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**REMEMBERING THE UNDOCUMENTED VICTIM:
A PREVENTATIVE APPROACH TO THE EROSION OF HUMAN
TRAFFICKING VICTIM PROTECTIONS AMID RADICAL
IMMIGRATION REFORM**

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I. INTRODUCTION

The intersection of immigration policy and human trafficking reveals a critical and often overlooked relationship that significantly impacts the efficacy of victim protection measures. Throughout President Trump's first term, stricter immigration policies inadvertently exacerbated vulnerabilities among undocumented individuals, particularly victims of labor trafficking. Such policies not only deter victims from seeking help but also create a climate of fear that traffickers exploit to maintain control.

Existing literature and data on this issue highlights the multifaceted challenges faced by trafficking victims within the context of restrictive immigration frameworks. Studies consistently show that many victims—especially those involved in labor trafficking—fail to recognize their exploitation due to cultural, psychological, and systemic barriers. For instance, individuals manipulated into believing their circumstances stem from an unpaid debt often internalize their suffering as a personal failure rather than recognizing it as a crime. Moreover, widespread misinformation regarding the rights of undocumented persons compounds this issue, as many victims mistakenly believe they are ineligible for legal protections or fear deportation if they seek assistance. Past research underscores that traffickers frequently leverage these misconceptions, using threats of exposure to authorities as a powerful tool of coercion. This dynamic is further complicated by the lack of public awareness about the nuanced definitions of human trafficking, particularly in non-violent labor contexts. As a result, many victims remain invisible to both law enforcement and support networks.

This study delves into the systemic shortcomings that hinder effective undocumented victim identification and support. It analyzes changes in immigration law and their effects on

anti-trafficking policy from 2000 to the present. Newly published data, along with government and non-governmental organization (NGO) reports, provide supplemental evidence to past academic findings. Conclusions derive from a comparative study of current law and procedure with regard to citizenship status and anti-trafficking measures, as well as qualitative insight from experts in the field.

Ultimately, it concludes that (1) the incoming administration's stringent approach to immigration enforcement will hinder human trafficking victim protection measures, and (2) public opinion on immigration will frustrate the effectiveness of California's existing anti-trafficking policy. The evidence presented underscores the urgent need for new legislation and targeted amendments to existing laws. In light of challenges arising from anticipated changes to federal immigration policy, this paper proposes operative solutions relating to strategic utilization of the T-Visa application process, increased education, training, and coordination between state law enforcement agencies and nonprofit organizations, a structured system of information-gathering and reporting on trafficking trends by district, and measures to improve public awareness on the nature of human trafficking crime. Without significant amendments to existing legislation, efforts to combat human trafficking will remain insufficiently targeted and ineffective. The path forward demands a holistic approach that prioritizes victim empowerment and systemic accountability, setting a precedent for more inclusive and just immigration and trafficking policies nationwide.

II. REVIEW OF LITERATURE

A. HUMAN TRAFFICKING IN THE UNITED STATES

A form of modern enslavement, human trafficking is defined as “the recruitment, transportation, transfer, harboring, or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”¹ While this definition appears comprehensive, its real world application is often less broad.²

Trafficking victims are generally exploited for sex and/or labor. The nature of the crime has made it difficult for institutions to collect accurate data on the prevalence of human trafficking, and the majority of historical estimates are no longer considered credible in the academic community.^{3,4} Even modern estimates on the number of human trafficking victims vary widely between sources. The U.S. Department of State Trafficking in Persons Report has attempted to gather and analyze global data on trafficking since 2001. In 2023, the report stated that millions of people are exploited within and across borders each year.⁵ Of these estimated millions, only 115,324 victims were positively identified around the world in 2022, 24,340 of which were victims of labor trafficking.⁶ These statistics differ greatly from those proffered by International Labour Organization (ILO), a respected agency of the United Nations, which estimates a global number of approximately 27.6 million men, women and children forced into

¹ United Nations. Human Rights Council. Office of the High Commissioner. *Human Rights and Human Trafficking*. Geneva: UN Human Rights Council, (2014): 2.

² Haynes, Dina Francesca, “(Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act.” *Georgetown Immigration Law Journal* (Posted 2007, last modified 2013):1-31.

³ Farrell, Amy and Jessica Reichert. “Using U.S. Law Enforcement Data: Promise and Limits in Measuring Human Trafficking.” *Journal of Human Trafficking* 3, no. 1 (2017): 1-22.

⁴ Weitzer, Ronald. “Sex Trafficking and the Sex Industry: The Need for Evidence-Based Theory and Legislation.” *Journal of Criminal Law and Criminology* 101, no. 4 (2011): 26.

⁵ U.S. Department of State, “Trafficking in Persons Report 2023” (June 2023): 4.

⁶ U.S. Department of State, “Trafficking in Persons Report 2023” (June 2023): 79.

labor in 2022.⁷ Several factors explain the discrepancy between organizations. Difficulty accessing transient populations and failure to recognize trafficking situations, particularly in cases of forced labor, can result in a wide data gap.^{8,9}

Furthermore, trafficking is often underreported.¹⁰ The Polaris Project, a nonprofit NGO, works to eradicate trafficking through a victim protection-centered approach. Data from the Polaris hotline showed a total of 26,872 confirmed trafficking situations and an estimated number of 42,887 likely victims between 2020 and 2022 in the United States alone.¹¹ Of these statistics, 2,873 were confirmed labor trafficking situations, with an estimated number of 9,735 likely victims, and 1,005 were hybrid sex and labor situations, with an estimated number of 1,862 likely victims.¹² *Figure A* breaks down data collected through the Polaris hotline between 2020 and 2022.¹³

⁷ United Nations. ILO (International Labour Organization). "Statistics on forced labour, modern Slavery, and Trafficking of Persons."

⁸ Fedina, Lisa, and DeForge, Bruce R. "Estimating the Trafficked Population: Public-Health Research Methodologies May Be the Answer." *Journal of Human Trafficking*, Vol. 3 (2017): 1, 21-38.

⁹ Farrell, Amy, and Jessica Reichert. "Using U.S. Law Enforcement Data: Promise and Limits in Measuring Human Trafficking." *Semantic Scholar*. (2017): 1-22.

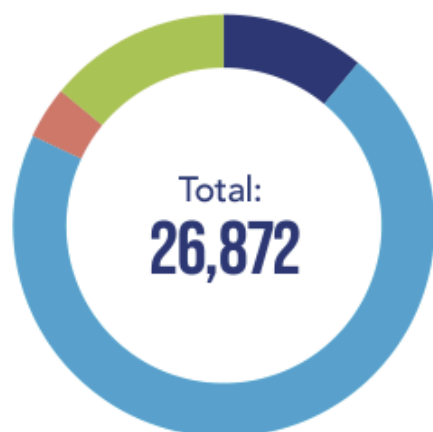
¹⁰ *Id.* at 2.

¹¹ Polaris Project, "Hotline Trends Report 2023" (2023): 2.

¹² *Ibid.*

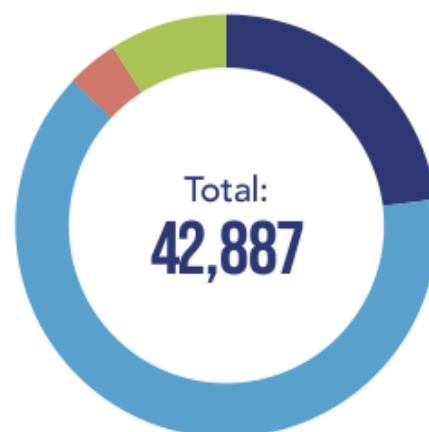
¹³ *Ibid.*

Total Trafficking Situations, by Form



Form of Trafficking	# of Situations
Labor	2,873
Sex	19,283
Sex and Labor ¹	1,005
Other/Not Specified ²	3,711
Grand total	26,872

Total Likely Trafficking Victims, by Form



Form of Trafficking	# of Likely Victims
Labor	9,735
Sex	27,370
Sex and Labor	1,862
Other/Not Specified	4,004
Grand Total	42,887³

Figure A

Polaris also gathers data on the methods through which traffickers manipulate victims into forced labor schemes. Generally, traffickers achieve control through either coercion, fraud, or force. This can include physical abuse, economic abuse, emotional abuse, and threats of various forms.¹⁴ *Figure B* breaks down the identified means of exploitation by labor traffickers.

¹⁴ *Id.* at 5-6.

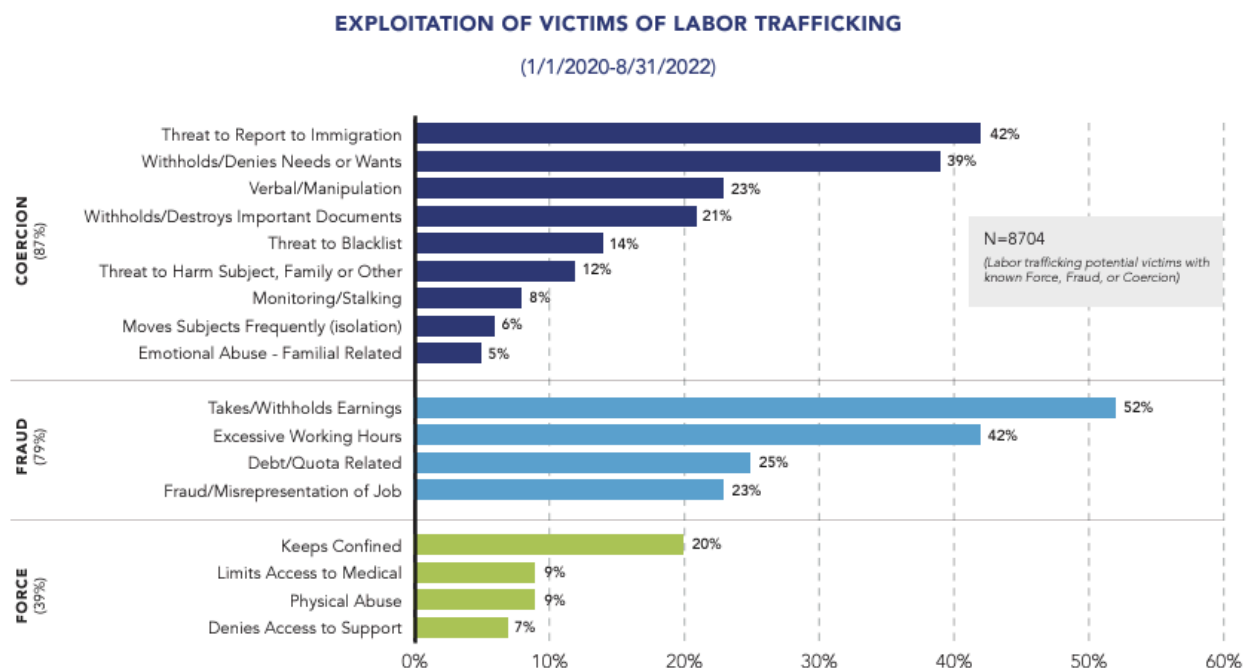


Figure B

1. Trends in Human Trafficking

Though a variety of factors make it difficult to accurately gather and interpret statistics on human trafficking trends, data across sources shows a rise in the number of persons trafficked for sex and/or labor in the United States over the last decade. The total number of human trafficking cases identified through the Polaris hotline increased each year between 2016 and 2019, with a notable spike in reported trafficking from 2020 to 2022.^{15, 16, 17, 18, 19} Similarly, the Department of Justice (DOJ) Human Trafficking Data Collection Archives reported that a total of 2,198 persons were referred to U.S. Attorneys for human trafficking offenses in fiscal year 2020, a 62%

¹⁵ Polaris, “2016 Statistics from the National Human Trafficking Hotline and BeFree Textline” (2016).

¹⁶ Polaris, “2017 Statistics from the National Human Trafficking Hotline and BeFree Textline” (2017).

¹⁷ Polaris, “2018 Statistics from the National Human Trafficking Hotline and BeFree Textline” (2018).

¹⁸ Polaris, “2019 Statistics from the National Human Trafficking Hotline and BeFree Textline” (2019).

¹⁹ Polaris, “Hotline Trends Report 2023” (2023).

increase from the 1,360 persons referred in 2011.²⁰ The State Department's annual Trafficking in Persons Reports also reflect a general upward trend in trafficking between 2017 and 2022, however the comparability of exact figures across reports is limited.^{21, 22, 23, 24, 25, 26, 27}

Though available data appears to reflect a rise in human trafficking over the past decade, this trend lacks statistical significance. The absence of comprehensive long-term data makes it difficult to establish a verifiable pattern. The reported increase in trafficking may be due to increased efforts and improved means of collecting data by government agencies and NGOs, as well as an increase in victim aid programs. Additionally, an unknown and potentially substantial number of foreign trafficking victims are mistakenly categorized as migrant criminals, further skewing the data.²⁸

A study conducted by the National Institute of Justice concluded that human trafficking incidents identified in law enforcement and social service agency records likely represented only a small fraction of the actual incidence.²⁹ In one jurisdiction, "official trafficking numbers...represented as little as 14% and at most 18% of the potential total trafficking victims."

³⁰ Underreporting in two other jurisdictions "was even more acute, with no more than 6% of

²⁰ Bureau of Justice Statistics. *Human Trafficking Data Collection Activities* (2022).

²¹ U.S. Department of State, "Trafficking in Persons Report 2023" (June 2023)

²² U.S. Department of State, "Trafficking in Persons Report 2022" (July 2022)

²³ U.S. Department of State, "Trafficking in Persons Report 2021" (June 2021)

²⁴ U.S. Department of State, "Trafficking in Persons Report 2020" (June 2020)

²⁵ U.S. Department of State, "Trafficking in Persons Report 2019" (June 2019)

²⁶ U.S. Department of State, "Trafficking in Persons Report 2018" (June 2018)

²⁷ U.S. Department of State, "Trafficking in Persons Report 2017" (June 2017)

²⁸ Haynes, Dina Francesca, "(Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act." *Georgetown Immigration Law Journal* (Posted 2007, last modified 2013): 1-31.

²⁹ National Institute of Justice. "Gaps in Reporting Human Trafficking Incidents Result in Significant Undercounting." (2020).

³⁰ *Ibid.*

potential human trafficking victims captured in police records.”³¹ Thus, more standardized data is needed to determine a legitimate trend in this area.

2. U.S. Policy on Human Trafficking: 2000 to the Present

In accordance with the Palermo Protocol, a global anti-trafficking treaty established by the United Nations, Congress passed the Trafficking Victims Protection Act (TVPA) in 2000. The TVPA was the first piece of major legislation on this issue and continues to lay the groundwork for federal anti-trafficking policy. The bill passed with three goals in mind: to prevent further human trafficking, to prosecute traffickers, and to protect trafficked victims.³² In addition to establishing human trafficking as a federal offense with severe penalties, the TVPA set up both The Office to Monitor and Combat Trafficking in Persons and the Task Force to Monitor and Combat Trafficking.³³ It charged the former with gathering information and publishing the annual Trafficking in Persons Report and the latter with helping to implement new policy.^{34,35} To address the immigration issue faced by foreign victims, the TVPA created the T-Visa—a specialized visa for which undocumented immigrants who were able to prove they were victim to a severe form of trafficking and would suffer extreme hardship if removed from the United States were eligible.³⁶ Adults who met the requirements for T-Visa eligibility were also mandated to assist law enforcement in the investigation and/or prosecution of their

³¹ *Ibid.*

³² Polaris. “Current Federal Laws.” *Polaris*.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ Trafficking Victims Protection Act, U. S. C. H.R.3244 (2000).

³⁶ *Ibid.*

trafficker.³⁷ Upon meeting these requirements, adult T-Visa recipients could remain in the United States for up to four years and become eligible for permanent citizenship.^{38, 39}

In 2003, Congress passed the first Trafficking Victims Protection Reauthorization Act (TVPRA) with added provisions allowing victims to sue their traffickers in Federal Civil Court. The revised Act also allowed human traffickers to be charged under the Racketeering Influenced Corrupt Organizations (RICO) statute.⁴⁰ The TVPRA was reauthorized again in 2005 with additional grants and pilot programs focused on providing aid to minors and strengthening international trafficking regulations.⁴¹

The 2008 TVPRA, which included important changes to the T-Visa and other work and education-based visas, was perhaps most influential in its effect on undocumented victims of human trafficking. Up until 2008, trafficking victims were compelled to cooperate with law enforcement in the investigation and/or prosecution of their trafficker. This placed an undue burden on foreign victims, who, unlike their American-born counterparts, could be pressured into reliving their experience and potentially facing their abuser should they want to remain in the United States. In an effort to correct this injustice, the 2008 TVPRA added a “trauma exception.”⁴² This provision granted the Secretary of the Department of Homeland Security (DHS) and the Attorney General the power to relieve a victim of his or her obligation to assist law enforcement if such assistance would cause the victim physical or psychological trauma.⁴³ The 2008 reauthorization also broadened the definition of “trafficking” to make prosecution

³⁷ NHTRC (National Human Trafficking Resource Center). *T Nonimmigrant Status and the Trauma Exception*. Washington, D.C.: National Human Trafficking Hotline, May 2015.

³⁸ Polaris. “Current Federal Laws.” *Polaris*.

³⁹ Trafficking Victims Protection Reauthorization Act, U.S.C. H.R. 898 (2013).

⁴⁰ Trafficking Victims Protection Reauthorization Act, U.S.C. H.R. 2620 (2003).

⁴¹ Trafficking Victims Protection Reauthorization Act, U.S.C. H.R. 972 (2005).

⁴² Trafficking Victims Protection Act, Public Law 110-457 (2008).

⁴³ NHTRC (National Human Trafficking Resource Center). *T Nonimmigrant Status and the Trauma Exception*. Washington, D.C.: National Human Trafficking Hotline, May 2015.

easier and required that all unaccompanied undocumented children be screened as potential victims.⁴⁴ Additionally, the 2008 TVPRA:

- Extended eligibility for derivative status to parents or unmarried siblings under the age of 18 who face a present danger of retaliation as a result of the principal's escape from trafficking or cooperation with law enforcement;
- Expanded ability to extend T nonimmigrant status by allowing DHS to consider exceptional circumstances;
- Extended the validity period of T nonimmigrant status to include the period the application for adjustment of status is pending; and
- Authorized DHS to waive good moral character disqualifications at the adjustment of status stage if the disqualification was caused by or incident to the trafficking.⁴⁵

In 2010, United States Citizenship and Immigration Services (USCIS) amended the T-Visa issuance policy, allowing USCIS agents to determine whether to exempt victims from cooperating and assisting law enforcement in the investigation and/or prosecution of their trafficker. Victims whose trauma exceptions were approved remained eligible for a T-Visa.

In 2013, Congress reauthorized the TVPRA as an amendment to the Violence Against Women Act (VAWA). The 2013 legislation strengthened former anti-trafficking initiatives and established additional rules and policies, including a requirement that requests for continued presence, such as T-Visas, to be addressed in no more than 15 days and decided in no more than a month.⁴⁶ This provision aimed to protect victims from spending excessive time in legal limbo while their requests were being processed. Furthermore, the 2013 TVPRA increased federal collaboration with state and local law enforcement to more efficiently prosecute traffickers and included new provisions to prevent child marriages, reduce the purchase of goods made using

⁴⁴ Polaris, *Current Federal Laws*.

⁴⁵ U.S. Citizenship and Immigration Services. "Volume 3, Part B, Chapter 1: T Nonimmigrant Status." *USCIS Policy Manual*.

⁴⁶ Trafficking Victims Protection Reauthorization Act, U.S.C. H.R. 898 (2013).

slave labor, provide aid to at-risk populations in the wake of humanitarian crises, increase reporting on trafficking to Congress, and implement numerous other anti-trafficking measures.⁴⁷

In 2015, Congress passed the Justice for Victims of Trafficking Act (JVTA), which, in part, mandated human trafficking awareness training for relevant DHS personnel with law enforcement and public facing roles.⁴⁸ However, the JVTA clarified that United States citizens and lawful permanent residents who are victims of human trafficking do not need official certification to access specialized services or federal benefits and protections, implying that undocumented victims require certification lest they be denied access to such benefits.⁴⁹

The amended 2019 TVPRA increased funding for victim services, created standards to train workers in industries especially susceptible to human trafficking, established human trafficking prosecutors in every federal judicial district, and required the DHS and DOJ to develop new victim-centered protocols.⁵⁰

The TVPRA was most recently reauthorized on January 5, 2023, through the Trafficking Victims Prevention and Protection Reauthorization Act of 2022. This reauthorization extended and updated federal efforts to combat human trafficking. It cemented the U.S. Advisory Council on Human Trafficking as a permanent federal entity and reauthorized various grants and programs supporting victims.⁵¹ However, not all provisions from earlier versions of the Act were reauthorized. Among other things, a provision allocating funding towards preventative

⁴⁷ *Ibid.*

⁴⁸ U.S. Citizenship and Immigration Services. "Volume 3, Part B, Chapter 1: T Nonimmigrant Status." *USCIS Policy Manual*.

⁴⁹ U.S. Congress. "Justice for Victims of Trafficking Act of 2015". Public Law No. 114-22, 129 Stat. 227, May 29, 2015.

⁵⁰ The Human Trafficking Institute. "On This Day in History: The Trafficking Victims Protection Act Passed in Congress." (2019).

⁵¹ Trafficking Victims Protection Reauthorization Act, U.S.C. S.3949 (2022).

anti-trafficking education has already expired, and a provision funding housing programs for trafficking victims is set to expire in 2026.⁵²

At the moment, the future of the TVPRA is in question. The Act is set to expire in fiscal year 2028, but important provisions from earlier reauthorizations (including the aforementioned) have already terminated or will terminate before 2028 if not independently renewed.⁵³ The reauthorization of provisions relating to undocumented persons faces political obstacles, rendering the fate of TVPRA protections for victims without citizenship status unknown. However, given previous support from both sides of the political spectrum, there is reason to believe that, at minimum, the Act's groundwork will be reinstated.

3. The T-Visa Program Today

a) General Requirements

As previously mentioned, undocumented victims of human trafficking may be eligible to gain legal status by way of a T-Visa. Created under the original TVPA, this special form of visa grants temporary citizenship up to four years and gives those who qualify the opportunity to gain permanent resident status.⁵⁴ To qualify for a T-Visa, applicants must show that they:

1. Are or were a victim of a severe form of trafficking in persons;
2. Are physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry, because they were trafficked;
3. Have complied with any reasonable request from a law enforcement agency for assistance in the detection, investigation, or prosecution of human trafficking or qualify for an exemption or exception*; and

⁵² Bryant, Ashlie. Interview with Alexandra Harten. (2024).

⁵³ Trafficking Victims Protection Reauthorization Act, U.S.C. S.3949 (2022).

⁵⁴ U.S. Department of Homeland Security. U.S. Citizenship and Immigration Services. *Victims of Human Trafficking: T Nonimmigrant Status*. Washington, D.C.: Department of Homeland Security, Last modified May 10, 2018.

4. Would suffer extreme hardship involving unusual and severe harm if they were removed from the United States.

* If a victim was under the age of 18 when at least one of the acts of trafficking occurred, or if a victim cannot cooperate with a law enforcement request due to physical or psychological trauma, they may qualify for T nonimmigrant status without complying with a request to assist law enforcement.⁵⁵

Additionally, certain family members are eligible for derivative T-Visa status. This includes the victim's parents, unmarried siblings under the age of 18, and the children of eligible family members who have been granted derivative T-Visa status so long as they are in present danger of retaliation as a result of the primary victim's escape from trafficking or cooperation with law enforcement.⁵⁶ Family members who are *not* in present danger of retaliation, including the primary victim's spouse, unmarried children under the age of 21, parents, and siblings under the age of 18, may also be granted derivative T-Visa status where the primary victim is less than 21-years-old⁵⁷

b) The 2024 Final Rule

On August 28, 2024, USCIS effectuated a final rule amending regulations on applications for T nonimmigrant status.⁵⁸ The final rule generally adopted changes to the T-Visa program outlined in an interim rule (passed December 2016) with adjustments based on public comments and USCIS experience implementing the interim rule. The final rule made several important technical and substantive changes to the original T-Visa program. It expanded the definition of "severe form of trafficking in persons" to include "involuntary servitude" and incorporated

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ U.S. Department of Homeland Security. "Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status." *Federal Register*, April 30, 2024.

definitions from the federal statute criminalizing forced labor, including the definition of “serious harm.”⁵⁹ Additionally, the final rule clarified the scope of hardship considerations by providing that hardship experienced by individuals other than the applicant (ie. family members applying for derivative T-Visa status) will only be considered if it directly impacts the *applicant’s hardship upon removal*.⁶⁰ The final rule also delineated the evidentiary requirements for proving hardship while retaining the original standard that applicants can submit any credible evidence for USCIS to consider.⁶¹

Markedly, the final rule implemented a new Bona Fide Determination (BFD) process. The BFD process discerns whether a T-Visa application is “bona fide,” signifying its legitimacy and credibility. A positive BFD finding opens the door for applicants to receive vital stabilizing benefits while their T-Visa application is under full review, including access to federal services and benefits and an administrative stay of removal.⁶² Unlike the 2013 TVPRA rule, which required requests for continued presence (such as T-Visas) to be addressed in no more than 15 days and decided in no more than a month, the final rule does not mandate specific processing timelines for T-Visa applications, including those granted deferred action.^{63, 64} This means that deportation proceedings are halted for primary T-Visa applicants and their families while their applications are pending so long as the application is deemed credible through the BFD process. In 2024, the average processing time for T-Visa applications ranged from 12 to 36 months. However, the process may take much longer depending on factors such as the complexity of a

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ Trafficking Victims Protection Reauthorization Act, U.S.C. H.R. 898 (2013).

⁶⁴ U.S. Department of Homeland Security. "Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status." *Federal Register*, April 30, 2024.

case, backlogs at USCIS processing centers, requests for additional evidence, and background checks.^{65, 66}

c) Problems With the T-Visa Program

Though this path to citizenship appears generally well-structured, the notable lack of T-Visas granted each year suggests that, in practice, the application requirements place a substantial burden on undocumented survivors of human trafficking. The TVPRA authorizes Congress to approve 5,000 T-Visa applications annually, however, an average of only 617 T-Visas were approved between 2011 and 2022.⁶⁷ 1,040 applications were granted in 2020—the highest number ever approved in a single year.⁶⁸ Still, this figure represents only one fifth of the number of applications available for approval under the TVPRA. Notably, though the Act caps the number of T-Visas granted annually, it does not limit the number of T-Visa *applications* that may be filed.

The discrepancy between the estimated number of trafficking victims and the number of T-Visa applications filed could be explained by several factors. First, the existence of the program is not widely publicized, so many victims are unaware of this potential path to citizenship.⁶⁹ Second, the T-Visa program is underutilized by law enforcement due to mistaken fear of liability, limited understanding of the role of police, restrictive requirements, and lack of

⁶⁵Armando. 2024. “T Visa Processing Time: Detailed Guide | Serving Immigrants.” *Serving Immigrants*. October 31, 2024.

⁶⁶Law, Curbelo. “T Visa Requirements - 2024 Comprehensive Guide | Curbelo Law.” *Curbelo Law*, 17 Mar. 2024.

⁶⁷USCIS. “Number of Form I-914 Application for T Nonimmigrant Status by Fiscal Year, Quarter, and Case Status.” *U.S. Citizenship and Immigration Services*, 2022.

⁶⁸*Ibid.*

⁶⁹Betancourt, Sarah, and Jenifer B. McKim. “For Labor Trafficked Immigrants, T-Visas Are a Life-Saving but Flawed Relief.” *GBH*, GBH News Center for Investigative Reporting, 24 Oct. 2022.

awareness in identifying victims of human trafficking.⁷⁰ Some police agencies may be concerned that providing a declaration or certification for a T-Visa could put them at risk of liability if the applicant remains in the country and commits a serious crime. This fear is unfounded, since signing a declaration does not grant immigration relief or legal status to the applicant.⁷¹ Moreover, officers who serve local municipalities may view the T-Visa program as a federal responsibility. Contrary to these beliefs, local police play an important role in the T-Visa application process, because their provision of declarations for T-Visas encourage victims to come forward and assist with the investigation and prosecution of human traffickers.⁷² Additionally, human trafficking can be uniquely difficult to identify, because cases often resemble other crimes, such as domestic violence, sexual assault, and/or wage theft. It is important that officers understand how to distinguish human trafficking from other crimes so that they can direct eligible victims to the T-Visa program.

Third, in order to receive a T-Visa, trafficking victims must first contact law enforcement. This requirement leads to its own set of problems. Once contact has been initiated, officials must determine whether the person was actually a victim.⁷³ The burden of proof is on the victim, and escaped survivors are not always able to prove their story, especially when their trafficker has not yet been investigated by authorities. According to expert Dina Haynes in her analysis entitled “Used, Abused, Arrested and Deported: The Case for Extending Immigration Benefits to Protect Victims of Trafficking and Secure Prosecution of Traffickers,” “[if] law enforcement officials decide not to speak with the victim, decide not to initiate an investigation, or decide not to

⁷⁰ Sloan, Madeline. *T Visas Protect Victims of Human Trafficking and Strengthen Community Relationships*. Police Executive Research Forum.

⁷¹ *Ibid.*

⁷² *Ibid.*

⁷³ Trafficking Victims Protection Act, U. S. C. H.R.3244 (2000).

prosecute, the victim may be hard pressed later to meet her burden of proving that she ‘cooperated with law enforcement officials.’”⁷⁴ Simply by beginning the T-Visa application process, victims reveal their illegal status to authorities and put themselves at risk if the application is not approved. In many states, undocumented survivors who fail to receive a T-Visa are treated as criminals, potentially leading to their imprisonment or deportation.⁷⁵

If a trafficking victim meets the first requirement of cooperating with law enforcement, in most cases, they must then aid law enforcement in the investigation and prosecution of their abuser. Over the past few decades, American victims of sexual assault have been granted certain exceptions from such requirements due to the traumatic nature of the crime. Victims who have sustained psychological trauma might be mentally unable to participate as required, and, in some cases, such participation might cause them further harm. While undocumented persons experience the same trauma, some studies suggest that many feel compelled to assist law enforcement in order to gain citizenship.⁷⁶

To resolve this inequality, the option of obtaining a “trauma exception” was made available in 2008. Under the modern rule, a healthcare professional must determine that a victim has suffered severe psychological and/or physical damage as a result of the trafficking for the victim to be granted exempt status. Qualifying symptoms include overwhelming psychological distress, post-traumatic stress disorder, depression, anxiety, significant dissociative reactions, impaired daily functioning, debilitating physical injuries, etc. Though the addition of the trauma exception denotes an effort to rectify problems associated with the requirement to cooperate with

⁷⁴ Haynes, Dina Francesca, “(Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act.” *Georgetown Immigration Law Journal* (Posted 2007, last modified 2013): 23.

⁷⁵ *Id.* at 23-24.

⁷⁶ Chacón, Jennifer M. “Tensions and Trade-Offs: Protecting Trafficking Victims in the Era of Immigration Enforcement.” *University of Pennsylvania Law Review* 158 U. Pa. L. Rev. 1609 (2010).

law enforcement, many still feel that the modern justice system “place[s] pressure on victims to collaborate in prosecution efforts in exchange for their own classifications as crime victims rather than criminals.”⁷⁷

Not all perspectives on the T-Visa program are negative. Experts on the law enforcement side feel that the process is both fair and essential to effectively combating human trafficking.⁷⁸ High ranking federal agents have stated that, in their experience, the requirement to cooperate with law enforcement is not overly invasive or burdensome to victims.⁷⁹ Successful prosecution in trafficking cases relies heavily on victim testimony. Therefore, many maintain that the T-Visa application requirements are necessary to reduce trafficking as a whole.

4. Issues in Past and Current Policy

a) Misidentification and Criminalization of Trafficking Victims

Although the TVPRA offers a comprehensive definition of what it means to be a victim of human trafficking, law enforcement often fails to accurately identify victims as such. According to the National Institute of Justice, law enforcement personnel lack the training to recognize and adequately identify victims of human trafficking.⁸⁰ The nature of the crime further complicates identification such that officers often struggle to distinguish human trafficking from other offenses, such as prostitution or labor offenses.^{81, 82} Thus, without clear proof of victimhood

⁷⁷ Chacón, Jennifer M. “Human Trafficking, Immigration Regulation, and Sub-Federal Criminalization.” *New Criminal Law Review*, vol. 20 (2017): 124.

⁷⁸ Rogers, Dave. Interview with Alexandra Harten. (2019).

⁷⁹ *Ibid.*

⁸⁰ National Institute of Justice. “Gaps in Reporting Human Trafficking Incidents Result in Significant Undercounting.” National Institute of Justice, 4 Aug. 2020.

⁸¹ *Ibid.*

⁸² Shanish, Aloor and Gaines, Yvette. Interview with Alexandra Harten. (2024).

status, law enforcement agents are often more likely to deem someone an illegal worker or prostitute than to certify them as a victim of human trafficking.⁸³ Due to the nature of the crime, however, many victims find producing evidence of their situation difficult to impossible.

Despite popular misconceptions, not all trafficking victims are brought into the U.S. against their will. Many victims freely consent to be smuggled across the border in hope of a better life, only to be forced into human trafficking once they arrive. Though such persons have knowingly committed a migration crime, their standing as illegal immigrants does not and should not negate their status as victims of human trafficking. However, the political spotlight on immigration enforcement leads legislators and law enforcement officers to try and distinguish victims who voluntarily contracted to cross the border from those who were brought into the United States against their will.⁸⁴ As a result, despite having been exploited through force, fraud, or coercion, many human trafficking victims are deemed criminals themselves.^{85, 86} Misidentified or criminalized victims lack the protections and aid of the TVPRA, leaving them open to detention, prosecution, and further exploitation.

b) Criminal Prosecution vs. Victim Protection Models

Anti-trafficking legislation generally favors one of two models: criminal prosecution-based policy or victim protection-based policy. Historically, federal law and many states' laws tend to lean toward the former. While the TVPRA includes provisions designed to

⁸³ Haynes, Dina Francesca, "(Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act." *Georgetown Immigration Law Journal* (Posted 2007, last modified 2013): 7.

⁸⁴ Chacón, Jennifer M. "Tensions and Trade-Offs: Protecting Trafficking Victims in the Era of Immigration Enforcement." *University of Pennsylvania Law Review* 158 U. Pa. L. Rev. 1609 (2010): 1612.

⁸⁵ *Id.* at 1609-1653.

⁸⁶ Haynes, Dina Francesca, "(Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act." *Georgetown Immigration Law Journal* (Posted 2007, last modified 2013): 1-31.

aid and protect trafficking victims, American policy surrounding the issue still favors a prosecution-centered approach. The TVPRA strengthens law enforcement tools to investigate and prosecute traffickers while strongly encouraging victim cooperation, which can put victims who fear retaliation or re-victimization in a difficult position.⁸⁷

Criminal prosecution models aim to reduce trafficking by catching and punishing those who perpetuate the industry. Such policies focus on jailing traffickers, and they maintain that strict law enforcement will dissuade others from participating in illicit activities. In the United States, the crimes of illegal immigration and racketeering are used by law enforcement as a handle for human trafficking investigations and prosecutions.⁸⁸ Substantial, strongly worded policy exists to effectuate success in these areas. While victim protection policies are also in place, they exist to a lesser extent, especially with regard to undocumented victims. As a result, criminal prosecution is regularly elevated above the protection of victims who lack citizenship status.^{89, 90}

In a system that does not prioritize undocumented victim protection over prosecution, law enforcement is more likely to pursue easier convictions such as prostitution, illegal immigration, and unauthorized labor rather than difficult trafficking cases that can require international effort.

⁹¹ This further exacerbates the problem of victim criminalization. Models that fail to prioritize protection can inadvertently lead to the opposite of their intended effect. Policies that create a

⁸⁷ Trafficking Victims Protection Reauthorization Act, U.S.C. S.920 (2023).

⁸⁸ Haynes, Dina Francesca. "Used, Abused, Arrested and Deported: Extending Immigration Benefits to Protect the Victims of Trafficking and to Secure the Prosecution of Traffickers." *Human Rights Quarterly* 26, no. 2 (2004): 3.

⁸⁹ *Ibid.*, 1-46.

⁹⁰ Garvin, Meg, et al. "Justice for Undocumented Immigrants Must Include Privacy Protection – NCVLI." National Crime Victim Law Institute, 7 May 2024.

⁹¹ *Id.* at 17.

hostile environment for victims discourage them from voluntarily coming forward with information or testimony against their trafficker, hurting prosecutorial efforts.⁹²

While victim protection models also strive to lock up traffickers, victim aid is the primary goal. Unlike most prosecution-based policies, in victim protection models, noncitizens are not compelled to work with law enforcement in order to receive help in the form of social services, protection, legal assistance, etc.⁹³ Proponents of victim protection models assert that providing a secure environment for trafficking victims empowers witnesses to come forward with information and testimony. Policies with a strong central focus on human rights are widely supported by NGOs, international governmental organizations (IGOs), and the United Nations.

Although current U.S. policy still leans toward the prosecution-centered model, modern human trafficking legislation has tried to incorporate a more victim-centered approach.⁹⁴ Reauthorized versions of the TVPRA since 2013 have established new victim aid programs and strengthened existing programs.^{95, 96, 97, 98, 99, 100} Federal initiatives like the Enhanced Collaborative Model Task Force help communities adopt victim protection and assistance policies, educate officials on identifying trafficking victims, and coordinate investigations and prosecution with higher levels of government.¹⁰¹ Moreover, state and local initiatives like the San Diego Human

⁹² United Nations. Human Rights Council. Office of the High Commissioner. *Report of the Special Rapporteur on violence against women, its causes and consequences*. Geneva: UN Human Rights Council.

⁹³ Haynes, Dina Francesca. "Used, Abused, Arrested and Deported: Extending Immigration Benefits to Protect the Victims of Trafficking and to Secure the Prosecution of Traffickers." *Human Rights Quarterly* 26, no. 2 (2004): 24-25.

⁹⁴ "A Framework for Balancing Prosecution, Prevention, and Victim Protection Priorities in Criminal Justice Systems." *United States Department of State, Office to Monitor and Combat Trafficking in Persons*, June 2024.

⁹⁵ U.S. Department of State, "Trafficking in Persons Report 2018" (June 2018).

⁹⁶ U.S. Department of State, "Trafficking in Persons Report 2019" (June 2019).

⁹⁷ U.S. Department of State, "Trafficking in Persons Report 2020" (June 2020).

⁹⁸ U.S. Department of State, "Trafficking in Persons Report 2021" (June 2021).

⁹⁹ U.S. Department of State, "Trafficking in Persons Report 2022" (July 2022).

¹⁰⁰ U.S. Department of State, "Trafficking in Persons Report 2023" (June 2023).

¹⁰¹ U.S. Department of State, "Trafficking in Persons Report 2018" (June 2018).

Trafficking Task Force collaborate with both federal agencies and state law enforcement agencies while promoting a victim protection-oriented approach. Though the real-world application of some policies, particularly at the federal level, may not be entirely successful (to be later discussed), victim protection in anti-trafficking law has greatly improved in the last two decades.

B. THE RELATIONSHIP BETWEEN IMMIGRATION POLICY AND HUMAN TRAFFICKING

Human trafficking is an international industry, therefore, immigration policy can affect the success of anti-trafficking laws with regard to both victim protection and criminal prosecution. The TVPRA's provisions aimed at protecting undocumented victims are naturally at odds with policies designed to enforce immigration law.¹⁰² As a result of these competing interests, humanitarian objectives can fall to the wayside.¹⁰³ In addition to hindering victim protection measures, stricter immigration policy can unintentionally increase human trafficking.

According to the Global Commission on International Migration, higher levels of immigration restriction and border control can result in the development of more sophisticated criminal trafficking organizations.¹⁰⁴ These organized crime rings replace small smuggling operations that are no longer capable of meeting demand in a high risk environment.¹⁰⁵ Large scale criminal networks are more equipped to successfully exploit immigrants for trafficking once they have crossed the border.

¹⁰² Chacón, Jennifer M. "Tensions and Trade-Offs: Protecting Trafficking Victims in the Era of Immigration Enforcement." *University of Pennsylvania Law Review* 158 U. Pa. L. Rev. 1609 (2010).

¹⁰³ *Id.* at 1609-1610.

¹⁰⁴ United Nations. Global Commission On International Migration (GCIM). *Migrations in an interconnected world: New directions for action: Report of the Global Commission on International Migration*. Geneva: The Global Commission on International Migration, October 2005.

¹⁰⁵ *Ibid.*

Furthermore, stricter immigration policy makes immigrants more likely to seek out smugglers for assistance crossing the border.¹⁰⁶ This leaves them more vulnerable to exploitation upon their arrival to the United States. Immigrants who enter into contractual agreements with smuggling operations are often forced into sex work and/or unpaid labor as a means to pay off their debt, transforming a voluntary smuggling agreement into a forced trafficking situation.¹⁰⁷ Even with victim protection laws in place, lack of citizenship poses a multitude of problems for both current and former victims of human trafficking.

1. Victim Compulsion and the Use of Citizenship Status As a Tool for Trafficking

Substantial data confirms the relationship between rigid immigration policy and reporting on crime. Undocumented citizens are far less likely to approach law enforcement with information or call for help when they fear that revealing their citizenship status will result in their own arrest or deportation.^{108, 109} This creates a chilling effect that proves harmful to society on multiple fronts.

Trafficking organizations use fear of deportation as a primary means of maintaining control over enslaved persons.¹¹⁰ Criminal trafficking rings can intimidate victims into working for free, enduring extreme abuse, and even committing other crimes on behalf of the organization

¹⁰⁶ American Immigration Council. “Beyond a Border Solution: How to Build a Humanitarian Protection System That Won’t Break.” *American Immigration Council*, 2 May 2023.

¹⁰⁷ Chacón, Jennifer M. “Tensions and Trade-Offs: Protecting Trafficking Victims in the Era of Immigration Enforcement.” *University of Pennsylvania Law Review* 158 U. Pa. L. Rev. 1609 (2010).

¹⁰⁸ Burnet, John, *New Immigration Crackdowns Creating 'Chilling Effect' On Crime Reporting*. NPR Morning Edition. May 25, 2017. Washington, D.C.: National Public Radio, Inc.

¹⁰⁹ American Civil Liberties Union (ACLU). “New ACLU Report Shows Fear of Deportation is Deterring Immigrants From Reporting Crimes.” *ACLU*. Last modified May 3, 2018.

¹¹⁰ Chacón, Jennifer M. “Tensions and Trade-Offs: Protecting Trafficking Victims in the Era of Immigration Enforcement.” *University of Pennsylvania Law Review* 158 U. Pa. L. Rev. 1609 (2010).

by threatening to expose them as illegal aliens.¹¹¹ Even with state sanctuary provisions in place, such as those enacted in California (later described), many victims feel as though they can neither escape their situation nor contact law enforcement for assistance without risking deportation to the country from which they fled.¹¹² Therefore, increasingly strict immigration enforcement can unintentionally perpetuate the practice of human trafficking.

This chilling effect also applies to formerly trafficked persons. Once an undocumented victim has escaped their situation, they are significantly less likely to voluntarily contact the police with information or testimony against their trafficker if they fear that exposing their citizenship status will result in deportation.¹¹³ Public crackdowns on illegal immigration intimidate undocumented persons, often causing the crimes committed against them to go unreported.¹¹⁴ Accordingly, immigration policy that fails to adequately protect victims who come forward from criminalization reduces law enforcement's ability to investigate and prosecute dangerous criminals.¹¹⁵

C. IMMIGRATION POLICY UNDER THE TRUMP ADMINISTRATION

While the aforementioned difficulties in collecting accurate data on human trafficking make it hard to determine what percentage of victims are undocumented, available research

¹¹¹ Clawson, Heather, et al. "Human Trafficking into and within the United States: A Review of the Literature." *Office of the Assistant Secretary for Planning and Evaluation, ASPE*, 29 Aug. 2009.

¹¹² Haynes, Dina Francesca, "(Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act." *Georgetown Immigration Law Journal* (Posted 2007, last modified 2013): 4.

¹¹³ *Representing Immigrant Survivors of Human Trafficking: T Nonimmigrant Status ("T Visa") Training Manual*. National Immigrant Justice Center, Dec. 2022.

¹¹⁴ American Civil Liberties Union (ACLU). "New ACLU Report Shows Fear of Deportation is Deterring Immigrants From Reporting Crimes." *ACLU*. Last modified May 3, 2018.

¹¹⁵ *Ibid.*

suggests that a significant number of trafficked persons are not United States citizens.¹¹⁶ Polaris found that between 2015 and 2018, approximately 52% of trafficking victims whose immigration status was known were not natural citizens or legal permanent residents.¹¹⁷ Moreover, in fiscal year 2022, the U.S. Department of Health and Human Services issued 731 certification letters to foreign national adults who were victims of human trafficking.¹¹⁸ Given the aforementioned difficulties associated with receiving certification letters, this suggests that a substantially larger number of undocumented persons fell victim to domestic trafficking schemes that year. Because many illegal immigrants purposely avoid government interaction, it is likely that several thousand undocumented victims are currently being trafficked within the United States.

Immigration policy can substantially affect the degree to which undocumented persons benefit from trafficking victim protection programs. The fear generated by heightened enforcement activity can have far-reaching effects on both illegal immigrants and their lawfully residing family members. According to a study by Econofact, in 2021, “An estimated 5 million children live[d] with an unauthorized parent, including 4 million citizen children, and research suggests these children are less likely to access needed services and programs when the perceived risk is elevated.” Therefore, recent policy changes and historical trends in immigration enforcement are pertinent to the research at hand.¹¹⁹

1. Political Trends in Immigration Enforcement

¹¹⁶ U.S. Department of Homeland Security. U.S. Citizenship and Immigration Services. *Number of Form I-914, Application for T Nonimmigrant Status by Fiscal Year, Quarter, and Case Status, 2008-2018*. Washington, D.C.: Department of Homeland Security, 2018.

¹¹⁷ “The Latino Face of Human Trafficking and Exploitation in the United States: EXECUTIVE SUMMARY.” *The Polaris Project*.

¹¹⁸ U.S. Department of State, “Trafficking in Persons Report 2023” (June 2023).

¹¹⁹ Watson, Tara. “Immigrant Deportations during the Trump Administration | Econofact.” *EconoFact*, 26 Mar. 2021.

Throughout the modern era, immigration has remained a hot topic issue in American politics. The strength of immigration enforcement policy in any given year can be measured using several factors, including statistics on removals by arresting agency, immigration court removal orders, border apprehensions, government spending on immigration enforcement, and immigrant detention facility populations. Notably, historical deportation numbers peaked during the Obama Administration, with a total of 2.8 million immigrants deported—800,000 more than under the Bush Administration.¹²⁰ However, between 2014 and 2015, Congress and President Obama shifted the focus of immigration enforcement to persons who have been convicted of a crime, posed a danger to society, or have recently crossed the border; as a result, deportation numbers dropped for the first time in nearly a decade.¹²¹

Following the 2016 presidential election, public interest and debate over immigration policy continued to intensify. Throughout his first campaign, President Trump vowed to crack down on illegal immigration by increasing the budget for border security and migrant law enforcement and to deport two to three million undocumented persons, regardless of their criminal history.¹²² Though the Administration failed to meet these goals, President Trump's aggressive narrative on immigration has generated a noticeable impact.

The Trump Administration requested a substantial increase in the budget for immigration enforcement and border security, including an additional \$1.8 billion to ICE and \$2.9 billion to CBP from 2017 to 2018.¹²³ This budget expansion coincided with a rise in personnel in both departments. Additionally, in 2019, President Trump signed legislation enabling more than \$8.6

¹²⁰ Gonzalez-Barrera, *U.S. Immigrant Deportations Fall to Lowest Level Since 2007*.

¹²¹ *Ibid.*

¹²² CNN, "Donald Trump: We need to get out 'bad hombres,'" *YouTube* Video File. October 19, 2016.

¹²³ U.S. Department of Homeland Security. *FY 2018 Budget-in-Brief Fiscal Year 2018*. Washington, D.C.: Department of Homeland Security, 2018.

billion contained in the budget request to be directed towards improving the border wall, including nearly \$1.4 billion in direct funding.¹²⁴

Despite the large fiscal investment in immigration enforcement, President Trump fell significantly short of his deportation goal. In 2016, immigration enforcement agencies removed 333,592 illegal immigrants—approximately 7,000 more than removed during President Obama’s last year in office.¹²⁵ Removals fell to 295,364 in FY 2017 and 256,085 in FY 2018 before undergoing a dramatic increase to 359,885 in FY 2019.¹²⁶

Deviating from President Obama’s initiative to focus deportation efforts on dangerous criminals, Trump signed an executive order on January 25, 2016, directing ICE to remove as many undocumented migrants as possible.¹²⁷ This action led to a substantial increase in non-criminal administrative arrests, with ICE arresting roughly 15,500 persons with no prior criminal charges or convictions for civil violation of immigration law.¹²⁸ Similarly, community arrests of non-criminals rose from 3,970 in FY 2016 to 10,245 in FY 2019.¹²⁹

Moreover, between 2018 and 2019, the number of family unit members removed rose by 110%.¹³⁰ President Trump’s shift in immigration policy during his first term in office is also reflected by demographic statistics on Southwest Border apprehensions. According to the Pew Research Center, there was a major increase in the number of family units apprehended under the

¹²⁴ “President Donald J. Trump Has Secured Critical Funding to Strengthen Our National Defense and Secure Our Borders.” *Archives.gov*, The White House, 19 Dec. 2019.

¹²⁵ “Table 39. Aliens Removed or Returned: Fiscal Years 1892 to 2019 | OHSS | OHSS - Office of Homeland Security Statistics.” *Office of Homeland Security Statistics*, Department of Homeland Security, 2019.

¹²⁶ *Ibid.*

¹²⁷ Bialik, Kristen. “ICE arrests went up in 2017, with biggest increases in Florida, northern Texas, Oklahoma.” *FACTANK News In The Numbers*. Pew Research Center. Last modified February 8, 2018.

¹²⁸ U.S. Department of Homeland Security. U.S. Immigration And Customs Enforcement. *Fiscal Year 2017 ICE Enforcement and Removal Operations Report*. Washington, D.C.: Department of Homeland Security, Last modified December 13, 2017.

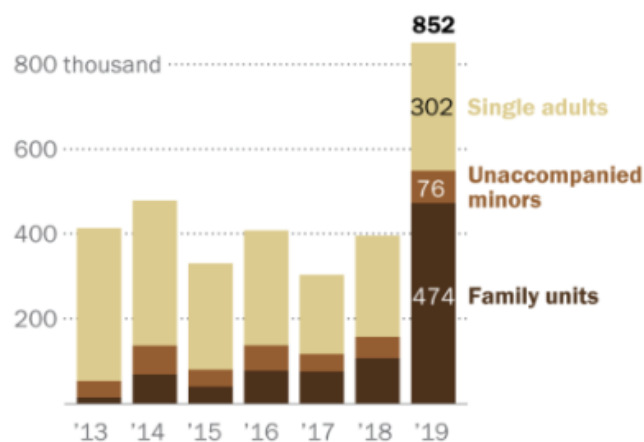
¹²⁹ Watson, Tara. “Immigrant Deportations during the Trump Administration | Econofact.” *EconoFact*, 26 Mar. 2021

¹³⁰ “ICE Details How Border Crisis Impacted Immigration Enforcement in FY 2019.” *U.S. Citizenship and Immigration Services* (2019).

first Trump Administration compared to the Obama Administration.¹³¹ *Figure C* shows the number of Southwest Border apprehensions by category between 2013 and 2019.¹³²

Southwest border apprehensions more than doubled in 2019, driven by increase in families

Apprehensions at U.S.-Mexico border, by fiscal year and type



Note: "Family units" refers to the number of people traveling in families.

Source: U.S. Customs and Border Protection.

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Figure C

Furthermore, the average daily population of immigrants held in federal detention facilities nearly doubled between the end of the Obama Administration and the end of the Trump Administration, rising from 28,449 detained persons to 50,165 detained persons between 2015 and 2019.¹³³ *Figure D* shows the trend in immigrant detention center populations from 1994 to 2019 according to data from the Center for Migration Studies and the 2019 ICE Enforcement and Operations Report.

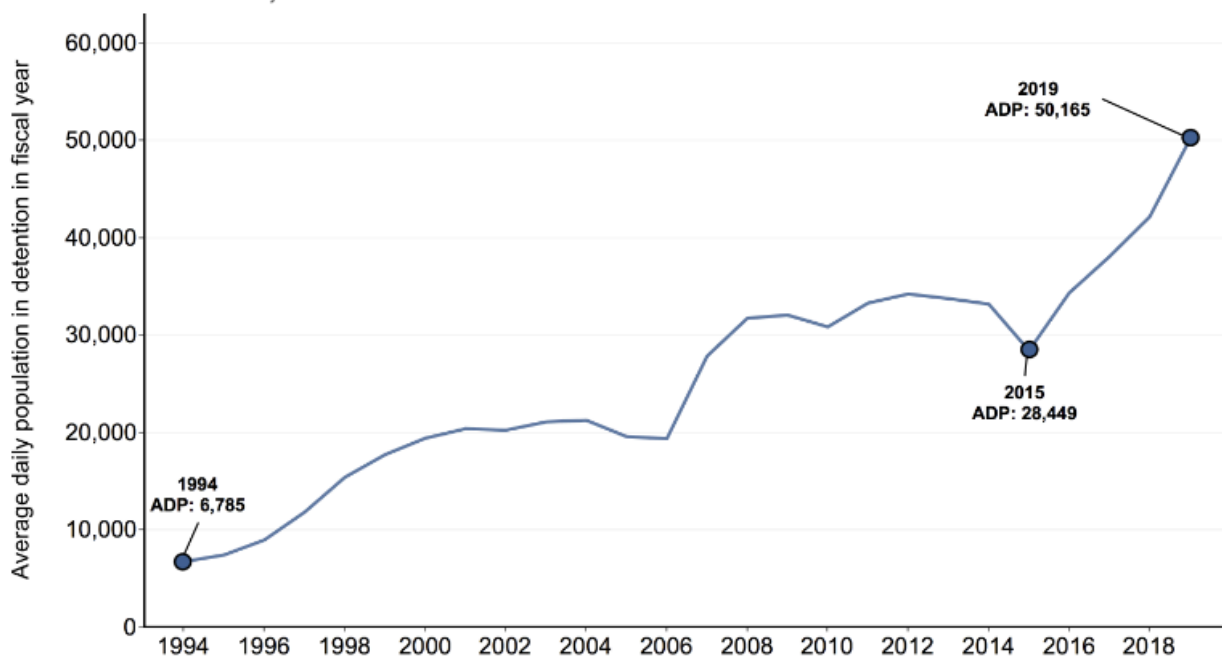
¹³¹ Gramlich, John, and Alissa Scheller. "What's Happening at the U.S.-Mexico Border in 7 Charts." *Pew Research Center*, 9 Nov. 2021.

¹³² *Ibid.*

¹³³ Watson, Tara. "Immigrant Deportations during the Trump Administration | Econofact." *EconoFact*, 26 Mar. 2021.

IMMIGRANTS HELD IN DETENTION

DAILY AVERAGE, FISCAL YEARS 1994 TO 2019



Note: Average daily population in detention is abbreviated as ADP.

Source: Center for Migration Studies and ICE Enforcement and Operations Report 2019

EconoFact econofact.org

Figure D

Removals fell sharply during the Biden Administration, however, this decline was likely due to a combination of factors, including changes to immigration policy and the effects of lockdown protocols during the COVID-19 pandemic. *Figure E* shows the number of persons removed by arresting agency from 2015 to early 2024.¹³⁴ As stated below, United States Customs and Border Protection (CBP) enforces immigration laws at the border, while United States Immigration and Customs Enforcement (ICE) typically enforces immigration laws in the U.S. interior.

¹³⁴ Bush-Joseph, Kathleen. “The Biden Administration Is on Pace to Match Trump Deportation Numbers—Focusing on the Border, Not the U.S. Interior.” *Migrationpolicy.org*, Migration Policy Institute, 25 June 2024

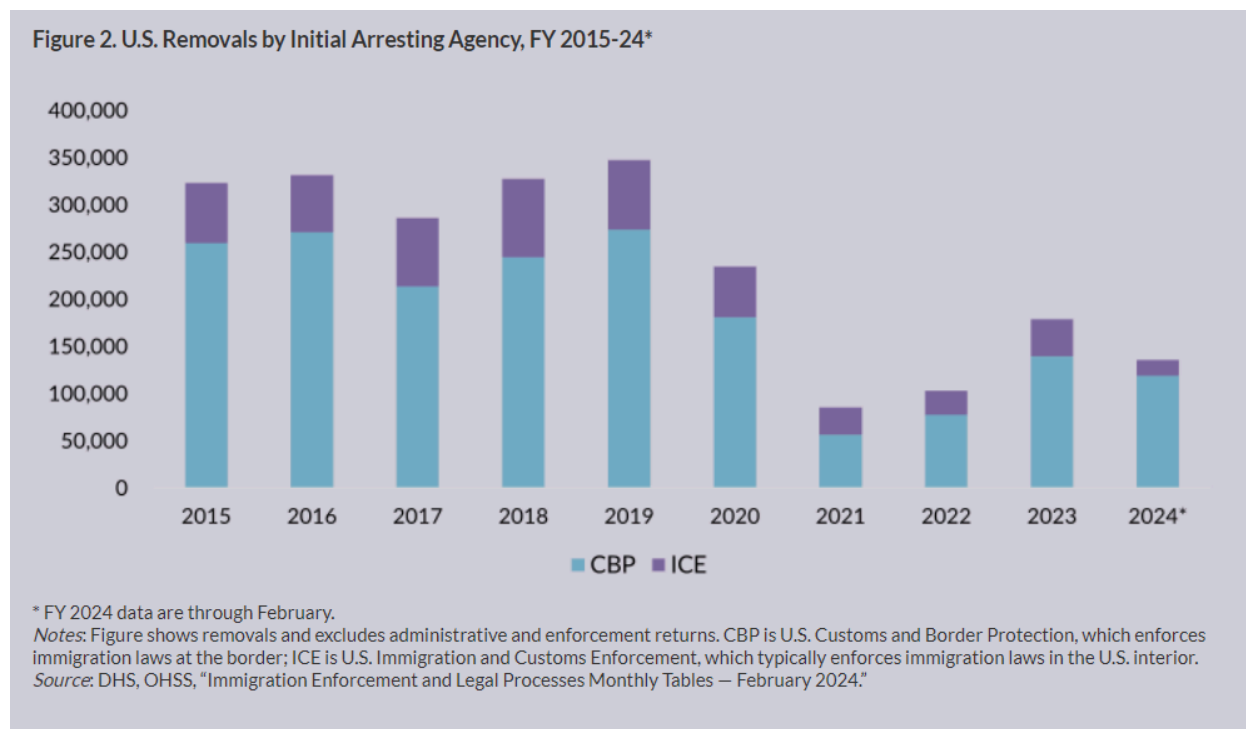


Figure E

Between 2015 and 2019, data from the Migration Policy Institute shows a fluctuation between roughly 250,000 and 350,000 combined removals annually.¹³⁵ The total number of CBP and ICE removals peaked during the height of the Trump Administration in 2019. The start of the COVID-19 pandemic in 2020 marked a steep drop in combined removals. Removals grew steadily from the start of the Biden Administration between 2021 and 2023, reaching a term peak of just under 200,000.¹³⁶

Moreover, statistics from immigration court proceedings reveal a sharp increase in removal orders starting at the beginning of President Trump's first term in 2016, followed by a

¹³⁵ *Ibid.*

¹³⁶ *Ibid.*

steep drop in removal orders when President Biden took office in 2020.¹³⁷ *Figure F* illustrates the shift in policy as evidenced by immigration removal orders between 1998 and 2023.¹³⁸

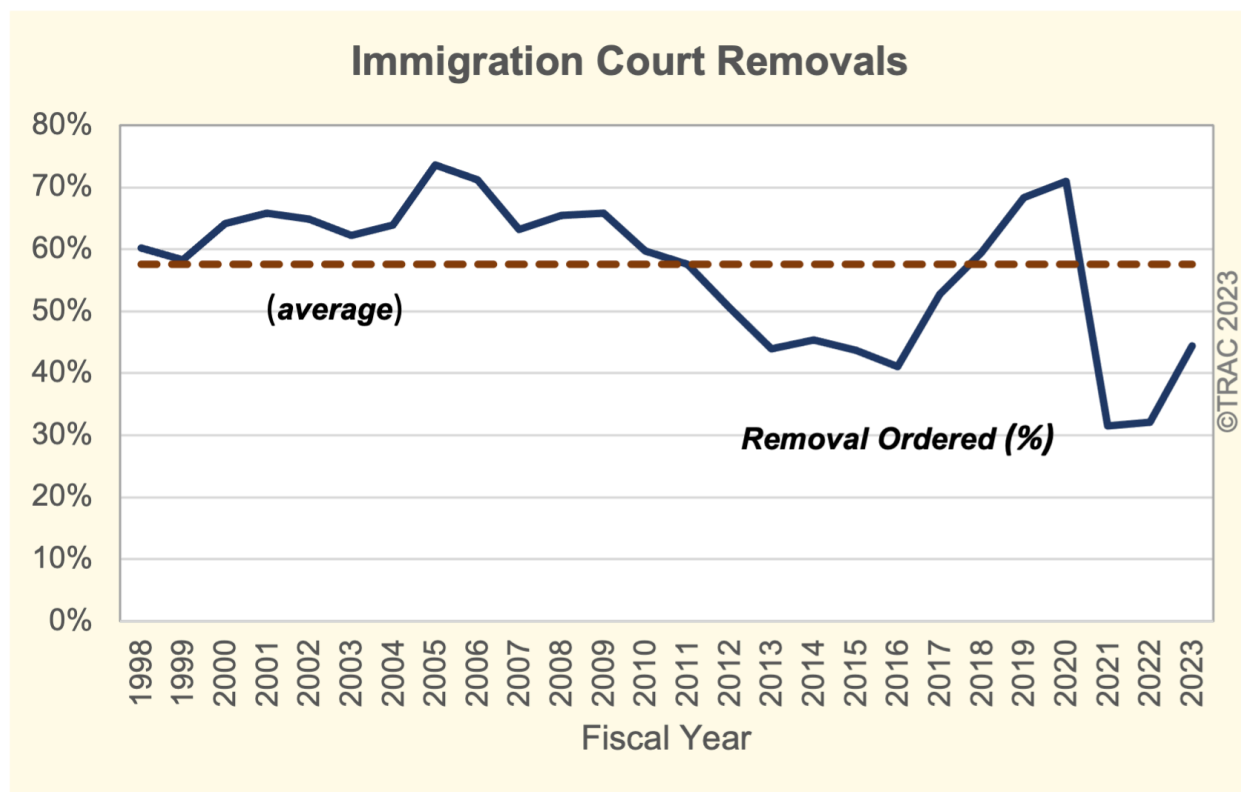


Figure F

Overall, comparative data indicates a tightening of immigration policy that lasted through the first Trump Administration, followed by a shift to reduced focus on immigration during Biden Administration (although data on removals and apprehensions between 2021 and 2023 may be skewed due to the effects of the COVID-19 pandemic).

2. Projected Changes to Federal Immigration Policy

¹³⁷ “25 Years of Immigration Court Decisions.” *Trac.syr.edu*, TRAC Immigration, 9 Mar. 2023.

¹³⁸ *Ibid.*

During President Trump's second term, significant shifts in United States immigration policy are anticipated, focusing on stricter enforcement and substantial policy changes. Key expected initiatives include mass deportations, the potential end of birthright citizenship, enhanced immigration enforcement, and rollbacks on humanitarian protective measures.

According to Reuters and Politico, President Trump aims to instigate mass detentions and deportations with the goal of deporting all immigrants in the U.S. illegally over his four-year term.^{139, 140} Trump has stated his intention to conduct “the largest domestic deportation operation in American history.”^{141, 142} This could involve increased workplace raids, potentially leading to family separations.^{143, 144, 145} President Trump is expected to sign “a slew of executive actions on his first day as President to ramp up immigration enforcement and roll back signature Biden legal entry programs, a sweeping effort that will be led by incoming ‘border czar’ Tom Homan and other Republican immigration hardliners, three sources familiar with the matter told Reuters.”¹⁴⁶ These actions would give federal immigration officers more latitude to arrest people with no criminal records and may involve utilizing expedited removal processes, deploying military resources to the Southwest border, and establishing large-scale detention facilities.¹⁴⁷

¹³⁹ Hesson, Ted. “Trump Aims to Deport All Immigrants in the US Illegally.” *Reuters*, 8 Dec. 2024.

¹⁴⁰ Ward, Myah, and Betsy Woodruff Swan. “Immigrant Advocates Get Ready for Another 4 Years of Battle.” *POLITICO*, Politico, 7 Nov. 2024.

¹⁴¹ Jacobson, Louis, and Amy Sherman. “What Are Donald Trump’s Plans for His Second Term?” *Politifact*, 13 Nov. 2024.

¹⁴² Quill, John F. “President Trump Redux – Potential Impacts on the Immigration Landscape.” *Mintz.com*, Mintz, 15 Nov. 2024

¹⁴³ Pillai, Drishti, and Samantha Artiga. “Expected Immigration Policies under a Second Trump Administration and Their Health and Economic Implications | KFF.” *KFF*, 20 Nov. 2024

¹⁴⁴ TIME Staff. “Read the Full Transcripts of Donald Trump’s Interviews with TIME.” *TIME*, TIME Magazine, 30 Apr. 2024.

¹⁴⁵ Jacobson, Louis, and Amy Sherman. “What Are Donald Trump’s Plans for His Second Term?” *Politifact*, 13 Nov. 2024.

¹⁴⁶ Hesson, Ted. “Trump’s Day One: Deportations, Border Wall, Scrapping Biden Humanitarian Programs.” *Reuters*, Reuters, 12 Nov. 2024

¹⁴⁷ Hesson, Ted. “Trump Aims to Deport All Immigrants in the US Illegally.” *Reuters*, 8 Dec. 2024.

Furthermore, President Trump intends to end birthright citizenship for children born in the United States to undocumented parents, potentially through an executive order.¹⁴⁸ This action is expected to face significant legal challenges, as it would reinterpret the 14th Amendment of the U.S. Constitution.¹⁴⁹

The incoming administration also aims to empower local law enforcement, including sheriffs, to act as immigration agents by expanding programs like ICE's 287(g) program.^{150, 151} This reported expansion would revive a task force model which had previously allowed deputies and officers to make immigration stops and arrests.¹⁵² According to ICE's website, 135 agencies in 21 different states have already inked agreements with ICE under 287(g).¹⁵³ This expansion would involve local authorities in immigration enforcement, potentially leading to increased detentions and deportations.

Rollbacks on humanitarian protections are also expected, and further reduced refugee admissions are anticipated to set historically low caps.¹⁵⁴ Moreover, sources indicate that Trump may reinstate the "Remain in Mexico" policy, forcing asylum seekers to wait in Mexico while their cases are processed and potentially exposing them to unsafe conditions.¹⁵⁵ Additionally,

¹⁴⁸ Hackman, Michelle, and Parti Tarini. "Trump Prepares for Legal Fight over His "Birthright Citizenship" Curbs." *WSJ*, The Wall Street Journal, 8 Dec. 2024.

¹⁴⁹ *Ibid*

¹⁵⁰ Taer, Jennie, and Emily Crane. "Trump Plans to Give Local Sheriffs More Power to Act as Immigration Agents amid Mass Deportation Crackdown." *New York Post*, 29 Nov. 2024

¹⁵¹ Calvert, Scott, and Michelle Hackman. "The Local Sheriffs Gearing up to Help Trump Carry out Mass Deportations." *WSJ*, The Wall Street Journal, 29 Nov. 2024

¹⁵² Taer, Jennie, and Emily Crane. "Trump Plans to Give Local Sheriffs More Power to Act as Immigration Agents amid Mass Deportation Crackdown." *New York Post*, 29 Nov. 2024

¹⁵³ *Ibid*.

¹⁵⁴ Pillai, Drishti, and Samantha Artiga. "Expected Immigration Policies under a Second Trump Administration and Their Health and Economic Implications | KFF." *KFF*, 20 Nov. 2024

¹⁵⁵ *Ibid*.

multiple sources anticipate increased scrutiny of visa applications, leading to more Requests for Evidence (RFEs) and longer processing times.^{156, 157}

Based on analysis of over 20 independent sources, U.S. immigration policy is expected to become significantly more restrictive and enforcement-focused under Trump's second term. Research indicates that Trump intends to reduce both legal and humanitarian immigration while increasing deportations. These proposed policies are expected to encounter legal challenges and have significant social and economic implications, including potential human rights concerns. The administration's approach indicates a stringent stance on immigration, aiming to reshape the current system through executive actions and legislative efforts.

3. California Statutory Authority on Human Trafficking and Immigration

In light of past and predicted changes to federal policy, California has implemented robust statutory provisions aimed at protecting undocumented victims of human trafficking from removal and criminalization via the criminal code, civil code, and government code. These measures may help reduce the negative effects of the anticipated policy reform described above. For instance, California Evidence Code § 351.4 prohibits disclosure of a person's immigration status in open court unless deemed admissible by a judge after an in-camera hearing, with exceptions for proving offense elements, discovery, or voluntary disclosure.¹⁵⁸

Moreover, California Penal Code, Part 1, Title 8, §§ 236 - 237 and California Government Code, Title 1, Division 7, Chapter 17.25, § 7284.6 provide instruction as to what

¹⁵⁶ Reiff, Laura Foote, and Rebecca B. Schechter. "Potential Immigration Policies in a Second Trump Administration | Insights | Greenberg Traurig LLP." *Gtlaw.com*, Greenberg Traurig, 2024

¹⁵⁷ Moodie, Alison. "Trump Immigration Policy in a Second Term: What Families and Employers Need to Know." *Boundless*, 3 Dec. 2024.

¹⁵⁸ "California Evidence Code, Section 351.4 - in Civil Action Evidence of Immigration Status Not to Be Disclosed in Open Court, Cal. Evid. Code § 351.4" *Casetext.com*, 2023.

law enforcement agencies can and cannot do regarding encounters with potentially undocumented persons who may be victims of human trafficking. Section 236.2 of the former states:

Law enforcement agencies shall use due diligence to identify all victims of human trafficking, regardless of the citizenship of the person. When a peace officer comes into contact with a person who has been deprived of his or her personal liberty, a minor who has engaged in a commercial sex act, a person suspected of violating subdivision (a) or (b) of Section 647, or a victim of a crime of domestic violence or sexual assault, the peace officer shall consider whether the following indicators of human trafficking are present:

- (a) Signs of trauma, fatigue, injury, or other evidence of poor care.
- (b) The person is withdrawn, afraid to talk, or his or her communication is censored by another person.
- (c) The person does not have freedom of movement.
- (d) The person lives and works in one place.
- (e) The person owes a debt to his or her employer.
- (f) Security measures are used to control who has contact with the person.
- (g) The person does not have control over his or her own government-issued identification or over his or her worker immigration documents.¹⁵⁹

The latter provides, in part, that California law enforcement agencies shall not “use agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes,” including “inquiring into an individual’s immigration status.”¹⁶⁰ Furthermore, section 7284.6 of the California Government Code expressly states that California law enforcement agencies are *not* prevented from participating in joint law enforcement task forces that share information (so long as the primary purpose of the task force is not immigration enforcement) or making inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T-Visa.¹⁶¹

¹⁵⁹ “California Penal Code, Section 236.2.” *Ca.gov*, California Legislative Information, 2024.

¹⁶⁰ “California Government Code, Section 7284.6.” *Ca.gov*, California Legislative Information, 2017.

¹⁶¹ *Ibid.*

While these provisions have helped to create a safer environment in which victims of human trafficking can feel comfortable contacting law enforcement, according to anecdotal evidence, many officers remain unaware (at least in part) of their obligations under the above-described statutes.¹⁶² Educating law enforcement officers on the technical and real-world application of such provisions is essential to maintaining California's position as a sanctuary state in light of anticipated changes to federal policy.

Accordingly, California has made commendable efforts to improve training and education on human trafficking. The California Code of Regulations, Title 11, Division 2, Article 3, § 1081 outlines the minimum standards for human trafficking training for law enforcement officers, including the dynamics of human trafficking, identifying victims, and appropriate investigative techniques.¹⁶³ Specifically, pursuant to Cal. Pen. Code 13519.14, officers assigned field or investigative duties related to human trafficking complaints shall complete a minimum of a two hours training course within six months of being assigned to that position.¹⁶⁴ The course includes training on:

- (1) The Dynamics and Manifestations of Human Trafficking
- (2) Identifying and Communicating with Victims
- (3) Providing Documentation that Satisfy the Law Enforcement Agency Endorsement Required by Federal Law
- (4) Collaboration with Federal Law Enforcement Officials
- (5) Therapeutically Appropriate Investigative Techniques
- (6) The Availability of Civil and Immigration Remedies and Community Resources
- (7) Protection of the Victim¹⁶⁵

¹⁶² Shanish, Aloor and Gaines, Yvette. Interview with Alexandra Harten. (2024).

¹⁶³ "California Code of Regulations, Title. 11, § 1081 - Minimum Standards for Legislatively Mandated Courses." *Legal Information Institute*, Cornell Law, 2023.

¹⁶⁴ "California Penal Code, Section 13519.14(a)." *Ca.gov*, California Legislative Information (2024).

¹⁶⁵ "California Code of Regulations, Title. 11, § 1081 - Minimum Standards for Legislatively Mandated Courses." *Legal Information Institute*, Cornell Law, 2023.

Notably, this course is only mandatory for officers assigned to handle human trafficking complaints. Thus, participation is voluntary for the majority of law enforcement officers.¹⁶⁶

California has also taken steps to provide training and raise public awareness in industries commonly associated with higher levels of human trafficking. California Government Code, Title 2, Division 3, Part 2.8, Chapter 6, Article 1, § 12950.3, requires that hotels and motels provide at least 20 minutes of human trafficking awareness training to employees who are likely to interact with victims of human trafficking.¹⁶⁷ This training must be given every two years and within six months of employment for new employees in relevant roles.¹⁶⁸ Under Cal. Gov. Code § 12950.6, training must cover specific topics such as the definition of human trafficking, identifying at-risk individuals, the difference between labor and sex trafficking in the hotel sector, guidance on reporting, and contact information for relevant agencies.¹⁶⁹ Generally, Cal. Gov. Code § 12950.6 applies in the context of sex trafficking.¹⁷⁰

Additionally, Assembly Bill 1740 (Sanchez) was enacted in 2023, amending Cal. Civ. Code § 52.6, to expand notice and training requirements for other industries deemed “high risk” for both sex and labor trafficking. AB 1740 (Sanchez) requires that specified businesses to post notice related to slavery and human trafficking, including: on-sale general public premises licensees under the Alcoholic Beverage Control Act; adult or sexually oriented businesses; primary airports; intercity passenger rail or light rail stations; bus stations; truck stops; emergency rooms within general acute care hospitals; urgent care centers; facilities that provide

¹⁶⁶ *Ibid.*

¹⁶⁷ “California Government Code, Section 12950.3.” *Ca.gov*, California Legislative Information, 2019.

¹⁶⁸ *Ibid.*

¹⁶⁹ *Ibid.*

¹⁷⁰ “California Assembly Bill 1740 (Sanchez): Human trafficking: notice.” *Ca.gov*, California Legislative Information, 2023-2024.

pediatric care; farm labor contractors; privately operated job recruitment centers; roadside rest areas; certain businesses or establishments that offer massage or bodywork services for compensation; hotels, motels, and bed and breakfast inns; and hair, nail, electrolysis, and skin care, and other related businesses.¹⁷¹

This notice includes guidance on how to report human trafficking to national hotlines and local law enforcement agencies. The posted signage must be at least 8½ inches by 11 inches in size, written in a 16-point font in English, Spanish, and (in some counties) one other widely spoken language, and state the following:

If you or someone you know is being forced to engage in any activity and cannot leave--whether it is commercial sex, housework, farm work, construction, factory, retail, or restaurant work, or any other activity--text 233-733 (Be Free) or call the National Human Trafficking Hotline at 1-888-373-7888 or the California Coalition to Abolish Slavery and Trafficking (CAST) at 1-888-KEY-2-FRE(EDOM) or 1-888-539-2373 to access help and services.

Victims of slavery and human trafficking are protected under United States and California law.

The hotlines are:

Available 24 hours a day, 7 days a week.

Toll-free.

Operated by nonprofit, nongovernmental organizations.

Anonymous and confidential.

Accessible in more than 160 languages.

Able to provide help, referral to services, training, and general information.¹⁷²

Moverover, AB 1740 (Sanchez) requires the aforementioned businesses and establishments to “provide at least 20 minutes of training to its new and existing employees who may interact with, or come into contact with, a victim of human trafficking or who are likely to

¹⁷¹ *Ibid.*

¹⁷² *Ibid.*

receive, in the course of their employment, a report from another employee about suspected human trafficking.”¹⁷³ This training includes, but is not limited to, all of the following:

- (1) The definition of human trafficking, including sex trafficking and labor trafficking.
- (2) Myths and misconceptions about human trafficking.
- (3) Physical and mental signs to be aware of that may indicate that human trafficking is occurring.
- (4) Guidance on how to identify individuals who are most at risk for human trafficking.
- (5) Guidance on how to report human trafficking, including, but not limited to, national hotlines (1-888-373-7888 and text line 233733) and contact information for local law enforcement agencies that an employee may use to make a confidential report.
- (6) Protocols for reporting human trafficking when on the job.

Finally, under AB 1740 (Sanchez), “A business or establishment that fails to comply with the requirements of this section is liable for a civil penalty of five hundred dollars (\$500) for a first offense and one thousand dollars (\$1,000) for each subsequent offense.”¹⁷⁴

More than any other state, California has taken legislative steps to prevent human trafficking by implementing protective measures for undocumented persons and providing training, education, and public notice requirements related to anti-trafficking. However, as will be later discussed, the current statutory authority leaves much room for improvement. Broadening educational requirements and enforcing compliance will be essential to maintain the effectiveness of existing state legislation under the second Trump Administration.

¹⁷³ *Ibid.*

¹⁷⁴ *Ibid.*

D. SUMMARY OF KEY LITERATURE

Though data remains weak in the area of human trafficking, all agree that it continues to pose a major problem within the United States. Trafficking equates to a modern form of slavery, threatening the most basic of human rights. Over the last 25 years, policymakers have implemented anti-trafficking legislation in an effort to thwart the industry. Such laws have proven monumental with regard to both victim protection and criminal prosecution, but they are not without their weaknesses. The TVPRA has been reauthorized and amended multiple times with the purpose of addressing unforeseen failings and new challenges, yet, it continues to fall short of adequately protecting undocumented trafficking victims.

While United States anti-trafficking policy accounts for victim protection, American law tends to focus on criminal prosecution. This approach can lead police to pursue easier arrests, discourage undocumented victims from contacting law enforcement, and increase the potential for authorities to misidentify victims as migrant criminals. Furthermore, a prosecution-centered approach can unintentionally strengthen the effectiveness of deportation threats used by traffickers to manipulate their victims into continued slavery. Overall, available literature supports the conclusion that harsher immigration policy may have, in many cases, hindered the success of human trafficking victim protection measures as applied to undocumented persons.

A study of political trends revealed a gradual strengthening of immigration policy up until 2014, when President Obama shifted the goal of law enforcement to focus on deporting dangerous criminals. In the two years following, deportation rates dropped and reporting on crime increased.¹⁷⁵ However, this approach was short-lived. The first Trump Administration

¹⁷⁵ Lopez, Mark Hugo and Gretchen Livingston. "III. Reporting Crimes to the Police." *Pew Research Center, Hispanic Trends*. Last modified April 7, 2009.

promoted heavily prosecutorial immigration reform. Numerous independent sources expect President Trump to strengthen his previous efforts at cracking down on immigration throughout his second term in office, leading to more removals/deportations and fewer humanitarian protections. The following research more closely examines the effects of anticipated policy changes on undocumented victims of human trafficking.

III. RESEARCH METHODOLOGY

As previously discussed, several factors make it difficult to conduct quantitative research on undocumented victims of human trafficking as a subject group. Because trafficking victims make up a transient population, standard methods of gathering information are generally not effective. Existing data on trafficking in the United States comes primarily from nonprofit anti-trafficking organizations and government agencies. Well-known victim aid programs such as the Polaris Project collect robust data on the large number of victims with whom they interact. Additionally, annual government publications such as the *Trafficking in Persons Report* are able to provide statistics based on data collected by federal agencies, law enforcement, and the justice system. However, these figures are limited due to the fact that many victims—especially those who are undocumented—are never identified by an agent of the government. As a result, some publicly issued statistics appear notably small in comparison to the information put forth by private and semi-private anti-trafficking organizations.

Acknowledging these limitations, this argument stems from a synthesis of established scholarly studies and a comparative analysis of trends in available data. Research is primarily supported by personal interviews with authorities in the field. For the purpose of building a well-rounded study, interviews were conducted with high-ranking experts in both the public and

private sector. The goal of this research design was to compile a holistic group of sources, including experts from both major political parties, in both public and private positions, and from both the law enforcement side and the victim protection side of anti-trafficking efforts. Though limited in number, the following sources contribute diverse perspectives on human trafficking in the United States. Several have served in government and worked for NGOs. The below referenced experts are highly knowledgeable on the subject of human trafficking, and their personal experience in the field makes them qualified to testify on behalf of this research.

[*Note: Some of the experts cited hereafter were interviewed when this research commenced in 2019 and were not available for further comment in 2024. With regard to those sources, only general information that remains accurate today has been included in this article.*]

The Honorable Mark P. Lagon (interviewed in 2019 and 2024) was appointed by George W. Bush to serve as the U.S. Ambassador-at-Large and Director of the Office to Monitor and Combat Trafficking in Persons. Following his time in government, Amb. (ret.) Lagon became Executive Director and CEO of the Polaris Project, one of the world's leading anti-trafficking nonprofits. Additionally, he has served as President and CEO of Freedom House, a global human rights organization, and has been published in more than 60 journals, newspapers, and books as an authority on humanitarian issues. He presently works in leadership for Friends of the Global Fight—a nonprofit fighting AIDS, Tuberculosis, and Malaria.

San Diego County District Attorney Summer Stephan (interviewed in 2019 and 2024) has served as District Attorney of the fifth largest county in the United States since 2018. She is President of the National District Attorneys Association and Co-Chair of the National Association of Women Judges Human Trafficking Committee. Prior to her election, DA Stephan acted as Chief of the Sex Crimes and Human Trafficking Division, a special victims unit she spearheaded, and chaired the San Diego County Human Trafficking Advisory Council. In

addition to being named one of the “The Five Best Prosecutors in America” and an “Angel of Anti-Human Trafficking,” DA Stephan has won multiple awards for her extensive anti-trafficking campaigns.

Ashlie Bryant, MPA, (interviewed in 2024) is the founder and CEO of the 3Strands Global Foundation, a nonprofit anti-trafficking organization that mobilizes communities through prevention education and reintegration. Ashlie is the author of a first-of-its-kind human trafficking prevention education bill that became California law in 2018 and has been awarded resolutions for her leadership by both the California Assembly and Senate. She was integral to the development of multiple prevention programs that address the root causes of human trafficking in the United States, including the PROTECT curriculum, the Employ + Empower program, and the Break Free Run program.

Deputy District Attorney Aloor Shanish and San Diego Police Department

Investigator Yvette Gaines (interviewed in 2024) created the Workplace Justice Unit to investigate cases of wage theft and labor trafficking, particularly as they affect undocumented persons. Both DDA Shanish and Investigator Gaines work closely with the San Diego County District Attorney’s Office Human Trafficking Task Force and various non-profits, including the Bilateral Safety Corridor Coalition, which serves immigrants who fall victim to sex and labor trafficking.

Annick Febrey, Esq., (interviewed in 2019) served as Director of Government and Corporate Relations at the Human Trafficking Institute. Prior to this role, she was a senior associate at Human Rights First, a non-profit organization campaigning against human trafficking. She has testified before Congress and has been quoted by multiple news outlets as an

expert in anti-trafficking. Currently, Ms. Febrey serves as Division Chief of Research and Policy in the U.S. Department of Labor's Office of Child Labor, Forced Labor, and Human Trafficking.

Christopher Tenorio, Esq., (interviewed in 2019) served as a Federal Prosecutor for the Department of Justice, Civil Rights Division. During his time as a trial attorney, Mr. Tenorio received the Attorney General's John Marshall Award—the highest award for a federal prosecutor in litigation—for his role in prosecuting the largest modern-day slavery case in the United States at the time. While working as counsel to former Attorney General Eric Holder, Mr. Tenorio oversaw the Civil Rights Division and served in President Clinton's White House Interagency Working Group on Human Rights. Since then, he has continued to prosecute federal trafficking crimes, lead task forces, and teach internationally on the investigation and prosecution of human trafficking cases. He now serves as Deputy Assistant Attorney General for the Office of Immigration Litigation.

Special Agent Dave Rogers (interviewed in 2019) continues to serve as acting Director of Law Enforcement Operations at the Human Trafficking Institute. Prior to his job at the Institute, Special Agent Rogers was the FBI's National Program Manager for Human Trafficking within the Civil Rights Unit, overseeing the FBI's anti-trafficking work across the United States. He also worked as an Advanced Instructor at the FBI Academy in Quantico and now trains specialized units on human trafficking.

In addition to the aforementioned experts, the research design for this study originally included interviews with victims and survivors of human trafficking. Unfortunately, due to issues of privacy and confidentiality, time limitations, and Institutional Review Board approval requirements, such interviews were not possible. Considering that the experience of undocumented victims is a focal point of this thesis, this research was admittedly hindered by an

inability to speak with victims and survivors. Findings are based on data and experience collected by those working in anti-trafficking, which makes this study somewhat one-sided. Without testimony from those who were actually affected by the policies here discussed, these conclusions are limited by the need for further research. Personal testimony on the real-world experiences of undocumented trafficking victims would serve as a valuable addition to future studies in this area.

In summation, supporting evidence to the stated claims derives from official government data, published statistics from private and semi-private organizations, federal legislation and legal code, prior scholarly studies, and testimony from experts in the field.

IV. ANALYSIS

In light of existing data and literature, this study investigates two key issues and proposes changes designed to reduce the inadvertently damaging effects of stringent federal immigration policy on California's anti-trafficking initiatives. First, it examines how the Trump Administration's crackdown on immigration has, and likely will continue to, reduce the ability of anti-trafficking laws to protect undocumented victims. Second, it evaluates the degree to which anti-immigrant rhetoric and public opinion impacts the effectiveness of victim protection measures. Overall, this paper argues that President Trump's plans for harsh immigration reform will prove detrimental to both victim protection and prosecutorial efforts in California.

A. THE RISE OF THE SECOND TRUMP ADMINISTRATION WILL HINDER HUMAN TRAFFICKING VICTIM PROTECTIONS FOR UNDOCUMENTED PERSONS

Immigration policy remains among the most prominent issues of debate in modern politics. As an issue of national importance, policy changes receive scrutiny from the members of the public, press, and law enforcement community. The debate on immigration was particularly high-profile throughout the 2016 presidential election and gained further traction during President Trump's second campaign. A key issue on his platform, Trump promised to crack down on immigration with plans to deport an unprecedented number of illegal aliens.^{176, 177} Though many of the former President's plans never came to fruition during his first term in office, the Trump Administration has vowed to continue making significant efforts to tighten immigration policy. Research strongly suggests President Trump's approach to immigration reform unintentionally reduces the effectiveness of anti-trafficking law in the context of both victim protection and criminal prosecution.^{178, 179}

President Trump's stance on the criminalization of undocumented migrants demonstrably impacts human trafficking victims within the United States. Shortly after taking office in 2016, Trump signed an executive order calling ICE to arrest and remove as many illegal aliens as possible, regardless of their criminal history or lack thereof.^{180, 181} This diverges from policy under the late Obama Administration, which moved to shift law enforcement's focus toward persons convicted of dangerous crimes.¹⁸² Though ICE has never been asked to meet a

¹⁷⁶ CNN, "Donald Trump: We need to get out 'bad hombres,'" YouTube Video File. October 19, 2016.

¹⁷⁷ Jacobson, Louis, and Amy Sherman. "What Are Donald Trump's Plans for His Second Term?" *Politifact*, 13 Nov. 2024.

¹⁷⁸ Abrams, Abigail. "The Horrific Story of One Human-Trafficking Survivor." *TIME*, TIME Magazine, 30 Oct. 2020.

¹⁷⁹ Rotella, Sebastian, and Tim Golden. "Despite Trump's Tough Talk about Migrant Smugglers, He's Undercut Efforts to Stop Them." *ProPublica*, ProPublica, 21 Feb. 2019.

¹⁸⁰ Exec. Order. No. 13768. Fed. Reg. 8799, (January 30, 2017)

¹⁸¹ Pierce, Sarah, Jessica Bolter and Andrew Selee. "Trump's First Year on Immigration Policy: Rhetoric vs. Reality." *Migration Policy Institute (MPI)*. Last Modified January 2018.

¹⁸² Gonzalez-Barrera, Ana, and Mark Hugo Lopez. "U.S. Immigrant Deportations Fall to Lowest Level Since 2007." *FACTANK News In The Numbers*. *Pew Research Center*. Last modified December 16, 2016.

specific arrest quota, the agency's goal under President Trump's leadership is clear: increase the number of undocumented immigrants arrested and removed.¹⁸³ Such a quantity-oriented approach proves harmful to anti-trafficking efforts on several fronts.

Immigration policy that prioritizes arrest numbers can result in a chilling effect that is detrimental to both victim protection and trafficker prosecution endeavors.^{184, 185} The heightened fear of arrest—irrespective of one's status as a law-abiding member of American society—discourages present-day victims from contacting law enforcement to ask for help or report information on crime.¹⁸⁶ During President Trump's first term between 2016 and 2019, reporting on crime decreased, along with the number of undocumented victims who voluntarily sought out authorities.¹⁸⁷ The number of crimes reported by immigrants subsequently rose during the Biden Administration from 10,763 reports in 2021 to 15,267 reports in 2023.¹⁸⁸ These statistics demonstrate that Trump's broad approach to immigration enforcement has intensified—and will likely continue to intensify—the chilling effect, causing harm to both trafficking victims and society as a whole.

Experts on the criminal prosecution side confirm that a strict quantitative approach to immigration enforcement results in a noticeable chilling effect on reported crime. Undocumented persons who believe they will be arrested and/or deported for lack of citizenship are less likely to

¹⁸³ Jacobson, Louis, and Amy Sherman. "What Are Donald Trump's Plans for His Second Term?" *Politifact*, 13 Nov. 2024.

¹⁸⁴ Foer, Franklin. "How Trump Radicalized ICE." *The Atlantic*. September 2018.

¹⁸⁵ Burnet, John, *New Immigration Crackdowns Creating 'Chilling Effect' On Crime Reporting*. NPR Morning Edition. May 25, 2017. Washington, D.C.: National Public Radio, Inc.

¹⁸⁶ Seid, Brianna, et al. "Debunking the Myth of the "Migrant Crime Wave" ." *www.brennancenter.org*, Brennan Center for Justice, 29 May 2024.

¹⁸⁷ Engelbrecht, Cora. "Fewer Immigrants Are Reporting Domestic Abuse. Police Blame Fear of Deportation." *The New York Times*. June 3, 2018.

¹⁸⁸ Mudd, Brian. "How Many Crimes Committed by Illegal Immigrants Go Unreported? | 1290 WJNO | the Brian Mudd Show." *WJNO News Radio*, 25 June 2024.

report a crime.^{189, 190, 191} While it is difficult to collect statistically significant data on the number of crimes that go unreported, anecdotal evidence from law enforcement officers and studies on the chilling effect phenomenon support this assertion. Houston Chief of Police Art Acevedo stated that President Trump's call to federal agents to increase arrests, coupled with the passage of Texas state laws tightening immigration, resulted in a noticeable chilling effect in 2017.¹⁹² Similarly, Special Agent Dave Rogers stated, "When I was in the private sector, and even when I was in the government, I would have undocumented workers tell us that, because of enforcement efforts, they're not willing to seek out benefits available to them under the law."¹⁹³

Furthermore, the elevated pressure on ICE to boost arrest numbers inadvertently incentivizes law enforcement to maximize migrant administrative arrests, reducing the likelihood that individuals will be comprehensively investigated as potential victims of human trafficking. Investigations into trafficking take substantially longer than citizenship determinations, require more resources, and sometimes never result in arrest.¹⁹⁴ Therefore, it is easier to prosecute someone as an unlawful resident than it is to consider them a potential human trafficking victim and move to arrest their trafficker.¹⁹⁵ It is fair to assume that any good officer would not knowingly ignore an apparent case of human trafficking in favor of an easy arrest. However, evidence also supports the conclusion that President Trump's latest call for law enforcement to

¹⁸⁹ Seid, Brianna, et al. "Debunking the Myth of the "Migrant Crime Wave" ." *Www.brennancenter.org*, Brennan Center for Justice, 29 May 2024.

¹⁹⁰ Burnet, John, *New Immigration Crackdowns Creating 'Chilling Effect' On Crime Reporting*. NPR Morning Edition. May 25, 2017. Washington, D.C.: National Public Radio, Inc.

¹⁹¹ Rogers, Dave. Interview with Alexandra Harten. (2019).

¹⁹² Burnet, John, *New Immigration Crackdowns Creating 'Chilling Effect' On Crime Reporting*. NPR Morning Edition. May 25, 2017. Washington, D.C.: National Public Radio, Inc.

¹⁹³ Rogers, Dave. Interview with Alexandra Harten. (2019).

¹⁹⁴ *Ibid.*

¹⁹⁵ *Ibid.*

crackdown on illegal immigration will inadvertently incentivize law enforcement to go for easy administrative arrests in lieu of pursuing lengthy, often dead-end trafficking leads.

While the number of arrests for civil immigration violations grew significantly during Trump's first term in office, the number of human trafficking investigations decreased.¹⁹⁶ In 2017, DHS opened 196 fewer cases involving potential trafficking than in the previous fiscal year.¹⁹⁷ The DOJ saw a slight increase in trafficker convictions, however, 94% of these convictions were for cases of sex trafficking in which the majority of victims were U.S. citizens.¹⁹⁸ Undocumented victims are most commonly trafficked for labor, and cases of labor trafficking are significantly more difficult to identify and prosecute.^{199, 200, 201} Agents directed to focus on migrant administrative arrests risk missing already hard-to-spot labor trafficking schemes.²⁰² This increases the potential for victim criminalization. As a result, undocumented victims will likely be misidentified and arrested as migrant criminals at a higher rate under the incoming Administration.

The first Trump Administration also contributed noticeably less funding towards direct trafficking victim services, including housing and services for minor victims of sex and labor trafficking, while simultaneously increasing funding for immigration enforcement. In 2020, President Trump allocated approximately \$88 million in grants to the Office of Victims of Crime (OVC) to support services for human trafficking victims.²⁰³ This is 13% less than the Biden

¹⁹⁶ U.S. Department of Homeland Security. U.S. Immigration And Customs Enforcement. *Fiscal Year 2017 ICE Enforcement and Removal Operations Report*. Washington, D.C.: Department of Homeland Security, Last modified December 13, 2017.

¹⁹⁷ U.S. Department of State, "Trafficking in Persons Report 2018" (June 2018): 443.

¹⁹⁸ *Id.* at 444.

¹⁹⁹ Rogers, Dave. Interview with Alexandra Harten. (2019).

²⁰⁰ Lagon, Mark. Interview with Alexandra Harten. (2019 and 2024).

²⁰¹ Febrey, Annick. Interview with Alexandra Harten. (2019).

²⁰² *Ibid.*

²⁰³ "Human Trafficking Grants." *Office for Victims of Crime*, United States Department of Justice, (2011 - 2024)..

Administration, which allocated roughly \$101 million in grants to OVC for direct human trafficking victim services in 2024.²⁰⁴ According to experts, the biggest obstacle to the success of anti-trafficking is a lack of funding.^{205, 206} Without federal and state grants, government agencies and nonprofits lack the ability to manage the number of incoming cases and provide adequate translation services.²⁰⁷ Further loss of financial support for undocumented victim protection is expected under the second Trump Administration, which will compromise efforts to counter the harmful effects of increasingly strict immigration enforcement.^{208, 209}

Moreover, government data shows that, during President Trump's first term in office, it became increasingly difficult for foreign victims to obtain a T-Visa. The number of T-Visas granted fell from 750 in 2016 to 500 in 2019.^{210, 211} According to the 2018 Trafficking in Persons Report "NGOs reported increased obstacles to obtaining a T-Visa, noting a rising number of requests for additional evidence by adjudicators, including requests that referred to outdated regulations."²¹² The accession of obstacles to obtaining T nonimmigrant status under the first Trump Administration suggests that this pattern will continue into the President's second term, hindering the ability of undocumented victims to utilize important measures designed to protect them.

²⁰⁴ *Ibid.*

²⁰⁵ Rogers, Dave. Interview with Alexandra Harten. (2019).

²⁰⁶ Bryant, Ashlie. Interview with Alexandra Harten. (2024).

²⁰⁷ *Ibid.*

²⁰⁸ *Ibid.*

²⁰⁹ Rotella, Sebastian, and Tim Golden. "Despite Trump's Tough Talk about Migrant Smugglers, He's Undercut Efforts to Stop Them." *ProPublica*, ProPublica, 21 Feb. 2019.

²¹⁰ U.S. Department of State, "Trafficking in Persons Report 2023" (June 2018): 445.

²¹¹ "Annual Report on Immigration Applications and Petitions Made by Victims of Abuse - Fiscal Year 2019." *United States Citizenship and Immigration Services*, Department of Homeland Security, 14 Feb. 2020.

²¹² U.S. Department of State, "Trafficking in Persons Report 2023" (June 2018): 445.

B. PUBLIC OPINION ON IMMIGRATION WILL IMPACT THE EFFECTIVENESS OF CALIFORNIA'S EXISTING ANTI-TRAFFICKING LEGISLATION

Legislative reform matters; however, public perception of the government's stance on issues like immigration can be just as impactful as formal changes to black letter law. While most people maintain a general awareness of major shifts in public policy, civilians and law enforcement officers alike are rarely educated about the specific language of governing statutes.^{213, 214, 215} This is especially true with regard to expansive, complex legislation like that pertaining to immigration. Popular understanding of the law stems not from careful analysis of legal code but from the media, career-specific training, or both. Therefore, the political platforms and personal attitudes of those in power impact society's view of how California immigration law operates.²¹⁶

Since President Trump's first term in office and throughout the 2024 presidential campaign, immigration has been the subject of scrupulous media attention. Despite judicial checks against some of Trump's more extreme immigration reform efforts (such as the family separation policy), the incoming President's attitude on the issue remains unchanged.^{217, 218}

According to a study by the Harvard Kennedy School of Government, 96% of statements on

²¹³ Hans, Valerie, and Juliet Dee. "Media Coverage of Law: Its Impact on Juries and the Public." *Cornell Law Faculty Publications*, vol. 35, no. 2, 1 Dec. 1991.

²¹⁴ Lancaster, Ashley, and Natasha Haunsperger. "Building Community Trust through Language Justice." *Police Chief Online*, International Association of Chiefs of Police, 28 June 2023

²¹⁵ Linetsky, Yuri R. "What the Police Don't Know May Hurt Us: An Argument for Enhanced Legal Training of Police Officers." *SSRN*, University of Alabama School of Law, 2 Mar. 2018.

²¹⁶ Hans, Valerie, and Juliet Dee. "Media Coverage of Law: Its Impact on Juries and the Public." *Cornell Law Faculty Publications*, vol. 35, no. 2, 1 Dec. 1991.

²¹⁷ Garsd, Jasmine. "Federal Judge Prohibits Separating Migrant Families at the Border." *NPR*, NPR, 8 Dec. 2023

²¹⁸ Ward, Myah, and Betsy Woodruff Swan. "Immigrant Advocates Get Ready for Another 4 Years of Battle." *POLITICO*, Politico, 7 Nov. 2024.

immigration made by the Trump Administration were negative in tone.²¹⁹ He has repeatedly steered public sentiment against immigrants by casting them as violent criminals, rapists, and drug traffickers despite ample evidence that immigrants are significantly less likely to commit a crime.^{220, 221}

Accordingly, the anti-immigrant narrative promulgated by the rising Trump Administration weakens undocumented victims' trust in government, which renders it more difficult for law enforcement officers to build secure relationships upon which criminal investigations rely.²²² Special Agent Dave Rogers stated, "the long process of building trust among victims and members of a community is imperative to successfully catching and prosecuting traffickers." Rogers also affirmed that this trust is easily lost due to factors beyond law enforcement's control, such as President Trump's nomination in 2016.²²³ The reported "shift in relationship" between law enforcement and the immigrant community during the first Trump Administration suggests a high likelihood of further disintegration over the next four years, hindering both victim protection and prosecutorial anti-trafficking efforts in California.²²⁴

Moreover, despite objections from experts, President Trump continues to publicize inaccurate claims about human trafficking in attempt to support militant immigration policy.²²⁵ His false statements on the nature of trafficking aim to increase funding for immigration enforcement and border security.²²⁶ Bradley Myles, former CEO of the Polaris Project, remarked

²¹⁹ Patterson, Thomas E. "News Coverage of Donald Trump's First 100 Days." *HARVARD Kennedy School. Shorenstein Center on Media, Politics and Policy*. Last modified May 18, 2017.

²²⁰ "Drug dealers, criminals, rapists': What Trump thinks of Mexicans," *BBC News-Video Top Stories*, August 31, 2016.

²²¹ Bernat, Francis. "Criminology and Criminal Justice, Immigration and Crime." *Oxford Research Encyclopedias*, Oxford: Oxford University Press, April 2017.

²²² Rogers, Dave. Interview with Alexandra Harten. (2019).

²²³ *Ibid.*

²²⁴ *Ibid.*

²²⁵ Davis, Kristina. "Border wall impact on human trafficking debated."

²²⁶ *Ibid.*

that “such claims are not only inaccurate and misleading, they also harm our efforts to educate the public on the true nature of this crime.”²²⁷ Numerous sources, including Amb. (ret.) Mark Lagon, confirmed that cases in which foreign victims are kidnapped and forcefully smuggled across national borders are rare.^{228, 229} Though such scenarios do exist, perpetuating a predominately false picture of the average human trafficking victim as someone locked up in a basement reduces the likelihood that law enforcement officers will recognize labor trafficking victims who do not conform to this image.²³⁰ President Trump’s false rhetoric has indeed raised funding for victims with citizenship status.²³¹ However, reinforcing the idea that most trafficking victims are taken against their will also increases the likelihood that undocumented victims who voluntarily contract with smugglers to enter the United States—only to be trafficked upon their arrival—will fail to self-identify if given the opportunity.^{232, 233}

California provides robust statutory protections for undocumented persons, especially with regard to victims of human trafficking. However, the existence of such legal safeguards is largely overshadowed by the widespread belief that, under the rising Trump Administration, law enforcement officers will pursue migrant arrests whenever possible.^{234, 235} This narrative reduces undocumented trafficking victims’ propensity to take advantage of their statutory rights and

²²⁷ *Ibid.*

²²⁸ Lagon, Mark. Interview with Alexandra Harten. (2019 and 2024).

²²⁹ Febrey, Annick. Interview with Alexandra Harten. (2019).

²³⁰ Stephan, Summer. Interview with Alexandra Harten. (2019 and 2024).

²³¹ Bryant, Ashlie. Interview with Alexandra Harten. (2024).

²³² Lagon, Mark. Interview with Alexandra Harten. (2019 and 2024).

²³³ Stephan, Summer. Interview with Alexandra Harten. (2019 and 2024).

²³⁴ Kosho, Joana. “Media Influence on Public Opinion Attitudes toward the Migration Crisis.” *INTERNATIONAL JOURNAL of SCIENTIFIC & TECHNOLOGY RESEARCH*, vol. 5, no. 05, May 2016, pp. 1–6.

²³⁵ Lange, Jason, and Ted Hesson. “Americans Less Welcoming of Immigrants without Legal Status, Reuters/Ipsos Poll Finds.” *Reuters*, 12 Dec. 2024

resources.^{236, 237} District Attorney Summer Stephan confirmed that undocumented trafficking victims are often unaware of the extent of their legal protections, therefore, news media dictates much of their understanding of current policy.²³⁸ Thanks to extensive news coverage of President Trump's more inflammatory statements, most people—legal citizens or otherwise—are aware of the rising administration's attitude and goals.^{239, 240} Regardless of whether President Trump fulfills his campaign promises, this image of future policy has noticeably increased the chilling effect previously discussed.^{241, 242}

[*Note:* Based on personal experience, I believe a significant number of businesses explicitly listed under Cal. Civ. Code § 52.6 (Amended and re-enacted in July 2023 as AB 1740 (Sanchez)) are not currently in compliance with the statute requiring them to post preventative education signage in a conspicuous place near the public entrance of the establishment or in another conspicuous location in clear view of the public and employees. I plan to conduct a discreet survey of a small sample of businesses within the Linda Vista/Mission Valley area and add my findings to this section of my final draft.]

Overall, expert opinions support the claim that the strong anti-immigrant appearance of the Trump Administration hindered both prosecutorial and victim protection efforts from 2016 to 2020 and will continue to do so through the upcoming presidential term. Publicizing accurate information on the nature of human trafficking and broadcasting the legal rights of undocumented victims in California are imperative to the success of both victim protection policies and criminal prosecution in today's political climate.

²³⁶ Stephan, Summer. Interview with Alexandra Harten. (2019 and 2024).

²³⁷ Seid, Brianna, et al. "Debunking the Myth of the "Migrant Crime Wave" ." *Www.brennancenter.org*, Brennan Center for Justice, 29 May 2024.

²³⁸ Stephan, Summer. Interview with Alexandra Harten. (2019 and 2024).

²³⁹ Foer, Franklin. "How Trump Radicalized ICE." *The Atlantic*. September 2018.

²⁴⁰ "Fact-Checking over 12,000 of Donald Trump's Statements about Immigration." *The Marshall Project*, 21 Oct. 2024.

²⁴¹ Chotiner, Isaac. "The Historical Precedents to Trump's Attacks on Haitian Immigrants." *The New Yorker*, 18 Sept. 2024.

²⁴² Lange, Jason, and Ted Hesson. "Americans Less Welcoming of Immigrants without Legal Status, Reuters/Ipsos Poll Finds." *Reuters*, 12 Dec. 2024

V. ARGUMENT

The problems addressed in the above analysis are generally known by experts in the field.^{243, 244, 245, 246} In an effort to fix these acknowledged systemic failings, California enacted the previously described statutes. However, evidence suggests that the real-world application of such laws will be hindered by upcoming changes to federal immigration policy. Generally, this paper argues for a multi-pronged approach aimed at mitigating the predicted barriers to state anti-trafficking endeavors.

A. IN LIGHT OF ANTICIPATED CHANGES TO FEDERAL IMMIGRATION POLICY AND PUBLIC OPINION, CALIFORNIA SHOULD ENACT NEW LEGISLATION AND AMEND EXISTING ANTI-TRAFFICKING LEGISLATION

Pursuant to the argument herein, this paper proposes enacting new anti-trafficking legislation and amending Assembly Bill 1740 (Sanchez). The new legislation would require appointment of specialized case manager(s) to each county as neutral, quasi-governmental entities. If the budget allows, the number of specialized case managers would be proportional to the number of cities within each county. Appointed individuals must have expertise in human trafficking and immigration law such that they can effectively:

1. Assist in the strategic utilization of the T-Visa application process to protect undocumented victims from immediate deportation;
2. Serve as a central coordinator connecting law enforcement agencies, nonprofit organizations, healthcare providers, and school districts;

²⁴³ Stephan, Summer. Interview with Alexandra Harten. (2019 and 2024).

²⁴⁴ Lagon, Mark. Interview with Alexandra Harten. (2019 and 2024).

²⁴⁵ Rogers, Dave. Interview with Alexandra Harten. (2019).

²⁴⁶ Shanish, Aloor and Gaines, Yvette. Interview with Alexandra Harten. (2024).

3. Facilitate education and training programs for law enforcement officers and attorneys; and
4. Meet and conduct annual statewide reporting on trafficking trends by district.

Furthermore, AB 1740 (Sanchez) should be amended to update the language of its required signage to:

1. More clearly define who qualifies as a victim of human trafficking, reducing the risk of individuals failing to recognize their victimhood; and
2. Clarify that the resources described on the signage are equally available to both U.S. citizens and undocumented individuals.

To ensure compliance, a Special Master should be appointed to monitor high-risk industries' adherence to the public notice and employee training provisions outlined in AB 1740 (Sanchez). Given the expected shift in public attitude towards immigrants, promulgating explicit information about the legal protections and resources afforded to undocumented victims will be necessary to effectuate the intent of the legislature.

1. Strategic Utilization of the T-Visa Application Process Will Help Undocumented Victims Avoid Sudden Removal

As previously discussed, a T-Visa is a temporary visa that can lead to permanent resident status for victims of human trafficking and their eligible family members. Though the TVPRA currently limits the number of T-Visas available to principal victims of trafficking to 5,000 per fiscal year, federal law does not limit the number of T-Visa *applications* filed annually.²⁴⁷ Once an application is deemed credible through the BFD process, applicants can be granted “deferred

²⁴⁷ U.S. Department of Homeland Security. U.S. Citizenship and Immigration Services. *Victims of Human Trafficking: T Nonimmigrant Status*. Washington, D.C.: Department of Homeland Security, Last modified May 10, 2018.

action” while their application is reviewed for approval.²⁴⁸ This takes one-to-three years on average, however, processing times can extend even longer depending on various factors.^{249, 250}

Thus, by strategically helping to increase the number of T-Visa applications filed, California can protect credible trafficking victims from sudden removal should the Trump Administration enact strict federal immigration enforcement policies.

California can accomplish this goal by appointing specialized case managers to law enforcement agencies in each county. The T-Visa program is underutilized, in part, due to the complexity of the application process.²⁵¹ Specialized case managers must be trained to thoroughly understand each step of the program and remain up to date on changes in federal law that could affect the application process. Principally, specialized case managers must be appointed as neutral entities within the justice system. This way, they can serve as authorities on the T-Visa program as it applies to law enforcement officers, District Attorneys, and Public Defenders alike.

Moreover, specialized case managers would be responsible for providing identified victims with certifications confirming their victimhood status and cooperation with law enforcement—a necessary component to all T-Visa applications. Such certifications must be proffered unless the victim has been convicted of a crime (excluding traffic infractions and crimes committed under duress on behalf of their trafficker). Under current law, such certifications can be difficult to obtain and are rarely even requested by victims or their

²⁴⁸ U.S. Department of Homeland Security. "Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status." *Federal Register*, April 30, 2024.

²⁴⁹ Law, Curbelo. "T Visa Requirements - 2024 Comprehensive Guide | Curbelo Law." *Curbelo Law*, 17 Mar. 2024.

²⁵⁰ Armando. 2024. "T Visa Processing Time: Detailed Guide | Serving Immigrants." *Serving Immigrants*. October 31, 2024.

²⁵¹ *Ibid.*

attorneys. By requiring specialized case managers to issue certificates unless doing so would be expressly prohibited by statute, California could increase the number of applications filed by identified victims of human trafficking. This would effectively stall their immediate removal and give them a chance to obtain lawful permanent citizenship, either through acceptance to the T-Visa program itself or through another visa program to which they could apply while their T nonimmigrant status is pending.

Finally, the proposed legislation should establish an online “Help Desk” for private immigration attorneys who lack knowledge or experience filing T-Visa applications. Specialized case managers can use their insight to break down the process step-by-step and upload training resources for private attorney usage. The availability of straightforward information about the process should further increase the number T-Visa applications filed annually, and therefore, increase the number of victims temporarily protected against sudden removal under President Trump’s anticipated policy.²⁵²

2. Increased Coordination Between Law Enforcement Agencies, Attorneys, Nonprofit Organizations, School Districts, and Healthcare Providers Will Help Overcome the Chilling Effect and Increase T-Visa Applications

More effective coordination between law enforcement agencies, public and private attorneys, nonprofit organizations, school districts, and healthcare providers would improve both the quantity and quality of aid provided to undocumented victims of human trafficking.²⁵³

Overall, experts agree that preventative education and public awareness campaigns on human trafficking help victims take advantage of the policies and programs designed to protect them,

²⁵² Bryant, Ashlie. Interview with Alexandra Harten. (2024).

²⁵³ *Ibid.*

particularly in vulnerable communities.^{254, 255} This kind of work is the focus of many anti-trafficking nonprofit organizations. Through community outreach, such nonprofits are uniquely capable of building trust within immigrant communities—a task at which law enforcement agencies struggle due to the aforementioned chilling effect.^{256, 257, 258} Studies have shown that immigrants, whether legal or undocumented, are significantly less likely to contact law enforcement if a crime is committed against them for “fear that police officers will use this interaction as an opportunity to inquire into their immigration status or that of people they know.”^{259, 260} President Trump’s approach to immigration enforcement makes victims hesitant to reveal their citizenship status to police, however, many undocumented trafficking victims remain willing to communicate with nonprofit organizations.^{261, 262} In fact, Deputy District Shanish and Investigator Gaines stated that the San Diego Workplace Justice Unit, which frequently handles labor trafficking cases, conducts substantial outreach to undocumented communities via local nonprofits.²⁶³ Thus, structured communication can help law enforcement and criminal justice agencies obtain necessary information to infiltrate and prosecute trafficking schemes without breaking the trust between nonprofits and the victims they serve.²⁶⁴

Specialized case managers should be charged with facilitating such coordination so as to maximize law enforcement capabilities without risking loss of trust between nonprofits and

²⁵⁴ Stephan, Summer. Interview with Alexandra Harten. (2019 and 2024).

²⁵⁵ Bryant, Ashlie. Interview with Alexandra Harten. (2024).

²⁵⁶ Shanish, Aloor and Gaines, Yvette. Interview with Alexandra Harten. (2024).

²⁵⁷ Bryant, Ashlie. Interview with Alexandra Harten. (2024).

²⁵⁸ Rogers, Dave. Interview with Alexandra Harten. (2019).

²⁵⁹ Theodore, Nik. “Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement.” *Chicago: University of Chicago*, May 2013.

²⁶⁰ “Building Trust with Immigrant Communities: Best Practices for Law Enforcement Agencies in Smaller Cities and Towns.” *Law Enforcement Immigration Task Force*, Police Executive Research Forum, 2022.

²⁶¹ Tenorio, Christopher. Interview with Alexandra Harten. (2019).

²⁶² Bryant, Ashlie. Interview with Alexandra Harten. (2024).

²⁶³ Shanish, Aloor and Gaines, Yvette. Interview with Alexandra Harten. (2024).

²⁶⁴ *Ibid.*

immigrant communities. This will reduce the burden on already overworked state and nonprofit personnel alike while maintaining constructive avenues of communication to benefit victims.

3. Enhanced Education and Training for Law Enforcement Officers, District Attorneys, and Public Defenders Will Reduce Inadvertent Victim Criminalization

Many factors can make victims unreliable sources on the facts of their own situation. Therefore, the difficult task of identifying trafficking schemes often rests largely on law enforcement.^{265, 266} While sex trafficking crimes are generally (though not always) easier to spot, instances of labor trafficking can be extremely difficult to accurately identify.²⁶⁷ Many foreign nationals trafficked for labor are unaware of their status as victims.^{268, 269} Immigrants without valid work visas often work for less pay voluntarily, and it can be difficult for law enforcement to find the line between a labor law violation by an employer and forced coercion by a trafficker.^{270, 271} Law enforcement officers in the field of anti-trafficking are trained to better assess these situations, because investigating such cases is the focus of their job. As previously mentioned, Cal. Pen. Code 13519.14, requires all officers assigned field or investigative duties related to human trafficking complaints to complete a comprehensive two hour training course on identifying and communicating with victims, the dynamics and manifestations of trafficking schemes, and victim protection (among other things).²⁷²

²⁶⁵ Tenorio, Christopher. Interview with Alexandra Harten. (2019).

²⁶⁶ Rogers, Dave. Interview with Alexandra Harten. (2019).

²⁶⁷ Shanish, Aloor and Gaines, Yvette. Interview with Alexandra Harten. (2024).

²⁶⁸ *Ibid.*

²⁶⁹ Stephan, Summer. Interview with Alexandra Harten. (2019 and 2024).

²⁷⁰ Rogers, Dave. Interview with Alexandra Harten. (2019).

²⁷¹ Shanish, Aloor and Gaines, Yvette. Interview with Alexandra Harten. (2024).

²⁷² "California Penal Code, Section 13519.14." *Ca.gov*, California Legislative Information (2024)

Despite existing educational requirements, evidence strongly supports the need for further law enforcement training. Victim criminalization and failure on the part of law enforcement to accurately identify victims continues to threaten the success of anti-trafficking efforts. The 2018 Trafficking in Persons Report stated that “NGOs continued to report the criminalization of victims creates barriers to accessing public benefits, employment, financial aid for higher education, housing, and other needs essential to avoid re-trafficking and facilitate recovery.”²⁷³ Although the DOJ recognized the United Nations’ “non-punishment principle” under the Biden Administration, the 2023 Trafficking in Persons Report still acknowledged that trafficking victims are “often held liable and face various forms of punishment including fines, detention, prosecution, conviction, and deportation.”²⁷⁴

In effort to reduce misidentification and victim criminalization, organizations like the Human Trafficking Institute have developed specialized training models. The Human Trafficking Institute initiative trains agents to engage with every component of the crime, promoting a holistic approach that has proven more successful in identifying covert trafficking operations.²⁷⁵ The six federal districts in which this specialized training model was tested saw a 114% increase in the number of traffickers charged, in comparison with a 12% increase in the remaining 88 districts. Despite representing only 7% of total federal districts, these six sectors accounted for “more than half of all the human trafficking convictions in the entire country.”²⁷⁶ The effectiveness of such training is remarkable. However, it is yet to become common practice.

In light of the above, specialized case managers should be tasked with enhancing education and training for law enforcement officers. Training courses like that proscribed by Cal.

²⁷³ U.S. Department of State, “Trafficking in Persons Report 2018” (June 2018): 446.

²⁷⁴ U.S. Department of State, “Trafficking in Persons Report 2023.” (June 2023): 60.

²⁷⁵ U.S. Department of State, “Trafficking in Persons Report 2018” (June 2018): 446.

²⁷⁶ “What We Do.” *The Human Trafficking Institute*.

Pen. Code 13519.14 should be mandatory for *all* law enforcement agents—not merely the agents assigned to handle human trafficking complaints.²⁷⁷ Additionally, specialized case managers should be encouraged to implement training models like that developed by the Human Trafficking Institute in their jurisdictions, especially given that the Institute already offers free training courses online.²⁷⁸ Programs like The Blue Campaign, created by DHS, also provide web-based interactive training courses for law enforcement agencies that focus on how to identify victims of human trafficking and could be easily implemented locally by specialized case managers. Such actions would reduce the likelihood of untrained officers misidentifying, and potentially criminalizing, undocumented trafficking victims.

Moreover, some law enforcement officers are unaware of their obligations under existing California law.²⁷⁹ Specialized case managers should create and distribute concise, standardized fact sheets explaining the legal requirements described in the above section, “California Statutory Authority on Human Trafficking and Immigration.” Finally, specialized case managers should share training resources with their local District Attorney's Office and Public Defender's Office, given the important role public attorneys play in aiding and identifying victims of human trafficking.

4. Reporting and Information-Sharing on Trafficking Trends by District Will Improve Local Anti-Trafficking Measures Across California

As previously described in depth, the lack of comprehensive and accurate data makes it difficult to track trends in human trafficking. Consequently, state and non-governmental organizations alike operate without sufficient information on how many undocumented persons

²⁷⁷ “California Penal Code, Section 13519.14.” *Ca.gov*, California Legislative Information (2024).

²⁷⁸ “Training.” *Human Trafficking Training Center*, HTTC (2024).

²⁷⁹ Bryant, Ashlie. Interview with Alexandra Harten. (2024).

are likely being trafficked in their district, the nature of local trafficking schemes, and which anti-trafficking protocols increase or decrease successful results. Specialized case managers would be perfectly suited to gather information through their work in the field and collaboration with nonprofits.²⁸⁰ Thus, the proposed legislation should require specialized case managers to provide quarterly and annual reports on the data they gather. This will enable local law enforcement to gain a better understanding of human trafficking in their region and provide insight into which anti-trafficking strategies work best.

Furthermore, specialized case managers across California should be required to meet annually to share information and generate a statewide report. Not only will this provide California with a measurable component to track trends in its own progress and make changes accordingly, but it could also serve as a guide for other states concerned about their own undocumented victim protection measures under the rising Trump Administration.

5. Spreading Awareness About the Availability of Anti-Trafficking Protections to Undocumented Persons Will Increase Their Utilization of Existing Protective Measures

Experts confirmed that many victims, especially in cases of labor trafficking, do not recognize the nature of their circumstances.^{281, 282} DA Stephan stated that victims from other cultures are often led to believe their situation is a direct result of their failure to repay a debt, and therefore, their own fault.²⁸³ Victims who do not self-identify as such lack the protections available to them under the law. Furthermore, many undocumented persons do not understand the extent of their legal rights, even when they *are* aware of their subjection to a trafficking

²⁸⁰ Bryant, Ashlie. Interview with Alexandra Harten. (2024).

²⁸¹ Febrey, Annick. Interview with Alexandra Harten. (2019).

²⁸² Stephan, Summer. Interview with Alexandra Harten. (2019 and 2024).

²⁸³ *Ibid.*

scheme.²⁸⁴ A significant portion of undocumented persons falsely believe that, as unlawful residents, they have little to no rights under the American legal system.^{285, 286} Though pathways exist for undocumented trafficking victims to report crimes committed against them and receive government aid without being punished for their lack of citizenship, many are unaware of these options. As a result, threatening to reveal a victim's illegal status to authorities is one of the most effective means of compulsion used by traffickers.^{287, 288}

Furthermore, it is significantly harder for law enforcement to identify trafficking victims when they do not perceive themselves as such.²⁸⁹ Increased public education on what it means to be trafficked, particularly with regard to labor, helps victims take advantage of the laws and programs designed to protect them. As long as victims mistakenly believe they will be prosecuted and likely deported upon contacting law enforcement, anti-trafficking efforts relating to both victim protection and criminal prosecution suffer.

Assembly Bill 1740 (Sanchez) aims to raise awareness among human trafficking victims and their communities by requiring that specified businesses must post a notice with information on human trafficking hotlines and resources.²⁹⁰ These notices must be in English, Spanish, and the most widely spoken language in the county.²⁹¹ While such notices likely do raise awareness, their language as defined by AB 1740 leaves room for improvement.

Under the current law each notice must begin with the phrase, "If you or someone you know is being forced to engage in any activity and cannot leave--whether it is commercial sex,

²⁸⁴ *Ibid.*

²⁸⁵ Tenorio, Christopher. Interview with Alexandra Harten. (2019).

²⁸⁶ Sherman, Amy. "Do Undocumented Immigrants Have Constitutional Rights?" *POLITIFACT*, 29 Mar. 2017.

²⁸⁷ Febrey, Annick. Interview with Alexandra Harten. (2019).

²⁸⁸ U.S. Department of State, "Trafficking in Persons Report 2023." (June 2023).

²⁸⁹ Shanish, Aloor and Gaines, Yvette. Interview with Alexandra Harten. (2024).

²⁹⁰ "California Assembly Bill 1740 (Sanchez): Human trafficking: notice." *Ca.gov*, California Legislative Information, 2023-2024.

²⁹¹ *Ibid.*

housework, farm work, construction, factory, retail, or restaurant work, or any other activity, [contact]....” Exclusive use of the word “force” implies a degree of violent or aggressive behavior not always present in cases of labor trafficking. This may mistakenly prompt victims who are manipulated into servitude based on their perception of a debt owed to deem the signage inapplicable to them. Thus, such persons will not view themselves as human trafficking victims, and accordingly, will not utilize the resources provided by the notice.

Furthermore, the current language of the notice does not clarify that *undocumented* victims of slavery and human trafficking are equally protected under United States and California law. In light of the prevalent misconceptions about the legal rights of undocumented persons, victims who lack citizenship or lawful resident status could easily interpret the current notice as only applying to legal United States citizens. Their fear of deportation will likely prevent them from contacting the resources provided unless specific language is added to clarify that undocumented victims will not be punished or reported to federal authorities should their citizenship status be revealed.

Therefore, the language of the notices required under AB 1740 (Sanchez) should be amended to expand the definition of human trafficking in accordance with its globally recognized definition and to explicitly state that the proffered resources apply equally to undocumented immigrants. The proposed amendments to the notice proscribed by AB 1740 (Sanchez) would likely help to increase the number of undocumented victims who seek help through the posted resources.

6. Monitoring High-Risk Industry Compliance With Public Notice and Employee Training Requirements Will Reduce Undocumented Victims’ Fear of Contacting Law Enforcement and Educate Victims Who Are Not Aware They Are Being Trafficked

[*Note:* I plan to add this section upon conducting further research on whether the public notice and employee training requirements prescribed under AB 1740 (Sanchez) are being adequately enforced. If not, as I suspect, I would amend AB 1740 to add a provision appointing a Special Master to monitor compliance with the law. The Special Master will monitor the businesses and other establishments listed in Section 1, 52.6(a) to ensure that notices are posted in accordance with the requirements set forth in Section 1, 52.6(b). Additionally, the Special Master will be responsible for monitoring adherence to the training requirements described in Section 1, 52.6 (e)-(f).]

VI. PROPOSED OPERATIVE SOLUTIONS

A. ENACT STATE LEGISLATION APPOINTING SPECIALIZED CASE MANAGERS

Proposed Legislation: Immigration and Trafficking Victim Assistance Act (ITVAA).

The proposed language would add Chapter 37 [7599.201] to California Government Code, Title 1, Division 7:

GOVERNMENT CODE - GOV

TITLE 1. GENERAL [100 - 7931.000]

(Title 1 enacted by Stats. 1943, Ch. 134.)

DIVISION 7. MISCELLANEOUS [6000 - 7599.201]

(Division 7 enacted by Stats. 1943, Ch. 134.)

CHAPTER 37. Immigration and Trafficking Victim Assistance Act (ITVAA). [7599.201]

SECTION 7599.201.

(a) Appointment of Specialized Case Managers.

- (1) Each county shall appoint specialized case manager(s) to assist with anti-human trafficking duties related to the sex and/or labor trafficking of undocumented persons.
- (2) One specialized case manager shall be appointed for each chartered city within the county or for the county as a whole where no chartered cities exist.
- (3) Specialized case managers shall be neutral governmental entities employed or contracted by the county and shall not be considered under the authority of any law enforcement agency or prosecutorial office.

- (a) “Neutral governmental entities” refers to personnel or agencies operating independently of law enforcement and prosecutorial bodies to maintain impartiality and victim trust.

(b) Training and Qualifications of Specialized Case Managers.

- (1) Specialized case managers must have expertise in human trafficking, demonstrated by relevant academic qualifications, certifications, or a minimum of two years of professional experience, and knowledge of state and federal immigration laws as they relate to undocumented trafficking victims in California.
- (2) Case managers must complete training within six months of their appointment and participate in annual refresher courses on:
 - (i) Identifying human trafficking victims and schemes.
 - (ii) Applying for T Nonimmigrant status.
 - (iii) Assisting undocumented victims and their representatives in navigating immigration and judicial systems.
 - (iv) Coordinating between law enforcement agencies, nonprofit organizations, attorneys, healthcare providers, and K-12 educators.
 - (v) Utilizing trauma-informed approaches, accredited by recognized victim advocacy groups, when interacting with victims.

(c) Duties of Specialized Case Managers.

(1) Duties Related to the T-Visa Program.

- (i) Increase the number of T-Visa applications by assisting victims and their representatives in navigating the T Nonimmigrant application process.
- (ii) Work with law enforcement agents to ensure the provision of certifications confirming victims’ status and cooperation with law enforcement, unless:
 - (a) Under no circumstances could a reasonable expert identify the applicant as a credible victim.
 - (b) The applicant has been convicted of one or more crimes, not including:
 - (1) Traffic infractions; or
 - (2) Crimes committed under force or duress on behalf of the victim-applicant’s trafficker.
- (iii) Establish and maintain an online “Help Desk” to support prosecutors, public defenders, and private immigration attorneys in understanding the T-Visa application process and related procedures.

(2) Duties Related to Education and Training.

- (i) Educate and monitor compliance with training requirements for:

- (a) Law enforcement officers, including training on identifying and engaging with victims.
- (b) Prosecutors, public defenders, and judges including training on identifying victims and trauma-informed investigation techniques.
- (ii) Develop and distribute concise, standardized fact sheets on California's human trafficking statutes and obligations to law enforcement officers, prosecutors, public defenders, and any additional interested parties.
- (iii) Encourage and assist *all* law enforcement officers, including officers not assigned field or investigative duties related to human trafficking complaints, to complete the training provided under California Penal Code 13519.14.

(3) Duties Related to Inter-Organizational Communication.

- (i) Serve as a central coordinator connecting law enforcement agencies, attorneys, nonprofit organizations, healthcare providers, and school districts.
- (ii) Establish a county hotline to centralize and facilitate communication between concerned parties, victim aid organizations, attorneys, and law enforcement agencies.
 - 1) The hotline shall track and report on its utilization and effectiveness.

(4) Duties Related to Reporting and Information Sharing.

- (i) Track and analyze trends in trafficking data by district, including the nature and scope of trafficking schemes, demographics of victims, and local responses, while protecting victim confidentiality.
- (ii) Submit quarterly reports summarizing findings from their county and providing actionable recommendations for improving anti-trafficking measures.
- (iii) Facilitate and attend annual statewide meetings to share information and produce an annual joint human trafficking report.

(d) Local Ordinances.

- (1) This section does not prevent a local governing body from adopting and enforcing a local ordinance, rule, or regulation to prevent slavery or human trafficking. If a local ordinance, rule, or regulation duplicates or supplements the requirements that this section imposes upon businesses and other establishments, this section does not supersede or preempt that local ordinance, rule, or regulation.
- (2) Local ordinances must align with the minimum standards established under this section to ensure statewide consistency and compliance with California preemption principles.

(e) Oversight and Funding.

- (1) The Attorney General's Office shall oversee the implementation of this section, establish compliance metrics, and provide guidance to counties as needed.
- (2) Counties may apply for state grants to fund the appointment and training of specialized case managers, the establishment of hotlines, and the development of online and printed resources required under this section.

(f) Evaluation and Effectiveness.

- (1) The Attorney General's Office shall conduct an annual evaluation of the program's effectiveness, based on metrics such as the number of T-Visa applications submitted, training compliance rates, hotline utilization, and reported trafficking incidents. Recommendations for improvement shall be included in the evaluation report.

B. AMEND IN PART ASSEMBLY BILL 1740 (SANCHEZ)**Proposed Changes to California Civil Code, Section 56.2**

Below is the current language of California Civil Code section 52.6. The proposed changes to the code are in red text, and existing language that has been reformatted is in green text.

PENAL CODE - PEN**DIVISION 1. PERSONS [38 - 86]**

(Heading of Division 1 amended by Stats. 1988, Ch. 160, Sec. 12.)

PART 2. PERSONAL RIGHTS [43 - 53.7]

(Part 2 enacted 1872.)

CHAPTER 104

(Amended by Stats. 2023, Ch. 104, Sec. 1. (AB 1740) Effective January 1, 2024.)

52.6.

- VII. Each of the following businesses and other establishments shall, upon the availability of the model notice described in subdivision (d), post a notice that complies with the requirements of this section in a conspicuous place near the public entrance of the establishment or in another conspicuous location in clear view of the public and employees where similar notices are customarily posted:
 - A. On-sale general public premises licensees under the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code).

- B. Adult or sexually oriented businesses, as defined in subdivision (a) of Section 318.5 of the Penal Code.
 - C. Primary airports, as defined in Section 47102(16) of Title 49 of the United States Code.
 - D. Intercity passenger rail or light rail stations.
 - E. Bus stations.
 - F. Truck stops. For purposes of this section, “truck stop” means a privately owned and operated facility that provides food, fuel, shower or other sanitary facilities, and lawful overnight truck parking.
 - G. Emergency rooms within general acute care hospitals.
 - H. Urgent care centers.
 - I. Facilities that provide pediatric care. For purposes of this section, “facilities that provide pediatric care” means a medical facility that provides pediatric services, as that term is defined in Section 16907.5 of the Welfare and Institutions Code.
 - J. Farm labor contractors, as defined in subdivision (b) of Section 1682 of the Labor Code.
 - K. Privately operated job recruitment centers.
 - L. Roadside rest areas.
 - M. Businesses or establishments that offer massage or bodywork services for compensation and are not described in paragraph (1) of subdivision (b) of Section 4612 of the Business and Professions Code.
 - N. Hotels, motels, and bed and breakfast inns, as defined in subdivision (b) of Section 24045.12 of the Business and Professions Code, not including personal residences.
 - O. Hair, nail, electrolysis, and skin care, and other related businesses or establishments subject to regulation under Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code.
- VIII. The notice to be posted pursuant to subdivision (a) shall be at least 8 1/2 inches by 11 inches in size, written in a 16-point font **with the first and last sentence written in bold font**, and shall state the following:

“Are you or someone you know being forced, coerced, or deceived into work or other activities and unable to leave?”

Human trafficking takes many forms and is not always violent. This includes commercial sex, housework, farm work, construction, factory work, retail, restaurant work, or any other labor or services. If threats, coercion, manipulation, withheld wages, or other abuses are preventing you from leaving or seeking help, contact any of the free, confidential hotlines below:

- Text 233-733 (BEFREE)
- Call the National Human Trafficking Hotline: 1-888-373-7888
- Call the California Coalition to Abolish Slavery and Trafficking (CAST): 1-888-KEY-2-FRE(EDOM) or 1-888-539-2373

These hotlines are:

- Anonymous and confidential.
- Accessible in more than 160 languages.
- Operated by nonprofit, nongovernmental organizations.
- Available 24 hours a day, 7 days a week.
- Toll-free.
- Able to provide help, referral to services, training, and general information.

Victims of slavery and human trafficking, **including undocumented individuals**, are protected under United States and California law. **Your immigration status does not prevent you from seeking help, and contacting the resources listed above will not result in punishment or deportation.**

Free and anonymous help is available.”

- IX. The notice to be posted pursuant to subdivision (a) shall be printed in English, Spanish, and in one other language that is the most widely spoken language in the county where the establishment is located and for which translation is mandated by the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.), as applicable. This section does not require a business or other establishment in a county where a language other than English or Spanish is the most widely spoken language to print the notice in more than one language in addition to English and Spanish.
- X. (1) On or before April 1, 2013, the Department of Justice shall develop a model notice that complies with the requirements of this section and make the model notice available for download on the department’s internet website.
- (2) On or before January 1, 2019, the Department of Justice shall revise and update the model notice to comply with the requirements of this section and make the updated model notice available for download on the department’s internet website. A business or establishment required to post the model notice shall not be required to post the updated model notice until on and after January 1, 2019.
- XI. On or before January 1, 2021, a business or other establishment that operates a facility described in paragraph (4) or (5) of subdivision (a) shall provide at least 20 minutes of training to its new and existing employees who may interact with, or come into contact with, a victim of human trafficking or who are likely to receive, in the course of their employment, a report from another employee about suspected human trafficking, in recognizing the signs of human trafficking and how to report those signs to the appropriate law enforcement agency.
- XII. The employee training pursuant to subdivision (e) shall include, but not be limited to, all of the following:
- A. The definition of human trafficking, including sex trafficking and labor trafficking.
 - B. Myths and misconceptions about human trafficking.

- C. Physical and mental signs to be aware of that may indicate that human trafficking is occurring.
 - D. Guidance on how to identify individuals who are most at risk for human trafficking.
 - E. Guidance on how to report human trafficking, including, but not limited to, national hotlines (1-888-373-7888 and text line 233733) and contact information for local law enforcement agencies that an employee may use to make a confidential report.
 - F. Protocols for reporting human trafficking when on the job.
- XIII. (1) The human trafficking employee training pursuant to subdivision (e) may include, but shall not be limited to, information and material utilized in training Santa Clara County Valley Transportation Authority employees, private nonprofit organizations that represent the interests of human trafficking victims, and the Department of Justice.
- (2) The failure to report human trafficking by an employee shall not, by itself, result in the liability of the business or other establishment that operates a facility described in paragraph (4) or (5) of subdivision (a) or of any other person or entity.
- XIV. A business or establishment that fails to comply with the requirements of this section is liable for a civil penalty of ~~five hundred~~ **one thousand** dollars (~~\$500~~ \$1,000) for a first offense and ~~one~~ **five** thousand dollars (~~\$1,000~~ \$5,000) for each subsequent offense. A government entity identified in Section 17204 of the Business and Professions Code may bring an action to impose a civil penalty pursuant to this subdivision against a business or establishment if a local or state agency with authority to regulate that business or establishment has satisfied both of the following:
- A. Provided the business or establishment with reasonable notice of noncompliance, which informs the business or establishment that it is subject to a civil penalty if it does not correct the violation within 30 days from the date the notice is sent to the business or establishment.
 - B. Verified that the violation was not corrected within the 30-day period described in paragraph (1).
- XV. This section does not prevent a local governing body from adopting and enforcing a local ordinance, rule, or regulation to prevent slavery or human trafficking. If a local ordinance, rule, or regulation duplicates or supplements the requirements that this section imposes upon businesses and other establishments, this section does not supersede or preempt that local ordinance, rule, or regulation.

XVI. CONCLUSION

The need for immediate legislative action in California to address the intersection of immigration policy and human trafficking cannot be overstated. As federal immigration policies shift toward greater stringency, the resulting climate of fear and misinformation among undocumented individuals will increasingly undermine the effectiveness of California's human trafficking victim protection measures. Without proactive reform, the state risks perpetuating systemic failures that leave vulnerable individuals unprotected, while emboldening traffickers who exploit these gaps in policy and enforcement.

California's existing anti-trafficking framework, though robust in certain respects, is not immune to the cascading effects of restrictive federal policies. Victims of labor trafficking, in particular, face compounded barriers stemming from cultural misconceptions, psychological manipulation, and systemic inequities. Many remain trapped in cycles of exploitation, fearing deportation or criminalization if they come forward. Traffickers, meanwhile, exploit these vulnerabilities to maintain control, leveraging misinformation about immigration consequences to ensure their victims' silence. Without targeted amendments to state law and policy, the efficacy of California's anti-trafficking efforts will continue to erode.

To safeguard the rights and dignity of undocumented trafficking victims, California must take a multifaceted legislative approach that includes galvanization of the T-Visa program, increased law enforcement, attorney, and public education, and improved inter-agency and nonprofit collaboration. Expanding access to T-Visas could provide a critical pathway to relief and protection for undocumented victims. Enhanced training for all law enforcement officers on the nuanced dynamics of trafficking—particularly in labor contexts—would further improve

victim identification and support. Additionally, a structured system of data collection and reporting on trafficking trends across districts would enable more targeted interventions. Finally, public awareness campaigns are needed to dispel myths about trafficking and undocumented status, empowering victims to seek help without fear of deportation.

With the nation on the brink of a drastic shift in immigration policy, legislative reform like that described is necessary to ensure that California remains a leader in the fight against human trafficking and a beacon of hope for victims seeking justice and protection. Only through a comprehensive, holistic approach can the state rise to meet the challenges posed by evolving federal policies and fulfill its commitment to protecting its most vulnerable residents.

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