

Testimony of Nancy E. O'Malley
District Attorney, Alameda County
November 21, 2019

Little Hoover Commission
San Diego, CA

Good afternoon, Commissioners. My name is Nancy O'Malley and I serve as the District Attorney of Alameda County. Oakland is the largest city in my County. I have served as the District Attorney for 10 years, which was preceded by 10 years as the Chief Assistant District Attorney. For more than 23 years of my career, I have been involved in research, prosecution, policy development and educational outreach about Human Trafficking. I thank the Commission for giving focus to Human Trafficking and particularly, labor trafficking which is wide-spread yet often overlooked and under prosecuted.

Two notable cases opened my eyes to this insidious crime that exploits vulnerable individuals at the most vulnerable times in their lives, and at the core of their existence as human beings. In 1996, as a sexual assault prosecutor, I had a case involving a 12 year old girl, being sold nightly by a 39 year old trafficker. I was prosecuting both the trafficker and the purchaser who had paid to rape her. He was the 7th man who bought her for sex that night. That was my first exposure to sex trafficking and I have been working to combat and end sex trafficking, particularly of children, ever since.

In 2008, I began an investigation that resulted in multiple convictions against the owner of a construction company. Though her company was non-union, we worked with the trades to whom two courageous workers reported the exploitation. The owner had been exploiting immigrant workers from 1999 through 2008, when we stepped in. Not only was she engaging in worker exploitation, but she used threats of deportation if the workers spoke up. She received public works contracts, but was paying the immigrant workers literally pennies on the dollars. She consistently lied when filing her reports to the public entities by falsely reporting what she was paying them. The result was that she was keeping the bulk of the money her contracts awarded her. She put these men in the most dangerous of circumstances, resulting in injuries to several men, including one worker who's injury resulted in paralysis. When we dug deeper into her company, we found a building she owned. On the first floor was a popular Oakland restaurant. On the second floor, we found blacked out windows, locks on the outside of the doors. The room had one toilet and rows and rows of sewing machines. We were too late to identify those workers who were essentially being held prisoners at the hands of this "employer." That case opened my eyes to labor trafficking and my Office has been vigilant in combating labor trafficking since and leading that fight across our State.

Labor trafficking occurs in many industries. We see cases from the Restaurant Industry, in Residential Care Homes, in the Construction and other Miscellaneous Industries, such as Engineering, Security, Home Building Care. Trafficking occurs in the Nail Industry and the illicit Massage Parlor Industry. We see labor trafficking in the

Janitorial Industry and private domestic work, such as nannies and housekeepers where people work out of sight of others. To be clear, individuals can be trafficked in both labor and sex, such as with illicit massage parlors and other industries.

My Office has a vertical Sex Trafficking Unit (H.E.A.T. Unit), created in 2005. In 2016, due to the number of labor trafficking cases being reported, I created the vertical Labor Trafficking Unit (LTU). Vertical prosecution means the same Deputy District Attorney handles the case from start to completion. This form of prosecution is vital in trafficking cases.

The impact of trafficking on the victim or victims is severe. These individuals have been held in slavery, which is often accompanied or threatened with violence to ensure compliance and secrecy. The trauma runs deep and most often, these individuals have no hope that their lives could be different. Some fear the government, in part because they may have immigration issues, or they've been told *they* would be incarcerated. We liken trafficking to the power and control cycle we identified in Domestic Violence years ago. Many years back, Domestic Violence was dismissed as a "family problem" similar to labor trafficking being dismissed as an "employment problem." Often times the victims are reluctant or appear uncooperative. In Labor Trafficking, there are patterns of duress, coercion, threats and violence as well as threats of deportation for those who are foreign national. For those and many reasons, vertical prosecution is essential. Holistic, trauma-informed, comprehensive responses and care are critical.

The Alameda County District Attorney's LTU currently has 19 pending cases. There are more cases under investigation. Many more cases have been successfully prosecuted. To provide a snapshot, I will reference 13 notable cases that have been successfully prosecuted and are now concluded. One horrific case was taken by the U.S. Attorney and prosecuted federally. The defendant held 22 foreign nationals in captivity, forcing them to work. They were also forced to "live" in containers. The defendant was convicted and sentenced to 20 years in Federal Prison.

In the selected 13 cases, there were 727 workers trafficked and exploited. We identified more than \$8.7 million dollars in restitution. Most of the workers have or are receiving restitution, as has the State of California. For some workers, who were foreign nationals, they either disappeared into the fabric of the community, or for some, as in the case of illicit massage parlors exploiting and trafficking Asian women, they left the United States.

I will point out that there is a spectrum of labor exploitation, or worker exploitation. In the last 2 years, we have reviewed 467 cases of Wage Theft, which are generally handled by the Department of Industrial Relations. This statistic calls out for agencies to work together. We work closely with the California Department of Labor Relations, with the Department of Insurance, with the licensing agencies, such as Contractors State Licensing Boards, the Department of Consumer Affairs, the Department of Social Services and city-county licensing agencies, those who license restaurants. We also work with the neighboring counties since labor trafficking knows no borders.

To be the most effective and comprehensive in our efforts, we have a Labor Trafficking Task Force, which is part of a larger community Advisory Group called the Alameda County United Against Human Trafficking, or “AC United.” The Labor Task Force consists of approximately 30 individuals representing several organizations. They represent housing for trafficking individuals, legal aid, immigrant services, and other service providers as well. Part of our mission is to build trusting relationships among organizations and service providers who, in the course of their business, encounter exploited individuals.

We educate communities and workers about worker exploitation and labor trafficking. Education, not just of communities, but education of workers and those working in jobs where intersection with a trafficked person would be likely, such as hospital workers, social service workers, transit workers and the like. We do that through various community meetings and we even host “Movie Nights” followed by discussions. We provide education and outreach, especially to Code Enforcement Officers, Animal Control Officers, and Environmental Health Inspectors, all of whom have access to places law enforcement may not.

Additionally, California Business and Professions Code Section 52.6 mandates that certain types of businesses post a sign that outlines the elements of human trafficking. The bill number, passed in the 2012-13 legislative year, was SB 1193. To be more efficient in our efforts to ensure compliance, we created a web-based app “MAP1193.” The database includes the permitted businesses that are included in Section 52.6. If I go into a restaurant, or a massage parlor, or on BART, I can report compliance or non-compliance. It is an ambitious law yet an important law. Education and awareness are key to solving human trafficking. Government agencies cannot alone detect, report and investigate labor trafficking. Many trafficking individuals do not realize their enslavement. We need the general public to be educated, aware of the signs of trafficking and have a place for reports to be made.

Thank you for your attention to labor trafficking and for the opportunity to speak with you. I am happy to answer any questions.