and clear action plans.
  - Provide victim-centered, trauma-informed services to meet the wide array of needs experienced by trafficking victims.

# Outreach and Coordination to Address System Response

- Law Enforcement
- Courts
- Prosecutors
- Parole/Probation
- Schools/Colleges
- Faith-based organizations
- Child protective services
- Clinics/Hospitals
- Mental Health professional/ facilities



# Partnering with Key Organizations

## Teamwork Between

- Domestic Violence, Dating Violence, Sexual Assault and Stalking agencies;
- Human Trafficking Organizations;
- Attorneys (Legal Services, Immigration, Family Law, Defense Bar, Prosecutors, OVW Technical Assistance Providers);
- When in doubt consult a practitioner in the applicable field of practice; and
- Coordinate services for victims to conserve resources and serve more victims effectively.

# Legal Considerations: Critical Thinking with the Survivor

Before filing a petition

- What does the client want to do?
- Will the order address the goals of the client?
- Does the client understand what is involved in the protection order process?
- Would filing later or in another jurisdiction be more appropriate ?

# Legal Considerations: Critical Thinking with the Survivor

- Assessing for appropriateness
  - Screening for legal issues and unintended consequences
  - Identifying challenges and discussing the risks vs. benefits
- Identification of other remedies- based on goals and safety.
  - Critical thinking beyond the standard remedies in the law.
  - Discuss pursuing relief outside of a protection order (i.e., victim compensation funds) if the survivor does not feel safe pursuing relief under the protection order statute.



# Legal Considerations:

- Drug/Alcohol abuse
- Immigration issues
- Concurrent or pending civil or criminal case
- Child Protective Services intervention
- Mental health issues
- Arrest or criminal convictions

# Legal Considerations

- Address unique safety needs of human trafficking survivors. Assess safety/lethality issues and partner with appropriate legal and support services.
- Seek all reliefs necessary to promote safety – build clear picture relating request to issues and gather necessary evidence. Utilize "catch-all" provision for creative civil remedies. Note: Standard legal remedies may increase risk for some victims.
- Educate the fact finder to context and risk.
- Respond to erroneous claims regarding profiles related to victim behavior

# Legal Considerations

- Mutual orders and cross-petitions
- Custody provisions within protection orders
- Protection Order Relief
  - Firearm prohibitions
  - Economic provisions

# Enforcement Challenges

## ***Remember:***

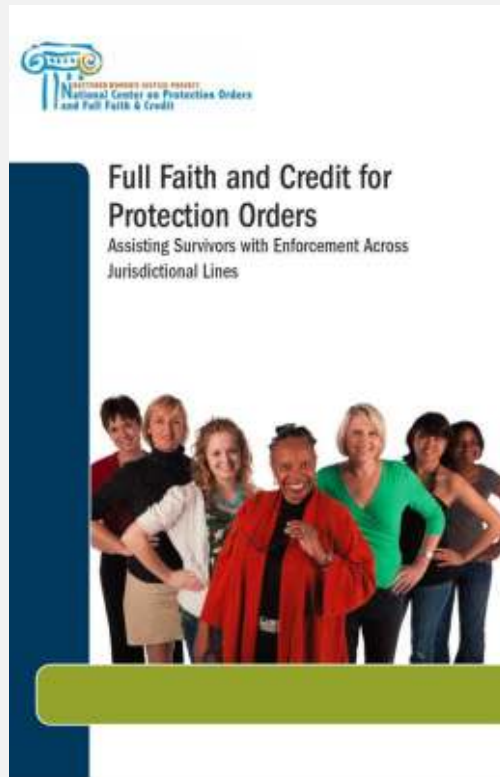
- No order is self-implementing.
- “Foreign” (and local) orders may not be seamlessly enforced.
- An implementation plan must address enforcement challenges.
- Explore enforcement options (civil and criminal)

# Additional Resources for Service Providers

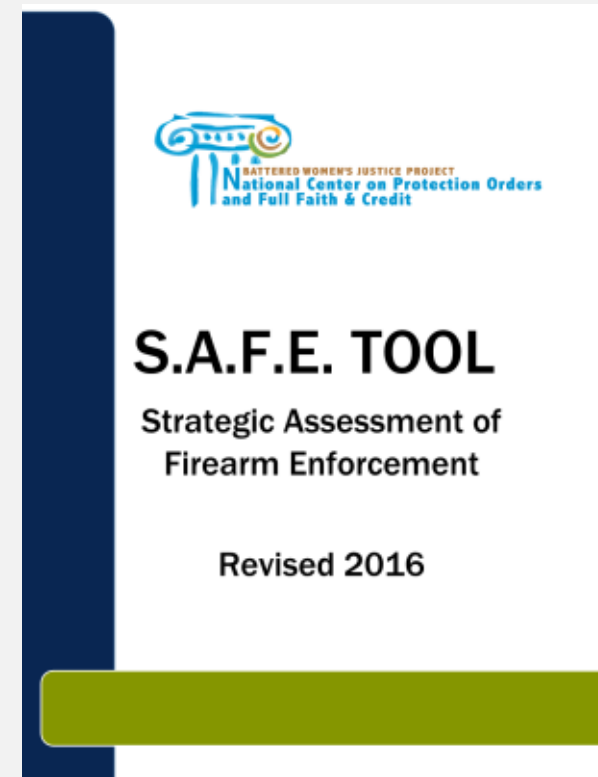
- Greater Boston Legal Services Relocation Counseling Projection, [www.gbbs.org](http://www.gbbs.org), 1-800-323-3205
- Legal Resource Center on Violence Against Women, [www.lrcvaw.org](http://www.lrcvaw.org), 301-270-1550.
- National Clearinghouse for Defense of Battered Women, [www.ncdbw.org](http://www.ncdbw.org), 215-763-1144.
- ASSISTA, [www.asistahelp.org](http://www.asistahelp.org), 860-758-0733
- SafetyNet Project- NNEDV, <https://nnedv.org/content/technology-safety>

# NCPOFFC Publications

## Advocate's Guide



## S.A.F.E. TOOL



# NCPOFFC

- Email: [ncffc@bwjp.org](mailto:ncffc@bwjp.org)
- Web: [www.fullfaithandcredit.org](http://www.fullfaithandcredit.org)
- Informational Materials & Brochures
- Technical Assistance & Problem-Solving
- Individualized Training/Consultations/Webinars
- For assistance, please call: (800) 903-0111, prompt 2 or 703-312-7922



# CAST Training and Technical Assistance Website

<https://casttta.nationbuilder.com/>



- Individual Technical Assistance
- E-Learning Courses and Webinars
- Blog/Resources
- Sign Up for Technical Assistance Calls





**888-539-2372**

- California State Hotline

The logo for the National Human Trafficking Hotline, consisting of a dark blue square with the text "NATIONAL HUMAN TRAFFICKING HOTLINE" in white, sans-serif, all-caps font. The word "HUMAN" is in a lighter blue color.

**NATIONAL  
HUMAN  
TRAFFICKING  
HOTLINE**

**888-373-7888**

- National
- Find service providers in your area
- The toll-free hotline is available to answer calls from anywhere in the country, 24 hours a day, 7 days a week, every day of the year in more than 200 languages.
- <https://humantraffickinghotline.org>