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**Improving Law Enforcement Training on Human Trafficking:
Feedback on the POST Human Trafficking Training Video**

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On November 6, 2012, California voters passed into law Proposition 35 ("Californians Against Sexual Exploitation Act," or "CASE Act"). For the first time, Proposition 35 required police officers assigned to field or investigative duties to attend a minimum of two hours of training on human trafficking within six months of being assigned to that field or investigative duties. POST has created a training video on human trafficking for law enforcement in California. The Sex Work and Trafficking Policy Impact Subcommittee of the San Francisco Mayor's Task Force on Anti-Human Trafficking has reviewed the video, and submits the following feedback to encourage a more nuanced, effective human trafficking training for law enforcement.

Given law enforcement's opportunity to observe and identify human trafficking cases, the video offers an important opportunity to educate law enforcement about the complexities of trafficking. One of the video's strengths is its incorporation of voices of survivors of trafficking. However, the current training ignores the more complicated nature of human trafficking and conflates severe forms of trafficking with sex work. It perpetuates some racial stereotypes, and oversimplifies the challenges of gaining the trust of trafficked persons. A more nuanced training will increase the likelihood that law enforcement officers are effective in their efforts to combat trafficking, meet the needs of trafficked persons, and protect the rights of sex workers. The video would also be strengthened by including a more diverse group of advocates for trafficking survivors.

Inaccurate Information

The training contains several statements that are not supported by current research. For programs, policies, and law enforcement responses to be effective, they must be informed by evidence.

Age of entry

Early on in the training the following unsubstantiated claim is made that most people involved in prostitution started when they were under the age of 18: *"What we know now is that whenever you come into contact with somebody suspected of prostitution – whether she's a juvenile or she's an adult – chances are she's been exploited from the time she was a juvenile."*

The average age of entry ultimately depends on the age of the sample. When studies only sample people who are under 18, the average age of entry will never be higher than 18. However, studies that include older individuals have found the average age of entry into sex trades to be around twenty to twenty-two.¹ Another study found that the average age of entry for those who started before they were eighteen was fifteen and for those who started after was twenty.² It is clear that not all people who trade sex start when they are young and that not all youth continue to trade sex past the age of eighteen.

Presence of Third-Party Exploiters

The training claims that *“the vast majority of adults who are being prostituted also have someone who is pimping them.”* Although this claim is supported by mainstream narratives that portray all people who are involved in the sex industry as pimp-controlled, research data suggests otherwise. For example, a study in San Francisco found that only 10.5% of cisgender women had a pimp.³ Looking at data that is specific to young people, we find that between 0 and 57% have a pimp.^{4,5,6,7}

Trafficking in Other Labor Sectors

Aside from sharing the definition of labor trafficking and mentioning it in passing, the video pays little attention to preparing law enforcement officials for interactions with people who might be experiencing exploitative labor conditions outside of the sex industry. Based on reports from the International Labor Organization⁸ and the United Nations’ Human Rights Committee,⁹ trafficking is much more prevalent outside the sex industry as opposed to within it.

Working with International Trafficked Persons

Trafficked persons who are immigrants experience unique challenges compared to their domestic counterparts. Contrary to what Agent Dwayne Angebrandt of Homeland Security stated in the training video, the main difference is more than the presence of a language barrier. When people are in the U.S. without documents, they have a real fear of being arrested and/or deported. Any interaction with the police runs the real or perceived risk of deportation. Similarly, because they fear being arrested or deported, it is not uncommon for these people to be hesitant about contacting or confiding in the police when their labor and human rights have been violated.

The training also does not explore instances where people know they are coming to the United States to engage in prostitution and have made that choice because of lack of viable employment options in their home country or in the US. Left unexamined are the root causes, the push and pull factors, associated with people deciding that prostitution is their best or least worst option, even if it includes exploitive labor conditions. Unless those causes are explored, law enforcement officials and social service agencies will never effectively meet the needs of these individuals.

Conflation of Sex Work with Trafficking

The California Trafficking Victims Protection Act (AB 22, 2005, Lieber) states that the definition of human trafficking is synonymous with the federal definition of a severe form of trafficking found in Section 7102(8) of Title 22 of the United States Code.¹⁰ This definition of a severe form of human trafficking stipulates that in cases involving commercial sex, force, fraud or coercion has to be present for cases involving adults, but is not required in cases involving minors. Therefore among adults, sex work is not synonymous with sex trafficking.

The training disregards this and conflates all sex work and trafficking. The following comment by Sergeant Craig Friesen is indicative of this conflation: *“What we’re trying to do now with the new human trafficking laws and the new approach to human trafficking is really change our approach to a victim centered approach and address the prostitutes as victims of human trafficking and victims of modern day slavery.”*

Competing Priorities Between Law Enforcement and Trafficked Persons

The training is explicit that the cisgender women being talked about are victims and need to be linked to services. A significant portion of the training is focused on providing guidance on how to effectively collect evidence that can lead to successful prosecutions of traffickers. The training does not address the

conflicts that may arise when the needs of trafficked persons may differ from the needs of a state prosecution, and prioritizes the goal of prosecution, which may not always be in a victim's best interest.

Two statements made during the training clearly illustrate these competing priorities. Marc Bailey, the host of the training, in talking about the immediate needs of trafficked persons, notes that it is important to link these people to services because a more stable victim, *"makes a better witness."* Similarly, when speaking about foreign victims, Supervisory Special Agent Dwayne Angebrandt offers, *"Continued presence allows the victim to stay in the United States during the investigation and testify at trial for that investigation."*

Although we know anecdotally that situations exist where law enforcement officers have recognized that a trafficked person's safety and needs are sometimes better served by avoiding prosecution, that perspective is not addressed in this training video. Trafficked persons may fear retaliation against themselves or their family members, and the video does not address this real concern.

The training also portrays scenarios where officers gain the trust of trafficking survivors in just a few minutes. In reality, law enforcement officers often face significant hostility and resistance from trafficking victims, who may remain uncooperative. The video downplays the challenges of working with trafficking victims.

Involvement of Child Welfare

Minors who are commercially sexually exploited are considered to be victims of child abuse under state child welfare law. While the video mentions this, it does not model having law enforcement officers contact child abuse hotlines when a sex trafficked minor is identified.

Cooperation with Law Enforcement

The video offers unrealistic guidance on how to gain a potential trafficked person's trust. The process is much more complicated than how it is described by Detective Samuel Figueroa from the Concord Police Department: *"You put them at ease. Tell them you are there to help and not to put her in custody. You're there to help her."* Gaining the trust of potential trafficked people is complicated by the reality that for both minors and adults involved in the sex industry, many have been verbally, sexually, or physically abused by police officers.^{11, 12} The training does not fully address the reality that many of the people police officers are interacting with have had multiple negative interactions with law enforcement officials.

Collaboration with Community-Based Organizations

Throughout the video, law enforcement officials are encouraged to be knowledgeable about the resources in their community and connect trafficked persons with supportive services. This is important guidance. The discussion of services for trafficked persons could be enhanced by emphasizing the importance of letting trafficked persons identify the types of services they would like to receive, and by elaborating on the range of legal options available to trafficking survivors, inside and outside of the criminal justice system. Educating law enforcement about the trauma suffered by trafficked persons who are arrested in order to direct them to services is important. For trafficked persons to be empowered, law enforcement should be trained to ask them what their needs are, and then based on those self-identified needs, offer a range of referrals. It should be up to the individual whether he or she wants to access any of those services and which agencies they feel comfortable using.

The training should also offer guidance on how to communicate with shelter and other services providers ahead of any planned operations that may identify groups of trafficked persons, to ensure that the anticipated beds needed are available. In cases where they are not, planning needs to occur prior to the undercover operation to identify other shelter options.

Sensationalizing, Stigmatizing and Dehumanizing Portrayals

The training relies on simplistic ideas of victims and villains where innocent girls are forced to trade sex by bad men (and one woman) of color. Cisgender girls and women are often presumed to lack any agency or choice and are more likely to be labeled as victims. Conversely, cisgender boys and men are often presumed to have agency or choice and are more likely to be labeled as perpetrators. Even when a third party is involved, it is never a simple victim and villain story. For example, many of these individuals first started off in the sex industry as people who sold sex.¹³ Likewise, as explained earlier, sometimes these third parties are providing important harm reduction support for people trading sex and the dynamic of the relationship is not exploitive.

Situations definitely do exist where young cisgender women are forced to sell sex by a third party. Unfortunately, by only covering one type of human trafficking dynamic, the training leaves law enforcement officials ill-equipped to respond to other scenarios. For example, no guidance is offered on how to work with people who are not in an exploitative dynamic with a third party, or how to work with cisgender men, transgender men, and transgender women. Because police often falsely identify transgender individuals as prostitutes¹⁴ specific guidance is needed on how to interact appropriately with transgender individuals.

At its essence, the training is a great example of “rescue porn.” Such representations reduce this complex social issue to situations where young cisgender women are provocatively dressed and are being exploited by a person of color until police officers come in and save them. The misguided message law enforcement is being encouraged to convey to potential trafficked persons is that they are “brainwashed,” have no choice in the matter, and their partner does not love them. The savior mentality is pervasive throughout the training with frequent comments made such as, *“You have an opportunity to help her, save her, pull her out of that lifestyle.”*

Criminalization of Condoms

The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 expanded the predicate acts that can be prosecuted under the Racketeer Influenced and Corrupt Organizations (RICO) Act of 1970 to include human trafficking. In the TVPRA of 2008, the provision of condoms manufactured outside of the state where the offense occurred was added to the list of RICO offenses. Unfortunately, the inclusion of the provision of condoms as a RICO offense criminalizes individuals’ fundamental right to health-promoting materials such as condoms. No better way exists to prevent unwanted pregnancies and sexually transmitted infections (STIs) inclusive of HIV, than using condoms. Criminalizing condoms runs counter to proven public health interventions.

While we know that this is a federal-level issue, we are concerned about the way it is being implemented in California. As previously addressed, not all prostitution is human trafficking. Knowing this we are extremely troubled that in the training the Supervisory Special Agent from Homeland Security Investigations encourages local law enforcement to consider any time a *“john uses a condom during the commission of the commercial sex act”* an act that warrants federal jurisdiction. Condoms should never be used as evidence in prostitution cases. In fact, precedent exists to not use condoms as evidence in prostitution cases. In April 2013, the San Francisco District Attorney agreed to not use condoms as

evidence¹⁵ and the San Francisco Police Department issued a department wide bulletin in support of that policy.¹⁶

Racial Profiling

The criminal justice system has been widely criticized for its racial disparities. In every vignette included in the training video the third-party exploiters are all people of color. We are deeply concerned that the message peace officers will take away from this training is that racial profiling is a suggested approach to be used in combatting trafficking.

Dehumanization of Black Men

This concern is compounded by the training's use and endorsement of the term "gorilla pimp" to describe third parties who use physical and sexual abuse as a means of control. Since the term "gorilla" is spoken and not written in the video, it is unclear if it is meant to refer to "guerilla" or "gorilla," but given the problematic associations with "gorilla," it should be avoided. Although this term is sometimes used by social service providers, police officers, and third-party exploiters, it is important to address the racially coded nature of the term.

The United States has a history of racial oppression inclusive of dehumanizing Blacks by depicting them as apelike. The outcomes of such dehumanization include justifications of violence and death¹⁷ and being targeted for state-sanctioned violence.¹⁸

Recommendations

The current video should be revised, or new trainings developed to supplement it, so that the following recommendations are incorporated:

1. Eliminate inaccurate data and statements on trafficking;
2. Incorporate more discussion of labor trafficking in domestic services, restaurants, nail salons, construction, and other industries;
3. Clearly differentiate between human trafficking and sex work in keeping with the definitions in The California Trafficking Victims Protection Act (AB 22, 2005);
4. Acknowledge the sometimes differing needs of trafficked persons and law enforcement;
5. Address the various barriers to trust that trafficked persons may have with law enforcement, and the very real challenges that law enforcement face when engaging with trafficking victims;
6. Discuss best practices on empowerment approaches to connecting trafficked persons to services;
7. Model contacting child welfare hotlines when minor trafficking victims are identified;
8. Remove sensationalistic and racist scenarios in the video;
9. Remove use of condoms as evidence from the video;
10. Involve a diverse group of social workers and community service providers who work with trafficked persons, inclusive of agencies that work with sex workers in developing these trainings.

CITATIONS

- ¹ Kramer and Berg 2003; Lutnick and Cohan 2008a; Martin, Hearst, and Widome 2010; McClanahan et al. 1999
- ² Martin, Hearst, and Widome 2010
- ³ Lutnick and Cohan 2008a
- ⁴ Curtis, Terry, Dank, Dombroski and Khan 2008
- ⁵ *Id.*
- ⁶ Mukasey, Daley, and Hagy 2007
- ⁷ Mitchell, Finkelhor and Wolak 2010
- ⁸ International Labor Organization 2012; Zhang 2012
- ⁹ United Nations Office on Drugs and Crime 2009; Zhang 2012
- ¹⁰ It is important to note that this reference in AB 22 contains an error and is wrong. The correct reference, the one that would refer to the definition of a severe form of human trafficking, would be Section 7102(9) of Title 22 of the United States Code not Section 7102(8).
- ¹¹ Lutnick 2016
- ¹² Lutnick and Cohan 2008b
- ¹³ Birkhead 2011; Marcus, Riggs, et al. 2011; Raphael and Myers-Powell 2010.
- ¹⁴ Koyama 2011
- ¹⁵ <http://stjamesinfirmary.org/wordpress/wp-content/uploads/2012/06/SFDA-letter-Condoms-As-Evidence-033013.pdf>
- ¹⁶ <http://stjamesinfirmary.org/wordpress/wp-content/uploads/2012/06/SFPD-Department-Bulletin-on-Condom-Policy.pdf>
- ¹⁷ Perlberg, 2011
- ¹⁸ Goff, William, Eberhardt, & Jackson 2008

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