



# Freedom Network USA

November 15, 2019

Mr. Pedro Nava  
Chairman Little Hoover Commission  
925 L Street, Suite 805  
Sacramento CA 95814

**RE: Freedom Network USA's Written Testimony for the Little Hoover Commission Labor Trafficking Study**

Chairman Nava:

Freedom Network USA (FNUSA), established in 2001, is a coalition of 68 non-governmental organizations and individuals that provide services to, and advocate for the rights of, trafficking survivors in the United States. Our members include survivors themselves as well as former prosecutors, civil attorneys, criminal attorneys, immigration attorneys, and social service providers who have assisted thousands of trafficking survivors. Together, our members provide services to over 2,000 trafficking survivors each year.<sup>1</sup> FNUSA is the nation's largest coalition of human trafficking service providers and is a leader in human trafficking training and technical assistance. FNUSA and our members have been engaged in policy advocacy for over 20 years, and were instrumental in the passage of the Trafficking Victims Protection Act in 2000.

FNUSA commends the State of California for committing to this investigation and report on the status of California's efforts to address labor trafficking. Such a comprehensive and intensive investigation into labor trafficking is unique in the US, and can provide a critical framework for other jurisdictions to follow.

The unfortunate truth is that no jurisdiction in the US is successfully and comprehensively addressing labor trafficking. While significant progress has been made since the passage of the landmark Trafficking Victims Protection Act of 2000 (TVPA) which first defined the federal crime of human trafficking and created services and protections for victims, there is much work to do. Human trafficking is a crime that relies on systems and conditions that put people at risk, traffickers who choose to abuse and exploit those who have been put at risk, and a lack of support and services to support those at risk. Therefore, effectively addressing human trafficking similarly requires approaching the issue from all three of those angles.

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<sup>1</sup> Freedom Network USA 2018 Member Report, available at <https://freedomnetworkusa.org/app/uploads/2018/04/FRN-Member-Report-Digital-FINAL.pdf>.

## 1. Improving Identification and Services for Survivors

California must work to ensure that trafficking victims are identified as quickly as possible, and are then provided with effective, comprehensive services and support to fully heal from their experiences. Labor trafficking survivors may be working in legal businesses, unregistered businesses, or in the underground economy. They may be US Citizens or foreign nationals, adults or minors, of any gender. Therefore, it takes a comprehensive approach to both identify the wide diversity of survivors and to meet their diverse needs.

Labor trafficking remains a crime that is not well understood or recognized. General community education campaigns, while helpful, are unlikely to result in widespread identification of survivors. However, there are industries in which labor trafficking is widely pervasive. Beginning with targeted activities to educate and support workers most at risk of human trafficking will be most likely to successfully identify labor trafficking victims.

- a. **Analyze data sets to identify high risk workers.** Government agencies track, and sometimes publish, data that indicates workers who are most at risk of labor trafficking. Data sets that can be useful include those that identify the locations of: guestworker visas, workplace violations reported to civil enforcement agencies such as the EEOC and Wage and Hour, and reports of workplace injuries. More information on the vulnerabilities of guestworkers is available in the FNUSA Policy Papers on Human Trafficking and H2 Temporary Workers (<https://freedomnetworkusa.org/app/uploads/2018/05/Temporary-Workers-H2-May2018.pdf>) and Human Trafficking and J-1 Visas for Temporary Workers (<https://freedomnetworkusa.org/app/uploads/2018/05/Human-Trafficking-and-J-1-Visas-May2018.pdf>). These data sets can be analyzed to identify high risk locations for workers. The Buffett-McCain Institute Initiative to Combat Modern Slavery has successfully used publicly available data and GIS mapping to identify high risk workers in Texas.
- b. **Train targeted occupations to identify potential victims.** State and local officials with both civil and criminal enforcement authorities are often in locations that have a high risk of labor trafficking. Alcoholic Beverage Control, Cal/OSHA, building inspectors and others may be inspecting workplaces that abuse and exploit workers. It is important to maintain the specific authorities that grant inspectors broad powers to enter and inspect private property. However, they can be trained to recognize signs of labor exploitation and trafficking and report their observations to specially trained law enforcement officials for investigation. For example, Houston has successfully partnered with their Alcohol and Beverage Commission to identify signs of trafficking in bars that hold a liquor license. Read more at: <https://www.dallasnews.com/business/local-companies/2018/02/08/tabc-taps-alcohol-distributors-to-help-fight-human-trafficking-at-bars-restaurants-liquor-stores/> and [https://www.tabc.state.tx.us/enforcement/trafficking\\_in\\_texas.asp](https://www.tabc.state.tx.us/enforcement/trafficking_in_texas.asp).

**c. Conduct outreach and education designed for high risk workers.**

Labor trafficking victims often feel trapped by threats of violence against themselves and their family members, debt to labor brokers or the employer, threats by the trafficker to report crimes committed by the victim, their own criminal record, or lack of knowledge about legal protections. Information should be provided to at risk workers regarding worker protections, immigration protections, and available services. A poster full of legal jargon, however, is not effective. It is more effective to provide know your rights presentations at neutral locations accessible by workers (not at the job site) in the language of the workers, by peers. The Coalition of Immokalee Workers and the Fair Food Program have truly perfected this model to dramatically reduce various forms of abuse and exploitation in the agricultural fields of Florida. Additionally, health care workers, especially those working with at-risk populations including migrant workers, youth, sex workers, and LGBTQIA communities, can be trained to identify signs of potential trafficking and to provide potential victims with information and support in accessing resources. The Buffett-McCain Institute Initiative to Combat Modern Slavery has successfully placed outreach workers at local food markets to educate agricultural workers about their rights, which has led to reports of labor abuses. Direct education and outreach must also be provided to guestworkers, who are highly vulnerable to exploitation and abuse because of the design of US visas that do not allow guestworkers to change employers even in the face of abuse. Damayan Migrant Workers Association (<https://www.damayanmigrants.org/>) is one non-governmental organization that has developed a strategy to conduct peer-led outreach and education for Filipino workers. Damayan's outreach staff are bilingual Filipino advocates who meet with migrant workers in the community and share information about labor rights, immigrants' rights, and services and protections available for victims of abuse and exploitation, including labor trafficking.

**d. Build an evidence-base for best practices in service provision.**

Limited evaluation and research has been conducted on service models to support survivors of labor trafficking. A wide variety of practices are currently in use by government agencies and nongovernmental organizations, large and small, leaving a very disjointed field. Government agencies, law enforcement, schools, and others are confused about how to determine which programs should be included in their collaborations. Government and private funders are uncertain how to best invest their resources. And new service providers are left with trial and error to develop the most effective service programs. Investment in comprehensive, long-term, objective research is needed to clearly describe the different approaches to services, measure their impact, and describe what components are critical to success for survivors. Popular buzz words, like victim-centered, trauma-informed, and survivor-informed, need to be defined with clear indicators of actual implementation. Multiple studies will be needed to test programs for different populations, whose needs might require customization. A collection of Evidence-Based Program Directories hosted by federal government agencies, which can serve as models for building a human trafficking evidence-base is available at <https://youth.gov/evidence-innovation/evidence-based-program->

[directories.](#)

**e. Provide training and technical assistance to providers to improve services.**

Unlike the domestic violence and sexual violence fields, human trafficking has no federally funded national resource centers. The Domestic Violence Resource Network (<https://www.acf.hhs.gov/fysb/fv-centers>), funded by the US Department of Health and Human Services, includes 2 national resource centers, 4 special issue resource centers, and 3 culturally-specific institutes. The National Sexual Violence Resource Center is funded by the Centers for Disease Control and Prevention (<https://www.nsvrc.org/about/national-sexual-violence-resource-center>). Additionally, each state has at least one statewide domestic and sexual violence coalition, and some have more than one. A list of all statewide resources can be found at <https://www.justice.gov/ovw/local-resources>. Most of these resources were established and are funded, in large part, by the Family Violence Prevention and Services Act (FVPSA). An overview is available from the Congressional Research Service's [Family Violence Prevention and Services Act \(FVPSA\): Background and Funding, 2019, https://fas.org/sgp/crs/misc/R42838.pdf](https://fas.org/sgp/crs/misc/R42838.pdf). These state and federal resources establish and promulgate best practices, provide training and technical assistance, advocate for policy initiatives to benefit survivors, and convene service providers for collaboration and coordination. A similar framework is needed to support the developing human trafficking field.

**f. Develop an accreditation and compliance scheme for service providers.**

Standards of Care are a formal statement of practices that comprise an acceptable standard of service provision. While ethical requirements guide the work of some accredited professions, such as lawyers and accredited social workers, Standards of Care are not commonly adopted for US social services. FNUSA's white paper Standards of Care in the US Anti-Trafficking Field, available at <https://freedomnetworkusa.org/app/uploads/2019/07/Freedom-Network-Standards-of-Care-White-Paper-July-2019.pdf>, describes current examples of precedents in the US and abroad. Standards of Care, if properly developed, can help to ensure that all services are victim-centered, trauma-informed, and provide privacy and confidentiality for all survivors. They can outline harmful practices that violate the Standards, establish requirements for staff training and accreditation, and standardize data collection and program evaluation to support for future research and evaluation projects. These guidelines assist new and developing organizations to build strong and effective programs and to properly evaluate their work. Development of Standards is an important first step, but for full impact there must also be an accreditation process and a compliance scheme to ensure that programs are properly implementing the Standards. Accreditation and compliance monitoring can provide assurance that survivors are receiving an adequate level of services and support at all accredited organizations. This allows government agencies, law enforcement, and other providers to develop partnerships and collaborations with confidence. This also supports organizations in receiving regular feedback on the effectiveness of their programs.

The Florida Administrative Code, for example, specifies requirements for all state-funded domestic violence programs. The Florida Coalition Against Domestic Violence, in turn, provides training and technical assistance to providers in meeting the requirements.

### **Expanding Investigation and Prosecution of Traffickers**

Investigation and prosecution rates for labor trafficking remain far behind what could be predicted from the research that indicates high rates of trafficking in a range of industries. This disparity is common across the US and at the state and federal levels. Increasing the investigation and prosecution of labor trafficking will take sustained, intensive efforts and will likely require regulatory and statutory changes.

#### **a. Understand and address systemic challenges.**

Under state and federal law in the US, labor protections are almost exclusively civil matters: wage and hour, discrimination, child labor protections, and safety regulations are all primarily civil legal matters. Law enforcement agencies and prosecutors are, therefore, generally unfamiliar with the employment context. They do not have the experience and connections developed from working on related employment violations (such as unpaid overtime, sexual harassment, or dangerous working conditions) or immigration violations (such as fraud in employment contracting, immigration fraud, or maintaining control of immigration documents) that occur within workplaces. They are not conversant with the evidence of workplace abuse such as payroll records, personnel records, and injury and incident reporting forms. Without this context, experience, and training, they are understandably hesitant to take cases. It is important to understand where existing government systems, including civil enforcement, licensing, and oversight bodies might already have access to likely labor trafficking. While respecting the limits on their authorities, the government should revise policies and practices to ensure that these existing authorities and resources are most effectively included in the comprehensive strategy to identify and respond to labor trafficking.

#### **b. Identify a statewide network of labor trafficking investigators and prosecutors.**

Labor trafficking cases are unique and complex. Learning to effectively identify, investigate, and prosecute these cases requires specialized training and experience. Cases are currently rare. Most law enforcement agencies rotate officers through different units on a regular basis. Therefore, just as officers have received training, and worked on one case and have developed experience and confidence in this new type of case, they are transferred and their knowledge is lost. The investment is lost, and must start again with new officers. Community based organizations lose confidence in law enforcement when they must constantly build new connections with unknown and untrained officers. Survivors feel passed around and suffer continuous re-traumatization when they are repeatedly interviewed by new officers and officials. Cases are dropped and traffickers are not held accountable. Instead, law enforcement and prosecutors should consider investing in training and supporting a core team across the state, and leaving them assigned to labor trafficking for a significant term of at least 5 years. This

would allow the development of experience and expertise with cases, connections with communities that are most at risk, and collaborations with key service providers that build trust.

**c. Provide funding and encouragement for long-term, complex, multi-jurisdictional, multi-agency investigations and prosecutions.**

Trafficking cases are often complex, crossing county, state, and international borders. Others are hidden in underground economies and communities, isolated by fear of retaliation or deportation. Building trust, finding evidence, uncovering not just the frontline workers but the higher level traffickers takes time, patience, and resources. Skills and experience from various disciplines may be needed, including forensic accountants, banking system experts, and immigration and cultural experts to unravel the various pieces of the network or subtle forms of coercion being used. Investing in experts and resources with state-wide authority may be an effective way to collaborate with local law enforcement and prosecutors who may lack those resources. Local officers, however are the key to the needed community relationships and understanding of the local context to identify and support potential victims and to ensure that survivors are provided with the resources and support they need to thrive both during and after the case.

**Investing in Primary Prevention of Labor Trafficking**

Traffickers take advantage of people who have been put at high risk. They will continue to do so until we stop putting people at risk. Current efforts across the US are focused on Secondary and Tertiary Prevention, which seeks to prevent re-victimization for those who have already survived trafficking. Recommendations for strengthening these efforts are included above. Primary prevention, however, is designed to intervene BEFORE the first incident of harm and change the circumstances so that the harm does not occur. FNUSA prepared a comprehensive set of recommendations on the prevention of human trafficking for the US Department of Health and Human Services Office on Trafficking in Persons. It is available at: <https://freedomnetworkusa.org/app/uploads/2019/11/RevisedFNUSAHealNsNRecsOTIPPrevention-1.pdf>. The key elements of primary prevention involve addressing the inequalities and policies that put people at risk, so that all people are more resilient. These policy changes are part of a public health approach to prevent a wide variety of harm, including labor trafficking, domestic violence, child abuse, and poor health outcomes. These investments, therefore, can reap a wide range of benefits for the state of California.

**a. Provide affordable housing and healthcare for all.**

Housing costs are at unaffordable levels for low-income workers all across the US, and even for middle-class families in a growing number of jurisdictions. Health care costs also continue to spiral, leaving medical debt as a significant cause of poverty for both low-income and middle-class communities. When individuals and families are unable to meet even their most basic needs for safe housing and necessary medical care, they are forced by their circumstances to take more dangerous and difficult jobs, work in unsafe conditions, and are hesitant to report abuse and exploitation for fear of ending up in

even worse conditions for themselves and their family. Trafficking survivors, struggling to recover from the financial, physical, and psychological harm of the trafficking experience, are further harmed by the lack of affordable housing and healthcare. Rather than investing in the uncertain and incomplete effort to identify all of the types of harms people have suffered over their lifespan in order to qualify for housing and healthcare, the government should instead invest in making these basic needs available to all people. Access to safe and affordable housing and healthcare will not only help survivors to heal, whether or not they are officially ‘recognized’ as survivors, but will also prevent further abuse and exploitation.

**b. Expand labor protections for all workers.**

It is not accidental that the industries with the weakest worker protections see high rates of labor trafficking. Agricultural workers and domestic workers are prime examples who are left out of most federal labor protections. FNUSA’s Policy Paper on Human Trafficking and Farmworkers discusses their vulnerability, available at <https://freedomnetworkusa.org/app/uploads/2018/07/Farmworkers.pdf>. Domestic workers are generally working in isolation, may have low rates of English literacy, and are unfamiliar with legal systems. Agricultural workers may be in more concentrated worksites, but often migrate throughout the state or between states to follow crop schedules, and are thus hard to reach for ongoing education and support. California has already taken steps to lead the way in expanding worker protections beyond the federal standards, and including traditionally excluded workers. These efforts must be expanded, with sufficient resources for peer-led worker education and worker-protective enforcement to ensure that these policies are made real for workers. The National Domestic Worker Bill of Rights, championed by the National Domestic Workers Alliance (NDWA) (<https://www.domesticworkers.org/>) provides a model approach to legislation that will protect domestic workers. <https://www.domesticworkers.org/bill-rights>. Critically, the NDWA is a network of peer-led organizations that provide education and support to domestic workers in culturally appropriate ways. Laws are not self-enforcing, and investment in effective outreach and support of workers to ensure that they understand their rights, have a safe mechanism for discussing and reporting abuse and exploitation, and access to comprehensive services if they leave their employers are key to prevention and protection. The US Department of State’s Office of Chief of Protocol’s In-Person Registration Program for A-3 and G-5 visa holders also provides a model for providing vital information and resources designed to prevent labor trafficking. Information about the Program is available on their website at <https://www.state.gov/resources-for-foreign-embassies/domestic-workers/> and in the President’s Interagency Task Force Report on US Government Efforts to Combat Trafficking in Persons, October 2019, at p22, available at: <https://www.state.gov/wp-content/uploads/2019/10/2019-PITF-Report-Web.pdf>.

**c. Increase protection for migrants.**

Traffickers exploit migrants fear of deportation to entrap them. Review FNUSA’s Policy Paper on Human Trafficking and Immigrants’ Rights at

<https://freedomnetworkusa.org/app/uploads/2018/07/HT-and-Immigrant-Rights.pdf>.

This fact led to the creation of the T Visa as a core element of the TVPA in 2000.

However, the T Visa continues to be underused, leaving thousands of visas unclaimed and thousands of workers in exploitation across the US. Immigrants face a current environment of overwhelming fear. Federal policies designed to threaten migrants through family separation (<https://supportkind.org/our-work/family-separation-work/>) and forced labor in immigration detention centers

(<https://www.splcenter.org/news/2018/04/17/splc-sues-private-prison-company-uses-forced-labor-detained-immigrants-georgia-boost>,

<https://www.cnn.com/2018/04/17/us/immigrant-detention-forced-labor-lawsuit/index.html>), large scale worksite raids targeting immigrants and not the employers

(<https://theintercept.com/2019/10/13/ice-raids-mississippi-workers/>),

drastically increased processing times for visas (<https://www.aila.org/advo-media/aila-policy-briefs/aila-policy-brief-uscis-processing-delays>), reduced access to fee waivers

(<https://www.boundless.com/blog/public-benefits-immigration-fee-waivers/>), and cast all immigrants as criminals

(<https://www.washingtonpost.com/politics/2019/10/02/trumps-most-insulting-violent-language-is-often-reserved-immigrants/>) have left immigrants unable and unwilling to access protection from law enforcement

(<https://www.aclu.org/press-releases/new-aclu-report-shows-fear-deportation-deterring-immigrants-reporting-crimes>,

<https://psmag.com/social-justice/immigrant-domestic-violence-survivors-are-afraid-to-go-to-law-enforcement-under-trump>), services and health care, and even education for their US Citizen children

(<https://psmag.com/news/immigrants-are-changing-their-routines-out-of-fear-a-survey-finds>). Working to counteract these facts requires intense efforts and successful intervention. Law enforcement, government agencies, and community based organizations must collaborate to support immigrant communities and demonstrate their commitment to protect immigrants from abuse and exploitation regardless of their immigration status. This includes increased outreach to meet with community members, understand their challenges, and provide tangible support. For immigrant crime victims, this must include a directive for all law enforcement and prosecutors to ensure T and U Visa certifications are provided in a timely manner for all crime victims who have been or may be helpful in the investigation or prosecution of a crime. <https://www.dhs.gov/publication/u-visa-law-enforcement-certification-resource-guide>. The certification should be provided automatically, without waiting for the victim to request it, without hesitation, and should be re-issued upon request. Training and support should be mandated for all law enforcement and prosecutors across the state. Additionally, for trafficking survivors, all law enforcement and prosecutors must be required to submit an application for Continued Presence

([https://www.dhs.gov/sites/default/files/publications/blue-campaign/19\\_1028\\_bc-pamphlet-continued-presence.pdf](https://www.dhs.gov/sites/default/files/publications/blue-campaign/19_1028_bc-pamphlet-continued-presence.pdf)) within the first 48 hours after the identification of a person believed to be a potential survivor of human trafficking. Continued Presence provides short-term protection from deportation, employment authorization, and access to services and support during the investigation and prosecution of a trafficking case. The T or U Visa Certification supports the survivor's application for longer-term

immigration status and legal employment. These actions demonstrate that the state takes the abuse and exploitation of immigrants seriously, and prioritizes public safety. Concrete actions to protect immigrants are the most powerful way to build trust between immigrant communities and law enforcement to reverse the dangerous trend of immigrant victims hiding in the shadows and refusing to report the crimes committed against them. Working with immigrant communities to increase their safety is the key to stopping traffickers.

**d. Improve protections and support for young people and their families.**

Labor trafficking of minors has been ignored for too long. FNUSA raised this issue in 2015, in a Policy Paper on Child Trafficking for Labor in the US, available at: <https://freedomnetworkusa.org/app/uploads/2018/07/HT-and-Child-Labor.pdf> Studies indicate that labor trafficking is a significant problem among youth. Covenant House found that nearly 20% of the youth interviewed were trafficking survivors, 15% trafficked for sex, 7.4% trafficked for labor, and 3% trafficked for both. <https://www.covenanthouse.org/homeless-issues/human-trafficking-study>. An Urban Institute study found that youth cycle through the juvenile justice and child welfare systems without receiving the protection and services that they need. <https://www.urban.org/research/publication/locked-interactions-criminal-justice-and-child-welfare-systems-lgbtq-youth-ymsm-and-ywsw-who-engage-survival-sex>. Relying on the criminal justice system to protect youth is not only ineffective, it is actively harmful. Safe harbor laws may begin to mitigate the harm of incarceration, but not the trauma of arrest, and do nothing to prevent youth from the abuse and exploitation that brought them to the attention of law enforcement in the first place. Additionally, safe harbor laws routinely fail to identify victims of labor trafficking, and victims of sex trafficking who are arrested for a host of status offenses or other crimes. Rather than investing in the expensive expansion of the juvenile justice system to add less harmful responses, California must invest in prevention and support programs that respond to the needs of youth BEFORE they are arrested or abused. Expanded after-school programs, community centers, school-based counselors and intervention programs, safe and affordable childcare, accurate sexual education including an emphasis on healthy relationships and consent, and healthy parenting support for families can build resilience for families and youth. Increased support for LGBTQIA youth, including long-term housing programs for those who are not safe in their homes, are critical. Youth are running away from our systems, and are choosing to join gangs, sell illegal substances, and trade sex in order to avoid the child welfare system. This is a systemic failure of the government that must be comprehensively addressed for all youth, not just the lucky few who qualify for diversion programs or specialized care.

Thank you for your commitment to a comprehensive approach to labor trafficking in California. This study promises to be an exemplary model for other states, indeed for the nation, as we seek to deliver on our goals to end human trafficking in the US. I look forward to the work of this Commission and the reports and reforms that follow its work. I can be reached at

[jean@freedomnetworkusa.org](mailto:jean@freedomnetworkusa.org) if you have any questions or need any further information or explanation.

Sincerely,

A handwritten signature in black ink that reads "Jean Bruggeman". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Jean Bruggeman  
Executive Director  
Freedom Network USA