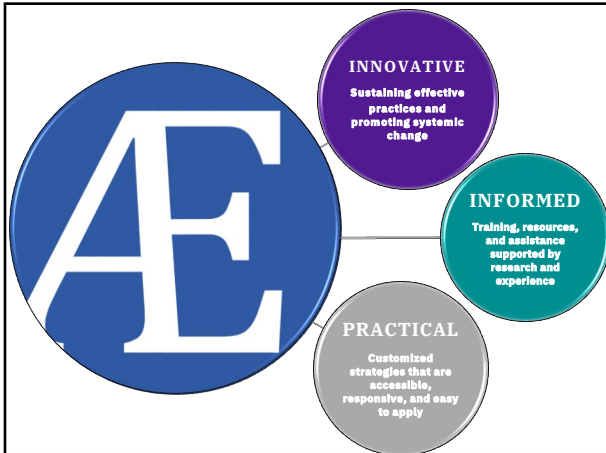


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What We Do	
<p>Resources</p> <p>Create, research, and curate publications, statutory and case law compilations, and other resources that strengthen prosecution practices</p>	<p>Consultations</p> <p>Offer on-demand 24/7 consultations with our seasoned prosecutors to answer case-specific inquiries, discuss strategy, conduct research, and recommend data-driven solutions</p>
<p>Training Events</p> <p>Develop curricula and facilitate a wide range of specialized in-person and web-based trainings designed to empower prosecutors and allied professionals</p>	<p>Partnerships & Initiatives</p> <p>Provide long-term support in building frameworks for coordinated responses to gender-based violence including data collection and analysis, task force development, and training</p>

3

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Presenter



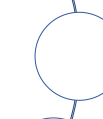
Lou Longhitano
Attorney Advisor
AEquitas

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Objectives



Identify labor trafficking victims in non-traditional labor enterprises.



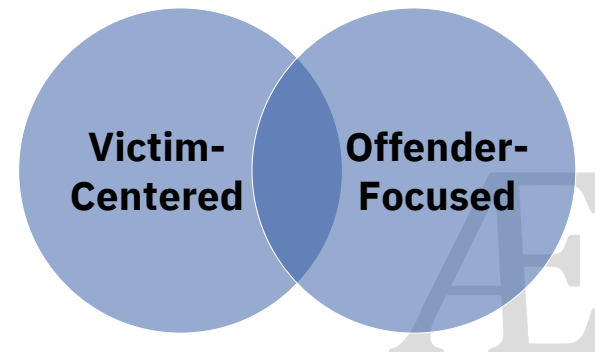
Analyze culpability through a trauma-informed lens.



Reconcile individual culpability with legal defenses and mitigation.

6

Mission



7

Victim-Centered

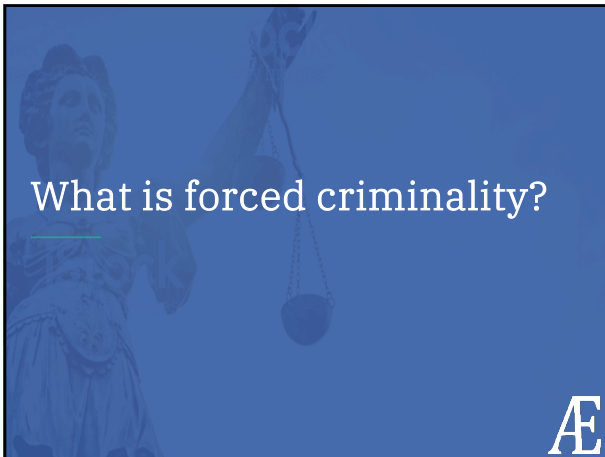
- **Appreciate the central role victims play in the criminal justice process**
- **Consider victim needs at all stages**
- **Account for victims' history, experience, and perspective, as well as the impact of the criminal justice system on their lives**

8

Offender-Focused

- **Keep focus on the actions and intent of offender**
- **Recognize that offenders take advantage of situations and individuals because they believe they will be able to escape accountability**
- **Appreciate that offenders are responsible for victims' trauma and its resulting effects**

9



10



11



12

Involuntary Labor Servitude

Tenn. Code § 39-13-307 (Class C Felony)

(a) A person commits the offense of involuntary labor servitude who knowingly subjects, or attempts to subject, another person to forced labor or services by...

13

Means

Tenn. Code § 39-13-307 (a)

Used or threatened...

(1) Serious bodily harm

(2) Physical restraint

(3) Abuse of the law

(4) ID Document confiscation

(5) Financial harm/control

(6) Supply of drugs

(7) Control movement by threats

14

Definitions

“Labor” means work of economic or financial value.

- Tenn. Code § 39-13-301 (a)(9)

“Services” means an ongoing relationship between a person and the defendant in which the person performs activities under the supervision of or for the defendant.

- Tenn. Code § 39-13-301 (a)(13)

15

Effects of Forced Criminality

Forced criminality compounds victim vulnerability

Traffickers are more likely to escape accountability when they force victims to be complicit in their crimes

17

Examples of Forced Criminality



18



[Agriculture's Growing Problem: Investigating and Prosecuting Labor Trafficking and Co-Occurring Crimes in the Illicit Cannabis Industry](https://aequitasresource.org/resources)

Available at <https://aequitasresource.org/resources>

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Case Example:
State of Utah v. Victor Rax

AE

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Victor Rax's Plan

Step 1:
Identify
vulnerable
individuals

- Boys and young men (9-15 yrs)
- Impoverished
- Undocumented
- High-crime neighborhoods

Step 2:
Gain Access

- Position and reputation to gain access
- Well-known in the neighborhood
- Generous & powerful

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Victor Rax's Plan, cont'd

Step 3:
Grooming

- Unfulfilled needs
- Instilling trust with victims/families
- Used terms like, "love", "family", and "loyalty"
- Provided drugs & alcohol

Step 4:
Intimidation
& Control

- Forced victims to sell drugs
- Cultural fear tactics
- Threaten arrest or deportation
- Sexually abused victims and threatened to tell others

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Investigation and Prosecution

Utah Attorney General's Office

- **Original tip came from an informant**
- **Victims afraid to disclose**
- **Charged Rax with drug offenses first**
- **Provided “Safe Harbor” for victims**
- **Provided services to victims**
- **Certified immigration relief**
- **Superseding indictment with labor trafficking and sexual abuse charges**

23

I just wanted to say a few words. Um, Victor Rax took my dignity. He took my confidence. He took my [pause] my [pause] my self. I don't know who I was, and it has impacted me very much in my life, negatively, and I'm trying to get my life together right now. I just want to say that, thank you guys for being there, for law enforcement that stopped him and right now this is making me feel better, to let this out.

Victim impact statement (E.R.)

24

Case Example:

U.S. v. Tracie Dickey



25

U.S. v. Dickey

52 F.4th 680 (7th Circuit 2022)

- **Tracie Dickey was a self-appointed bishop of Deliverance Tabernacle Ministries**
- **Ministry proclaimed to offer faith-based services in Pennsylvania, North Carolina, and Florida**
- **Dickey also owned a “travel agency”**

26

U.S. v. Dickey, cont’d.

52 F.4th 680 (7th Circuit 2022)

- **Dickey recruited young women to join the ministry**
- **Women were made to work multiple jobs, including as desk clerks at hotels**
- **At Dickey’s direction, they fraudulently diverted reservation-commission fees to Dickey’s travel agency**

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U.S. v. Dickey, cont’d.

52 F.4th 680 (7th Circuit 2022)

- **The scheme resulted in at least \$66,525 in fraudulent proceeds**
- **Dickey also collected hundreds of thousands of dollars in wages earned by members of her ministry**

28

Dickey's Coercive Means

Emotional Abuse	Physical Abuse	Starvation
Humiliation	Forced Homelessness	Threats that God would harm their families

29

Dickey Verdict

- Jury convicted Dickey on wire fraud and labor trafficking charges.
- U.S. District Judge imposed a 12-year sentence in Chicago.



Michael Gryboski, *Pennsylvania 'church' founder sentenced to 12 years in prison for labor trafficking, fraud*, THE CHRISTIAN POST (April 4, 2024)

30

How can you apply a forced criminality analysis in Sex Trafficking cases?

What about the role of a “bottom”?



31

*The bottom is the person, in a stable of victims, who is **appointed** by the trafficker to manage, recruit, and supervise other girls.*

Shamere McKenzie, Member of AEquitas' Just Exits Advisory Council; Anti-Trafficking Ambassador to Jamaica, CEO of Sun Gate Foundation and Consultant

32

Is this labor trafficking?



33

Why add Labor Trafficking charges to a Sex Trafficking case?

- **Hold traffickers fully accountable for their crimes**
- **Articulate the reality that victims are compelled to perform more than commercial sex**
- **Combat defense that the “bottom” is the “Real Trafficker”**

34

Independent Questions



35

What benefit(s) did the individual derive from the criminal activity?

36

Legal Defenses

Prostitution Defenses

Necessity

37

Defenses to Prostitution

Tenn. Code § 39-13-513(d) & (e)

Under the age of 18

“for conduct that occurred because the person was a victim”

- Involuntary Labor Servitude
- Trafficking a Person for a Commercial Sex Act
- Trafficking Victims Protection Act (TVPA)

38

What about other crimes victims are forced to commit?

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Necessity

Tenn. Code § 39-11-609

Except as provided in... [self defense provisions] conduct is justified, if:

- (1) The person reasonably believes the conduct is **immediately necessary to avoid imminent harm**; and
- (2) The desirability and urgency of avoiding the harm **clearly outweigh the harm** sought to be prevented by the law proscribing the conduct, according to **ordinary standards of reasonableness.**

40

This section codifies the common law defense of necessity. It excuses criminal liability in those exceedingly rare situations where criminal activity is an objectively reasonable response to an extreme situation. For example, the necessity defense would bar a trespass conviction for a hiker, stranded in a snowstorm, who spends the night in a vacant cabin rather than risking death sleeping in the open.

Comments of The Tennessee Sentencing Commission; Tenn. Code § 39-11-609

41

The defense is limited to situations: (1) where the defendant acts upon a reasonable belief that the action is necessary to avoid harm; and (2) where the harm sought to be avoided is clearly greater than the harm caused by the criminal act. The defense is further limited in application to those offenses where it is not expressly excluded by statute.

Id.

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What about imperfect defenses?

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“The [prosecutor] is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done...”

Berger v. United States, 295 U.S. 78, 88, 55 S. Ct. 629, 633, 79 L. Ed. 1314

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ABA Prosecution Standards

A prosecutor should seek or file criminal charges only if the prosecutor reasonably believes that the charges are supported by probable cause, that admissible evidence will be sufficient to support conviction beyond a reasonable doubt, and that the decision to charge is in the interests of justice.

Standard 3-4.3(a) Minimum Requirements for Filing and Maintaining Criminal Charge

45

Some Factors to Consider

Combination of Ethical Guidance

- **Consistent with the interests of justice**
- The strength of the case
- The extent or absence of harm...
- The views and motives of the victim
- The defendant’s relative level of culpability in the criminal activity
- The defendant’s criminal history

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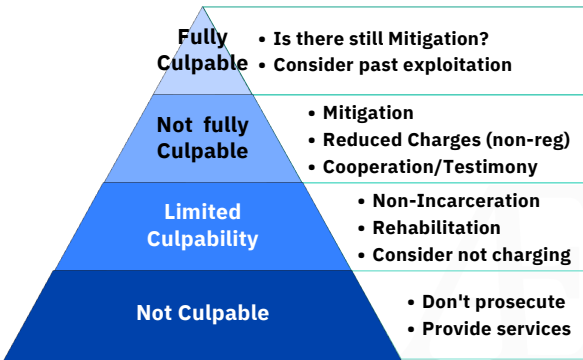
Some Factors to Consider

Combination of Ethical Guidance, Cont'd

- **The status of the victim, including the victim's age or special vulnerability**
- **The possible influence of any cultural, ethnic, socioeconomic or other improper biases**
- **The impact of the crime on the community**
- **Any other aggravating or mitigating circumstances.**

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Possible Resolutions



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Going Forward



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Lou Longhitano

ATTORNEY ADVISOR

✉ llonghitano@aequitasresource.org
☎ (202) 596-0256

📍 1000 Vermont Avenue NW, Suite 1010
Washington, DC 20005

🌐 www.AEquitasResource.org

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Additional Resources

www.aequitasresources/resources

- **Article, “Forced Criminality: Understanding Human Trafficking Through the Lens of Utah's Victor Rax Case”**
- **Webinar, “The Perfect Plan: How Victor Rax Sexually Abused and Trafficked Boys in Salt Lake City”**
- **Webinar, “Assessing Culpability: Context Before Conviction”**

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Office Hours

3rd Thursday of Every Month, from 2-4pm Eastern

💬 Discuss the most pressing issues facing prosecutors and allied professionals today

📖 Serve as a resource, and provide you with relevant resources

👥 Connect you with other practitioners in the field to help foster peer relationships

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