Transgender Law Center Transgender Law Center (TLC) is the largest national trans-led organization advocating for a world in which all people are free to define themselves and their futures. Grounded in legal expertise and committed to racial justice, TLC employs a variety of community-driven strategies to keep transgender and gender nonconforming people alive, thriving, and fighting for liberation.

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# INDEX

## I. Understanding Our Assumptions about Human Trafficking Survivors

- **PG.1**

## II. Overview of Human Trafficking and United States Law

- **PG.3**

## III. Force, Fraud, and Coercion: Understanding How Trafficking Occurs

- **PG.6**

## IV. The Force, Fraud, and Coercion Exception: Young People Who Trade Sex

- **PG.11**

## V. Screening LGBTQ Clients for Trafficking

1. **Employment in General**
2. **Interaction with Gangs and Cartels**
3. **Sex Work and Homelessness**
4. **Domestic Work**
5. **Domestic Violence: Partner, Family or Roommate**
6. **Childhood Sexual Abuse**
7. **Criminal History and Time Spent in Prison**
8. **Trafficking while Migrating**

- **PG.12**
- **PG.13**
- **PG.14**
- **PG.14**
- **PG.17**
- **PG.19**
- **PG.19**
- **PG.21**

## VI. How Identify Red Flags of Trafficking Victimization

- **PG.22**

## VII. Sample Screening Questions

- **PG.24**
I. UNDERSTANDING OUR ASSUMPTIONS ABOUT HUMAN TRAFFICKING SURVIVORS

BACKGROUND
Prior to jumping into this resource, it is important to recognize that what we have been taught about human trafficking through media, government and other sources often leaves out LGBTQ people and regularly only focuses on white cisgender survivors of trafficking into commercial sex. Also, there is often an assumption that a person can only escape a trafficking situation with law enforcement involvement. This is untrue. While some people do leave trafficking situations through law enforcement intervention, most survivors are incredibly resourceful and are able to identify a pathway to exit own their own or with the support of community or social services, not through law enforcement “rescue.”

There is also an assumption that survivors of human trafficking are broken people who are unable to move on with their lives without intensive therapy and support. While it is true that some survivors require high levels of support to move past their victimization, many have developed high levels of resiliency and are empowered to move forward with their lives without extensive services. In fact, many individuals report that their trafficking situation is not the most difficult or most traumatic experience in their life.

PURPOSE OF SCREENING
The only reason to screen for trafficking is to support the goals of clients and maximize resource access. Prior to beginning any screening, it is important to identify why a screening is necessary in the first place. No matter how skilled an interviewer may be, screening can still retraumatized a person. Make sure there is a real reason to screen that is beneficial to the potential survivor, not just an interest by the screener or even worse, a need to label people survivors of trafficking for funding reasons.
HERE ARE SOME REASONS WHY SCREENING COULD BE HELPFUL

1. The person is not a US citizen and needs help with immigration.
2. The person has convictions on their record that are impacting their lives, and those convictions could be vacated if they are related to trafficking victimization.
3. There are social and financial services that could be beneficial to the client if they are identified as a survivor of human trafficking.
4. The person is not in a safe situation and wants support from law enforcement or needs help safety planning.
5. There may be some civil remedy/restitution this client is owed by a person who exploited them and identifying the victimization is a step towards the civil remedy.

SCOPE OF THIS GUIDE

There have been many screening tools developed to identify trafficking victimization however, most of the tools were not created with LGBTQ survivors in mind. Due to high levels of discrimination, exclusion from employment, persecution, criminalization and myriad other issues, trafficking in LGBTQ communities often presents different, and traditional screening tools frequently are not applicable in our communities. Further, for LGBTQ survivors, it is not uncommon to see a recurrent cycle of victimization, specifically, a person being trafficked multiple times throughout their life. This tool has been developed specifically for trafficking identification by experts and individuals who have extensive experience working with LGBTQ survivors of human trafficking. Outside Scope of this Guide: This not a guide to teach people about asylum, T nonimmigrant status, vacating convictions tied to trafficking, or accessing public benefits for survivors. Other tools exist that address those issues and provide the education and guidance needed including web-based and customized training and technical assistance through OVC TTAC.2
II. OVERVIEW OF HUMAN TRAFFICKING AND UNITED STATES LAW SURVIVORS

WHAT IS HUMAN TRAFFICKING?

Human trafficking occurs when force, fraud, or coercion is used to obtain some type of labor or commercial sex act.

Human trafficking was not defined by federal statute until the Trafficking Victims Protection Act (TVPA) was created in 2000\(^3\). This means that prior to the year 2000 the violence and exploitation now considered human trafficking was classified as other types of violence or not recognized as abuse at all. Human trafficking, legally speaking, is a fairly new concept. Given its recent addition to penal law, many survivors do not know that they have experiences that fit within the legal definition of human trafficking. This failure to identify signs of trafficking extends to law enforcement officials, social workers and attorneys who often do not properly screen for trafficking victimization, particularly within marginalized groups such as LGBTQ people.

Human trafficking is a crime under United States federal and international law\(^4\). Prior to the passage of the TVPA in 2000, there was no comprehensive federal or state law to prosecute traffickers nor to protect survivors of trafficking. Further, each US state criminalizes different aspects of trafficking activity\(^5\). It is important to understand in what state or states the trafficking occurred as there may be additional protections for survivors on a state level.

The TVPA provides a federal definition of human trafficking through the phrase “a severe form of trafficking.” There is often a lot of confusion about this term/definition, but what this term encompasses is the actual definition for human trafficking. Given the language utilized in the TVPRA all trafficking cases qualify as severe forms of human trafficking. There is no such thing as a non-severe form of human trafficking. Although the TVPA defines labor trafficking and sex trafficking separately, both fall under the umbrella of “a severe form of trafficking.”
Understanding the definitions of human trafficking, a.k.a. “a severe form of trafficking,” is important because people often hold preconceived, and incorrect, notions of what can be considered human trafficking and therefore miss when victimization occurs. For example, one important thing to note is that the TVPA does not include physical transport or movement in the definition. Many people mistakenly believe that a person has to be moved from country to country, or from state to state, in order to be considered a survivor of human trafficking. This is not the case. If a person is born in Queens, New York, lives in the same house his whole life, and at age twelve his mother forces him into sex work within his home, he would be considered a trafficking survivor under federal law, even though his mother never transported him anywhere.

**WHAT IS A “SEVERE FORM OF TRAFFICKING” UNDER THE TVPA?**

The component terms are defined by the regulations at 8 C.F.R. § 214.11(a). The term “severe forms of trafficking in persons” means:

- **Commercial Sex Act**: any sex act on account of which anything of value is given to or received by any person;

- **Coercion**: threats of serious harm to or physical restraint against any person; any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or the abuse or threatened abuse of the legal process;

- **Debt bondage**: the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or the services of a person under the debtor’s control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of

- **b. the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.**

The same regulations under the Trafficking Victim Protection Act provides further definitions to help understand the scope of a severe form of trafficking:
of the debt or the length and nature of those services are not appropriately limited and defined;

- **Involuntary servitude**: a condition of servitude induced by means of any scheme, plan or pattern intended to cause a person to believe that, if the person did not enter into or continue in such a condition, that person or another person would suffer serious harm or physical restraint; or the abuse or threatened abuse of legal process. Involuntary servitude includes a condition of servitude in which the victim is forced to work for the defendant by the use of physical restraint or physical injury, or by the use of threat of coercion through the law or the legal process. This definition encompasses those cases in which the defendant holds the victim in servitude by placing the victim in fear of such physical restraint or injury or legal coercion;

- **Peonage**: status or condition of involuntary servitude based upon real or alleged indebtedness;

- **Abuse or threatened abuse of law or legal process**: the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.
III. FORCE, FRAUD, AND COERCION
UNDERSTANDING HOW TRAFFICKING OCCURS

WHAT IS HUMAN TRAFFICKING?

Human trafficking looks different in every situation; however, almost all trafficking experiences have aspects of force, fraud, or coercion, or a combination of two or three of those elements.

i. Force

It is easy to understand what force looks like: physical violence, which can include rape or other forms of sexual violence, beatings, food and sleep deprivation, or physical confinement that induces a person to provide some form of labor, including sexual labor. For example, Alexandra was forced into street-based sex work by an abusive romantic partner. When she refused her partner’s demands, he physically assaulted her using a belt. As a result of this physical force Alexandra felt she had no choice but to engage in the commercial sex acts her partner demanded.

ii. Fraud

Traffickers frequently use fraud to induce survivors into labor. Fraud may involve false promises regarding employment, wages, working conditions, or other situations. One example of the element of fraud in this context is when traffickers subject survivors to debt bondage or peonage. In this situation, the trafficker demands labor as a means to repay a real or alleged debt. Yet, the trafficker does not apply the victim’s wages accurately against the debt, and/or charges high levels of interest to create a consistent cycle of debt from which there is no exit. Traffickers may also charge victims money for transportation, housing, food and other items that continue this artificial debt accrual. Interest may be added if a person cannot fully pay back the amount. Traffickers add this interest strategically knowing the individual...
will not be able to repay. Survivors may be charged more money if the trafficker believes they have behaved badly. This traps survivors in a cycle of debt that they may never be able to pay back.

For example, let’s say a person named Bernie agreed to pay five thousand dollars for a visa to come to the United States. Once he arrived, he was told he needed to pay interest on the five thousand and was assigned an apartment to live in. He was charged rent for the apartment but was not allowed to look for anything cheaper, and he was charged for food, electricity and the blanket he used at night. The debt was recorded in a notebook. Every day Bernie was taken to a bodega and was told he had to work to pay the debt. He worked in the stock room and filling shelves. Bernie was told that there was someone always watching him. After four months, Bernie paid back the original five thousand dollars but still owed more money because of the interest and room and board that had accrued. He now owed ten thousand dollars before he could escape his trafficker, and the trafficker has created a situation to strategically keep Bernie “in debt,” and working to pay off that false debt, to the trafficker’s financial benefit, for as long as possible.

iii. Coercion

Coercion can be challenging to understand because it can present differently in each trafficking situation. Recall that coercion is defined in part as “any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person.” It is essential to look at the experience through the eyes of the person who has experienced the coercion. For example, in a brothel, sex workers might enter the situation voluntarily, agreeing to engage in sex work, but circumstances and treatment of the workers might cause a person to want to leave. The coercion, to keep someone engaging in prostitution there, will look different for each worker based on their own past experiences that the trafficker feels they can exploit. One worker might only need to witness the madam physically harming, or threatening to harm, another worker when that person tries to leave. That might be enough coercion (the creation of fear) to keep the worker at the brothel. However, for someone else, they might not feel coerced into staying and engaging in prostitution unless they themselves are threatened. A third individual in the brothel might need to try to escape, experience physical abuse and be brought back to the brothel to feel
coerced and forced to continue work there.

It is important to remember that coercion can also be a threat to a family member or loved one rather than the individual in the trafficking situation. This can include threats to hard a child, family member, or even friend that invokes fear of leaving. Often threatening loved ones is the most powerful mechanism of control.

**Some examples of coercion:**
In Caroline’s case, she met a man in Mexico. He told her that he really liked her and they started dating. He then brought her home to meet his family. Once they were at his house he wouldn’t let her leave. She was forced to spend the night, and in her culture, spending the night when you’re not married can be considered to create a loss of reputation—in other words, it “brings shame to the family” if marriage does not proceed. After she spent the night with him in his house, he told her that he loved her and wanted to marry her. They married and had a baby together. He convinced her to leave the baby in Mexico and come with him to the United States so that they could make money and build a house for their family. Once in the United States, Caroline’s husband took her passport from her and then told her that if she didn’t engage in prostitution, she would never see her child again and he would harm Caroline’s parents. He also threatened to tell her family that she engaged in sex work as a way to shame her with her family.

For Diana, she met her boyfriend in Queens, New York. Diana is from Central America and fled her home country because of persecution based on her gender identity. After they met, her boyfriend learned that she was undocumented. He also learned that she was terrified of returning to her home country because she believed she would be beaten, raped and killed. Diana’s boyfriend then began to threaten to call immigration authorities on her if she didn’t engage in sex work. Therefore, to ensure her own safety from having immigration called, Diana started working and giving her money to her boyfriend. He also made her pose
Some examples of coercion (cont.):
for nude photos and threatened to send the photos home to her family members, which would out her as a sex worker and as a transgender woman. One day, the threats escalated to physical violence and she called the police for help. When the police arrived, because Diana did not speak English, her boyfriend was able to control the narrative, and she was arrested. She went to criminal court and the court issued an order of protection in favor of her boyfriend. Diana, having nowhere to go, went back to living with the boyfriend. Anytime she did not follow his rules, work on the street, or obey him, he would say, “I will call the police and tell them that you violated the order of protection”.

In both of these cases we see a lot of different forms of coercion:

<table>
<thead>
<tr>
<th>CAROLINE’S CASE</th>
<th>DIANA’S CASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caroline’s identity documents were confiscated</td>
<td>Threat to call Immigration Customs Enforcement</td>
</tr>
<tr>
<td>Threats of violence against her family members</td>
<td>Threats to tell her family members that she engaged in sex work</td>
</tr>
<tr>
<td>Withholding access to her child if she didn’t work</td>
<td>Threats to out her to her family members</td>
</tr>
<tr>
<td>Threatening loss of reputation/shaming by creating rumors or gossip</td>
<td>Use of police and the order of protection</td>
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In Caroline’s case, her passport was held. Holding another person’s identity documents can be coercive for many reasons including because it limits a person’s ability to travel or even go about their daily life. Caroline’s husband said that she would never see her children again if she didn’t work. He also threatened physical violence against Caroline’s parents. Threats to a child or a family member are considered coercive behavior. In their initial relationship, he created a situation where Caroline would suffer a loss of reputation and shaming if she didn’t marry him because they spent the night together in his house. Although this might not be coercive in certain cultures, this is considered a coercive tactic in Caroline’s.
In Diana’s case, the coercion was initially the threat to call immigration. Diana’s boyfriend also coerced her through threats of outing her to her family as a sex worker and a transgender woman. Lastly, he used law enforcement to help him coerce her into prostitution: he had her arrested, had an order of protection issued, and then used that order of protection to ensure that she worked by threatening to call the police if she didn’t comply.

Coercion can be explained this way: when a person feels like something bad will happen to them if they do not engage in the form of labor they are being asked to engage in, there could be a coercive aspect to the situation. The next step is figuring out if the “something bad” fits within the TVPA’s definition of coercion.

WHAT TRAFFICKING IS NOT

“SMUGGLED IN” VERSUS “TRAFFICKED IN”

Smuggling and trafficking are two different things. Smuggling is when someone voluntarily hires a “coyote” or another individual to bring them across borders because they are fearful of crossing the border lawfully, or they do not have a valid visa, and they nevertheless want to enter the country or need to enter to escape persecution. **Smuggling is not trafficking.** However, smuggling can become trafficking. **A smuggling situation becomes “trafficking” when it involves the use of force, fraud or coercion that creates a climate of fear that prevents the individual from leaving the situation.** To better understand how this happens, please see the section titled *Trafficking while crossing the border.*

“LABOR EXPLOITATION” VERSUS “TRAFFICKING”

Labor exploitation involves extremely low wages, usually below minimum wage, long hours, poor working conditions, lack of avenues for redress, and may be linked to various other forms of mistreatment. However, if there is no coercion, force or fraud present, trafficking is not present. However, what began as labor exploitation can escalate to human trafficking.

PRACTICE TIPS

Look at the experience through the eyes of the person telling you the story, and consider the above terms from that positionality. Just because you would not have felt threatened in a certain situation, does not mean that your client would have felt the same way.
IV. THE FORCE, FRAUD, AND COERCION EXCEPTION: YOUNG PEOPLE WHO TRADE SEX

The TVPA’s definition of a severe form of trafficking includes inducing anyone who is not yet 18 years of age engaging in commercial sex. Commercial sex is defined as any sex act in which anything of value is given or received. This means that any person under the age of 18 who has voluntarily or involuntarily traded sex for money, food, clothing, drugs, shelter, or anything of commercial value is considered a survivor of trafficking under the law. However, because it is still a criminal act for a young person to engage in sex work, a person younger than 18, who is considered a trafficking survivor, can at the very same time be convicted of prostitution and be put in jail. There are certain states that have put safe harbor laws in place so that people younger than 18 who are arrested for prostitution and are seen as victims. However, the treatment of young people under safe harbor laws varies. Some safe harbor laws work to protect them, while others place them in detention or force them into treatment programs against their will. That is why it is very important to ask if someone has been arrested or convicted of any sex work-related crimes. A conviction connected to sex work for someone younger than 18 could be used as evidence of victimization.
V. SCREENING LGBTQ CLIENTS FOR TRAFFICKING

When screening LGBTQ clients, it is important to break things down into a few different categories of “red flags.” If a person mentioned any of these red flags, it will be important to dig deeper into that topic. It is important to review each of these topics, and more detail about each is below:

1. Employment in General;
2. Interaction with Gangs and Cartels;
3. Sex Work;
4. Domestic Work;
5. Domestic Violence – Partner, Family or Roommate;
6. Childhood Sexual Abuse;
7. Criminal History;
8. Trafficking while Traveling;

It is important to stress during an interview that these questions are being asked to see if they fit within certain categories for immigration relief or to identify if certain convictions are vacatable. It is often necessary to make it clear to the person that this information will stay with you if the person does not want it shared.

It’s really important to remain completely non-judgmental when you’re interviewing someone. Many survivors of trafficking have had to learn to read body language in order to survivor therefore they may be reading your body language, and if you appear uncomfortable or have biases about what they are sharing, the person may stop talking to or trusting you. It is important to remember that the most important tool we have is ourselves, and how we communicate is far more than the language we use. Be mindful of your tone of voice, cadence, and nonverbal communication including facial expressions. For example, if someone shares a traumatic detail about their life and you begin to speak quickly or a panicked expression comes over your face, you are communicating more with tone and expressions than any verbal language in that moment. As you prepare to work with individuals,
be mindful that you are always holding your clients in unconditional positive regard, and be prepared to sit next to that person and listen compassionately regardless of what they disclose.

Always remember, you should only ask questions you need to know, not questions you want to know. Clients’ lives and experiences are not there to entertain us or to satisfy our curiosity. You should always be able to explain to a client why a question is important and relevant to their case.

1. EMPLOYMENT IN GENERAL

It is important to remember that human trafficking can exist in any type of industry. For trafficking, you need to identify if force, fraud or coercion induced a person to perform any type of labor. For example, if people working at 7-Eleven are getting paid very little and those people feel like if they quit their boss will call the police and make false claims about them stealing, or call immigration to have them deported, this is a form of human trafficking. If a person is unable to take a sick day because they believe something bad will happen to them, could be a flag for trafficking. Also inquire about who controls a person’s wages: if a worker does not have access to or full control over funds they’ve earned, this could be a sign of trafficking. For example, sometimes managers or bosses will not pay a person directly rather give the money to another person. Or a person could be required to turn over all or most of their money to someone else. It is important to ask a how a person found their job. Traffickers sometimes set up employment as a way to keep further control. People are also trafficked into fields such as teaching, nursing, hospitality, and restaurant work. It is important to go through a list of all former employment and ask questions to determine whether or not there was force, fraud or coercion that played a role in any of their jobs.
2. INTERACTION WITH GANGS AND CARTELS

Understanding a client’s experience interacting with gangs or cartels is important when you are screening for human trafficking. Unfortunately, it is quite common for gangs and cartels to target LGBTQ people and exploit them for all forms of labor, including but not limited to sex work, selling and carrying drugs, stealing and transporting things that are illegal, or other criminal activity. This type of labor could also include cooking, cleaning, or being a lookout to let the other gang members know if the police are coming. For example, a gang member might force or coerce a person to engage in street-based sex work and give the gang some or all of the money. In another instance, a person might be forced to pay to do sex work on a certain block that is under the control of a gang. In other trafficking situations, a person may be forced to carry drugs or run errands for the gang. Some gang members exploit children and create child pornography.

The most important thing is to assess if the client had any interactions with gangs or cartels, what those interactions were, if there was any form of labor or sexual violence involved, and what they thought would happen to them if they tried to say no or tried to get away from the gang.

3. SEX WORK AND HOMELESSNESS

When screening a person for human trafficking, it is important to determine whether or not that person has ever engaged in sex work and but remember that sex work is like any other form of labor, just because someone has engaged in sex does not mean they are victim of trafficking. It is important to remember that people engage in sex work for a variety of reasons. Some people engage in sex work because it’s the work they want to do, some because it’s the only job they can get, and some because they are forced and coerced into it. Sometimes people are ashamed of engaging in sex work and might not want to discuss it; some may have had previous attorneys or social workers shame or degrade them because they have engaged in sex work. Other people may not realize they had engaged in sex work because they were trading sex for things other than money, like food, shelter or drugs. Remember, if a person engaged in sex work before they turned 18, under the TVPA, they
are automatically deemed a trafficking victim, even if there was not any force, fraud, or coercion involved.

**Note that just because someone was trafficked into sex work at one point in their life, it does not mean that they couldn’t have done sex work voluntarily at another point. The inverse is also true.**

- Someone can begin in a situation doing voluntary sex work that results in a coercive situation and becomes trafficking. For example, if a person decides to work voluntarily in a brothel, it can become coercive once they have begun working there. Many different things can make a brothel environment coercive. For example, if the person in charge requires everyone to advertise on certain websites and a person goes into debt having to advertise on those websites, a debt bondage situation could be created.

- Moreover, a person might have started out able to make decisions about which clients they want to see in sex work. However, the person in charge can change that and require a person to see every client that comes through the door without the option to say no. If a sex worker feels that the person in charge will do something bad to them, like calling the police or immigration or any type of physical violence, that is when trafficking may have occurred. Further, some brothels hold onto identity documents like a passport or birth certificate. This gives an additional level of control to the brothel owner. Also, some brothel owners have relationships with law enforcement and will use threats of contacting authorities and having someone arrested to control victims.

The most important thing to think about is whether or not a person was ever able to leave the situation, not how they entered into it. If a person felt that they could not leave a situation because someone would do something to harm them, trafficking may have occurred. One can look at farm work as an analogy that is often helpful to understand this point about the changes between choice and circumstance of coercion. For example, if someone has decided to work on a farm and they are being paid well, treated well and are able to leave employment if they would like to, they are not trafficked. If the hours are changed and the pay is decreased but they are still able to leave, that person is still there by choice, or their own personal
circumstances are keeping them at the job. However, if the person working on a farm begins to be threatened if they do not work, they are getting less money or no money and they feel like something bad will happen if they try to leave their job, that’s when trafficking may have occurred. Just because someone voluntarily goes to work at a farm, doesn’t mean that they can’t be trafficked later. This is the same thing for sex work. Even if someone is voluntarily doing sex work at some point, they can still become a victim of trafficking in the future.

Similarly, a person who was previously trafficked into farm labor may later find a different job in farming where they are not being trafficked. The same is true for sex work. Just because a sex worker was previously trafficked does not mean that they are currently being trafficked. Some people feel that because they are currently engaging in sex work by choice or because of the circumstances they are in, their past experience with trafficking isn’t relevant. It is important to make it clear, that it is common for people to remain in the sex industry after they have escaped victimization, but that does not mean that they trafficking they experienced is not real and important.

Keep in mind that there are different types of sex work, including street-based sex work, work in brothels, delivery service, work from home, web cams, go-go clubs, strip clubs, salons, commercial business fronts and advertising online. In each of these categories, you are looking for the exchange of sexual services for food, shelter, clothing, drugs, money, or anything else of value, including safety.

**Homelessness**

If someone mentions that they were homeless and didn’t have a place to sleep, it’s important to follow up with questions about how they survived. If someone had sex for food or for shelter and that person was younger than 18, it is automatically human trafficking. Also, being homeless creates vulnerability within itself for trafficking into any industry. A person’s ability to leave is quite different when they do not have a home to go to and traffickers can use this vulnerability along with others to coerce a person to stay.
4. DOMESTIC WORK
It is important to ask if a person has ever done domestic work in another person’s home. Be aware that the term “domestic work” may not be something your client is familiar with and be able to explain what you mean by listing different types of labor. It is not uncommon for LGBTQ people to be domestic workers whose job it is to cook, clean, or take care of children in exchange for food and or a place to live. The person may not be paid, but instead is given food and a perceived free place to live. At that point, there is no trafficking. It is like bartering, an agreement to exchange labor for food shelter and clothing. However, when a worker is treated poorly, is abused, has their documents taken away, is unable to leave the house, or feels that they are unable to quit their job because something bad might happen to them, there might be trafficking. If they believed they couldn’t take a sick day or couldn’t leave their job because the employer might do something bad to them or to members of their family, that could be human trafficking. Sometimes people do not include domestic work when discussing past employment, so it is important to ask very specific questions about domestic work in order to fully screen a person for trafficking. It is important to note, a survivor may not view this situation as employment, nor may they view the person as an employer.

5. DOMESTIC VIOLENCE: PARTNER, FAMILY OR ROOMMATE
Human trafficking and intimate partner violence share many similar characteristics. When screening a person for trafficking it is important to review all of the romantic relationships they have had in their lives. You might start by asking clients to describe each relationship and how their partner treated them. It is important to remember that people view violence and abuse in a lot of different ways, and it is often helpful to start with an overall description of the relationship before delving into any sensitive questions about violence or abuse. For many people, a relationship with a physically-violent person might still be better than any previous relationship that person has ever experienced. It is not your job to determine whether or not a relationship was good or bad. Relationships are complex, and the client ultimately decides the experience
they had in that interaction. Your job is just to determine whether or not someone had an experience of human trafficking while in that relationship.

**What is important to uncover is whether or not there were any times this person was afraid of their partner, and whether or not there were times that their partner treated them badly.** For example, a person who is in a relationship where they experience physical or sexual violence and cooks and cleans the house every day, is not being trafficked. However, when a person who cooks and cleans the house believes that if he does not do so, he will be beaten or raped, that is where trafficking may have occurred. It’s important to dig into why people are engaging in certain forms of labor and what they think will happen if they do not do so. It is also important to ask if their work was ever inspected. Were they ever told that the kitchen was not clean enough? What happened when something wasn’t clean enough? Were they ever told that their food was not good? Was there food ever thrown at them? Does the person think they would be harmed in anyway if their cooking wasn’t “good enough”?

Always remember trafficking can also occur by people other than the partner. For example, a roommate can exert control. Or, consider a survivor’s partner who drops off the victim at a family member’s house to cook and clean for them. This could mean that the partner’s family is trafficking them or that the partner is trafficking them into working at the family member’s house and the family members are unaware of the trafficking.

**It’s critical to ask questions about sexual violence and if that was ever used as a way to control the person.** Also, was the person ever pressured to have sex with someone other than their partner? Were one or more people brought over for them to have sex with by someone else? What did they think would happen if they didn’t have sex with those people?

It is important to reiterate that it is necessary to be completely non-judgmental when asking these questions. Just because someone was physically or sexually abused in relationship doesn’t mean that they believe that relationship was bad. It could’ve been the best relationship they have experienced across their life course, and that person might still love and be willing to go
back to that partner if they could. That is why asking questions like “Was that person abusive?” or “Did that person hit you?” will not always be helpful. Nuance is important. Please see examples of questions in the sample screening portion of this document.

6. CHILDHOOD SEXUAL ABUSE
In many situations of child sexual abuse, the person abusing the child will give the child gifts after, before, or leading up to the sexual abuse. Some people call this action grooming. Gifts include food, jewelry, toys, or even allowing the child to ride on someone’s bicycle. This is trafficking into commercial sex. Since the person is younger than 18, any type of exchange of food, shelter, gifts, clothing, or safety for any type of sexual activity, consensual or not consensual, is human trafficking. Ask if there were any photos or videos taken of them. Were they naked or semi-clothed? Make it clear you will not be looking for those photos or videos (and DO NOT look for the photos or videos) and that you do not want to have access to those photos or videos. Pornography is also a form of labor. Whether it is considered labor trafficking or sex trafficking does not matter, it is human trafficking.

7. CRIMINAL HISTORY AND TIME SPENT IN PRISON
People are trafficked into every form of labor including criminal activity like stealing, selling drugs, carrying drugs, sex work, or assault. Go through a full criminal history and ask about each conviction/each arrest and what led to the arrest. For some people, all of their arrests might have been from profiling. For ones that are not profiling, get details of whether someone else was in control or what they felt would happen if they said no and didn’t engage in the activity. It is not uncommon for a trafficker to be the one who pays for the criminal defense attorney. This often creates a situation where a survivor is unable to be fully explain the circumstances to their attorney because the attorney may report back to the trafficker. Further, traffickers often control the environment after someone is released from jail/prison. A trafficker may pick the victim up themself or send
someone to pick them up and be waiting for them as they are released. The trafficker can have the defense attorney arrange transport for the victim and in some cases even put the victim on a bus to send them back to their trafficker.

**Time spent in prison**
Unfortunately, it is not uncommon for LGBTQ people inside of prisons to be treated as property either by guards or by other people who are detained. Under United States law, it is technically legal for a prison to force people who have been convicted of crimes to work. However, if guards or other prison officials force a person to work prior to being convicted of a crime, that is when trafficking could occur. It is important to note, it is never legal for guards to force people who are convicted of crimes to have sex with them, to dance for them, strip for them or provide any type of special favors. If that occurs, and a person is engaging in that behavior because they think something bad will happen to them, that is human trafficking.

In some situations, LGBTQ people have had tattoos placed on their bodies or other types of branding to indicate that they are property of certain gangs or certain people. This marking of a person’s body can occur in other trafficking situations as well. It can be helpful to ask if a person has any tattoos or branding on their body and find out more about the circumstances that led to it.

Trafficking can also occur by other people who are detained inside the prison. LGBTQ people are often targeted by gangs or other individuals who have power inside prisons. **It is not uncommon for an LGBTQ person to be considered property, treated as a sexual servant, or required to do other types of work like cleaning or carrying drugs.** Further, some people are also forced to have sex with a number of people in order to stay safe. When an LGBTQ person engages in any type of work, whether it be sex work, cleaning, or other errands, because they fear something bad will happen to them, that could be human trafficking.
8. TRAFFICKING WHILE MIGRATING

LGBTQ people are often the targets of traffickers while traveling from their home country. In some instances, friends or family may have even suggested they travel into other countries, including traveling to Mexico to work and once they arrived, they are coerced to engage in illegal activity, including sex work.

It is important to track a person’s journey from their home country to the border, or to their destination if they have reached it, and identify any possible red flags. If a person has spent more than a week in any location along the journey, that is a red flag that trafficking may have occurred. It is not uncommon for coyotes or other people to target LGBTQ travelers and coerce/force them into sex work. It is also important to identify if any violence occurred while migrating because that could be a red flag as well. Also, coyotes often control all access to food, clothing and shelter. Sometimes coyotes will tell a person that in order to be safe, be fed, or have shelter, that person will have to engage in sex acts with that person or sex with other people. If that occurred, that is a sign the person might be a survivor of human trafficking.

Stash Houses

It is also not uncommon for people to be kidnapped and held for ransom in the United States and other countries as well. However, for LGBTQ people, there is a higher likelihood that along with being held for ransom, an LGBTQ person will also be forced into some type of labor while being held. For example, while being held in a stash house, an LGBTQ person might be told that they need to cook or clean in the stash house.

If the person believes that they will be harmed, or someone else will be harmed if they do not follow instructions, they might be a survivor of human trafficking. It is important to ask questions about the types of security in the house, i.e. are/were guns present? Other weapons? Were people standing guard so no one can escape?

It is also not uncommon for the people running or working at a stash house to force LGBTQ people to have sex with them or with other people they bring. If a person engaged in sex in order to stay safe, this could be human trafficking.
VI. HOW TO IDENTIFY RED FLAGS OF TRAFFICKING VICTIMIZATION?

There is no magic screening tool or question to ask a person that will allow you to determine if a person is a survivor of human trafficking. To really understand victimization, a screener must ask a lot of questions and identify red flags as they come up. Once a red flag is identified, you should explore that topic to see if any trafficking occurred.

**It is important to remember that people do not always share all of their experiences the first time you meet with them, and this normal and should be expected.** People choose not to share, to leave out information, and sometimes to lie for many reasons including fear of being rejected, not trusting the person interviewing them, not feeling safe telling the whole truth, or they might’ve forgotten or have a memory issue related to trauma. When interviewing it is important to understand the neurobiological implications of traumatic events and how we encode memory. This is common and should not be held against your client.

**Trauma Informed Screening**

It is important to remember that there is no possible way to screen a person and ask probing, difficult questions that does not re-expose an individual to traumatic events and potentially retraumatize that individual. Having an understanding of how trauma impacts memory, responses, and behaviors during interviewing is critical to person-centered and trauma-conscious interview that mitigates additional harm. That is why it is always important to ask yourself why a question needs to be asked and how that question is important. This does not mean you should shy away from asking difficult questions; it means that questions should be thoughtful and deliberate with a specific purpose. How you ask questions is critical to reduce re-traumatization, stigma, and self-blame. You must first build trust and rapport that creates a safe environment.
to answer questions. While there sometimes might not be time for long-term rapport building, the language you use in asking questions can go a long way in creating trust and appropriately contextualizing why you are asking a question. Building a relationship with a person can be helpful, and there are many tools that explain how to engage in a trauma-informed interview. It is highly recommended to review these resources prior to moving forward on interviews. Project TRUST has a series of webinars and materials that addresses the types of trauma responses individuals might experience and tools that can be utilized when a client is triggered.

Always remind clients that you do not expect them to tell you everything at once. It is important to also tell them that you expect that their memory will come back overtime. In many new client meetings, initial conversation starts to unlock memories and experiences they had tried to forget for years. After the first meeting, many clients report having memories that flood back to them, sometimes just hours after the meeting. Some people report nightmares, and other people report flashbacks. It’s important to allow time and space for memories to return and for clients to feel safe and build trust with you in order to fully share all of their experiences.
VII. SAMPLE SCREEN QUESTIONS

SAMPLE SCREENING QUESTIONS ON EMPLOYMENT

First, go through the person’s life and map out different types of employment. For each job (this includes domestic work even if it is unpaid) ask the following questions:

1. How did you find your job? Did you have help from someone else?
2. How much money did you make a day/week/or hour?
3. Did you get to keep all of the money or did you have to give it to someone else?
   a. If you gave it someone else, who was that person? What would have happened if you didn’t want to give them the money? Would something bad have happened to you if you didn’t give them the money?
   b. If you were sick or didn’t want to go to work, were you allowed to take a day off? Did you think something bad would happen to you or someone you loved if you were not working?
4. Did you feel like you were free to quit/leave the job? If you did quit/leave, did you think something bad would happen to you?
5. Did you feel like your boss had control over you? If not, did you think something bad would happen to you or a loved one if your boss was unhappy?
6. Did any of the money from your paycheck go to pay expenses that your boss said were necessary, such as food?
7. If you felt like you couldn’t quit/leave your job, can you tell me a little bit about what you believed would happen? (questions below)
   a. Did anyone at work treat you badly?
   b. Did anyone say mean things or bad words to you?
   c. Did anyone threaten you?
   d. Did anyone get angry with you easily or raise their voice? Did anyone bully you (call you names, gossip about you)?
   e. Did anyone touch your body in a bad way?
   f. Did your boss give you enough time to rest?
   g. Did anyone make you feel scared or unsafe?
   h. Did you ever think your boss, or someone related to your job would do something
bad to you if you didn’t go to work or your work was not good enough?
8. Did you feel bad about any of the work you had to do in any of these places?
9. If you had to clean, were you provided enough tools and protection for your hands?
10. Did you ever have to do work on your knees or in uncomfortable positions?
11. Were you pressured to do things that felt wrong, or that made you feel uncomfortable, feel dirty or embarrassed? Also, how did it make you feel when you had to do these things?
12. Do you feel that any of your bosses owe you money?
   a. Did you ever have to work extra hours, but got paid the same?
   b. Were you ever promised a pay rate that you did not receive?
   c. Did anyone ever keep a portion of the money you earned?
13. Did any of your bosses ever keep your identity or immigration documents or offer to store them for you?
   a. Why did they say that they were keeping to documents?
   a. Did they say they needed them for your immigration process? If taken, were the documents returned to you?

SAMPLE QUESTIONS RELATED TO GANGS/CARTELS

1. Can you tell me a little bit about gangs in your home country/in your town?
2. Did you know anyone in a gang?
   a. What was your relationship with them like?
3. Did you ever interact with gangs?
4. Did they ever try to make you join?
5. Were you scared of the gangs? Can you tell me a little bit about what scared you?
6. Did they ever try to make you do work for them? Can you tell me if there was ever a requirement to carry drugs? Sex work?
7. Can you talk me through what would happen if you tried to say no?
8. Did anyone from a gang ever make you to engage in a sexual activity you did not want? If so, how many times/how many people/how often? Was there ever more than one person involved in these unwanted sexual activities?

TIP
A good question to ask is if there has ever been a situation where they gave another person identity documents to hold on to or if they were told they had to give identity documents over.
SAMPLE QUESTIONS ABOUT SEX WORK

WHAT NOT TO DO: *Have you ever engaged in [sex work]? This is not a good question to start with. Often times, starting with this question will get an automatic no and possible shut down the interview.

TIP: do not use the words “sex work” right away if your Client hasn’t. Use the language they have been using, and if there hasn’t been an opportunity to talk about this, use the following questions as a guide:

1. Have you ever had to do sexual things, show your body, or let other people touch your body in exchange for money, food, shelter, clothing, drugs?
2. How old were you the first time? (super important if the person was younger than 18!)
3. Have you ever had to give money you made to another person?
4. Were you always able to keep all of the money you made?
5. Did you ever have to give a family member, friend or romantic partner any of the money?
6. Did you ever feel like they may harm you or tell your secrets or embarrassing information if you did not give them money or see a client?
7. Who would find clients for you, and how?
8. If you have done [sex work] before, was this while you were living with/ dating your partner?
   a. If yes, did your partner ever take any of the money you earned?
9. Did you partner ever make a quota/ was there a certain amount of money you had to make or did you partner ever tell you had to spend time with a minimum amount of people?
10. Did your partner ever keep track of where you were going or watch you while you were working?
11. What did you believe would happen if you didn’t work?
12. Was your partner ever angry if you did not bring home enough money?
13. Have you ever spent time/lived/ worked in a brothel or a place where other people were doing the same type of work you were doing?
   a. Who would set up the advertisements so clients would know to come or schedule?
   b. Did you pay for the advertisement?
   c. Did you get to decide where to advertise?
   d. Were you allowed to leave the house/brothel to get food or take a
walk?
e. What did you think might happen if you left?
f. What did you think would happen if you tried to leave/quit?
g. What did happen when you left/quit?

14. Did you have control over the clients you saw?
a. How did the person in charge treat you?
b. How did your clients treat you?

15. Were you ever scared of the person in charge?
a. Can you share with me what scared you?

16. For street-based work, did you need to pay off a gang or someone who owned the street?
a. Can you tell me who you would need to pay?
b. How did you first learn that you needed to pay?
c. What would happen if someone did not pay?
d. What would happen if you stopped working?
e. Did you ever see something happen to someone else who stopped working?
f. Have you ever had sex with some in order to keep yourself safe?

Sex Work and Homelessness

1. Were you ever homeless?
2. If so, how did you survive? Access food, shelter, clothing?
3. How old were you?
4. Did you ever have sex with someone for a place to stay or food?

Sample Questions About Domestic Work

1. Have you ever had to work in someone else’s home as maid/servant/housekeeper/house cleaner or preform those types of activities when it wasn’t considered employment?
2. Were any of the places you worked in your family or your partner’s family?
3. Tell me a little bit about the different kinds of work this involved:
   a. Did you get paid?
   b. If you didn’t get paid, did anyone get paid?
SAMPLE QUESTIONS ABOUT PARTNER VIOLENCE

Be thorough. Discuss every romantic relationship this person has had.

Let’s talk about your romantic relationships.

1. Were you ever in a relationship where your partner was mean to you, or pressured you to do things you weren’t comfortable doing?
2. Treated you badly on occasion? (Ex Qs. Did you ever live with the person? How did they treat you? Who paid your rent and other monthly bills?)
3. Did you have a job outside of the home when you were together?
   a. If yes, who handled all of the money?
   b. Did you give it to your partner to handle?
   c. Did your partner demand the money?
   d. Did your partner have a job outside the home?
4. Did you do the majority of cooking or cleaning, or house chores?
   a. If yes, what would happen if you didn’t cook or clean one day?
   b. What would happen if your partner did not like the food you made or the way you cleaned?
   c. Were you allowed to leave the house if all of the chores were not done? Did your partner ever threaten to call the police or immigration on you?
   d. If so, why?
5. Did your partner ever ask you to do chores at other people’s houses?
   a. If yes, what would happen if you said you did not want to go?
6. Did your partner ever record you or take pictures of you doing intimate or sexual things?
   a. What would they do with these recordings or pictures?
   *Make it clear you are not going to look for the photos*
7. Did your partner ever ask you to do sexual things with other people? Can you tell me a little more about this?
SAMPLE QUESTIONS FOR CHILDHOOD SEXUAL ABUSE

1. When you were a child, did anyone make you/ask you to do sexual things or show your body, or did anyone touch you in a way that made you feel uncomfortable?
   a. If yes, how often did it happen? Where did it happen?
2. Did the person ever give you anything after this happened? (candy, food, toys, or anything of value)
3. Did you think they would hurt you if you told someone what was happening to you or if you tried to say no?
4. Did the person have make you spend time with anyone else?
   a. If yes, how many people? How often?
   b. Were you given toys or something of value before or after it occurred?
   c. Did this person, or any person during your childhood, take photos or videos of you while you were not wearing clothing? [Make it clear you are not going to look for the photos!!]
8. Prior to turning 18, did you ever have any relationships or engage in sexual activity with someone older than you?

SAMPLE QUESTIONS ABOUT CRIMINAL HISTORY

1. What happened that led to the arrest?
2. Did anyone pay your bail, for you to be released or for a defense attorney? If so, who and why?
3. Was anyone waiting for you after you were released?

Time Spent in Prison

These questions are to determine if the person trafficked by other people inside or by guards.

1. Was there ever a time you didn’t feel safe in prison?
   a. Can you tell me about why or why not?
   b. Was there ever a time in prison where you were pressured to have sex with someone you didn’t want to have sex with? Can you tell me about that time?
2. Did you have any interactions with gangs in prisons?
   a. How did you stay safe from the gang members?
   b. Did you have to have sex with someone in order to stay safe from gang members?
3. Did anyone make you do something you didn’t want to do in order to stay safe?
Can you tell me about how you stayed safe in prisons?
   a. Tell me about what you felt you needed to do to stay safe.

4. How did the guards treat you?
   a. If guards treated you badly, what happened in those interactions? Did the guards ever ask you to engage in anything sexual, including dancing or removing clothing?

5. Did you ever have to work in the prison before being convicted of a crime?

**SAMPLE QUESTIONS ABOUT TRAVEL**

1. How was your travel to the U.S. arranged?
2. Did anyone help you come to the U.S./Mexico?
   a. Tell me about how you knew how to come and what route to take
   b. Did you hire a coyote?
   c. Did you get a visa to come to the United States?
      i. Did you have to pay for the visa (more than what the visa application cost is)?
3. Did you take a plane? How was it organized? How did you pay?
   a. Did you pay up front, or do you still owe money?
   b. Do you have to pay interest, if so how much?
   c. Did you (or your family) borrow or owe money, property, land, a house or anything else to anyone who helped you come to the U.S.?
4. Who is helping you pay?
   a. Do you still have a debt or does anyone say you still have a debt?
   b. Are you scared of the person you owe money to/can you tell me a little bit about what makes you scared?
   c. What do you think would happen if you don’t pay it back?
5. Do you or did you have a job lined up?
   a. Who helped you find this job?
6. Did you stop for any periods of time for more than 3-4 days along the way?
   a. If so, what did you do for work?
7. How long did it take?
8. Where did you sleep?
9. Did you stay in the same place as the coyote?
10. Did you have enough food and water?
11. Were you ever locked up or forced to stay somewhere?
12. Did you have to work? Did you have to cook or clean?
   a. If so, did you keep your money or did the coyotes keep the money?
   b. If so, what do you believe would happen if you said no?
13. What was the scariest part of the trip for you?
14. Did the people who transport you carry weapons such as guns or knives?
15. During the trip, did you have to do anything other than to pay money so that they would help you or did they pressure you to do anything?
16. Did anyone ask you to carry something or take someone else across the border?
17. Were you ever threatened with things like calling immigration, police, hurting family members, or hurting you if you didn’t do what the coyotes asked you to?
18. Did the coyotes tell you that you owed more money than initially agreed?
   a. If yes, what happened?

**These last questions are related to sexual violence**
19. These last questions are related to sexual violence. Did the coyote pressure you to anything sexual with them or other people in the group? Did you ever see any of these things happen to other people?
20. Have you done any sex work along the way?
   a. If so, did you have to give your money to anyone or did you keep it all?
21. Did you experience sexual violence along the way?

**STASH HOUSES**
1. Have you ever been held in stash house/safe house?
   a. If so, why were you being held?
2. Did you engage in sexual activity with anyone while there?
   a. If so, who and how any many? What did you think would happen if you said no?
3. Were you held in a stash house, or in any secluded place, after you entered the United States?
   a. If yes, how were you treated there?
4. Did you have to cook or clean while in the stash house?
   a. If yes, what did you think would happen if you said no?
5. Did you have to do any sexual things while in the stash house?
a. If yes, what did you think would happen if you said no?

6. Were you ever taken to a hotel and pressured to do sexual things with other people?
   a. If yes, what did you think would happen if you said no?

*Get full details of what the person had to do while there including types of work, how many hours, who watched over them, were their weapons present*

### SAMPLE QUESTIONS ABOUT DEBT

1. Have you or your family or partner ever borrowed money from someone?
   a. If so, get all details of the debt and who paid it back. If they were responsible for paying it back, was there interest involved?
   b. Did the person find the work for them? Did they live with the person they owed money to or live with someone who was connected to them? If they lived with them, did they have to pay rent or pay for other things in the home like a bed, towel, blanket? How was money collected? Did it ever feel like the debt kept getting bigger?
FOOTNOTES

1. Re-traumatization occurs when a person re-experiences a previously traumatic event, either consciously or unconsciously. It can be triggered through interviews about the traumatic event.


4. The Palermo protocols, adopted by the United Nations General Assembly in 2000, created the following international definition for Human Trafficking:
   a. (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs... (b) The consent of a victim of trafficking in persons to the intended exploitation set forth [above] shall be irrelevant where any of the means set forth [above] have been used. (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article; (d) “Child” shall mean any person under eighteen years of age.

Over 150 countries have ratified this protocol.

5. Each state has the power to create its own criminal laws. Through this power, each state decides what aspects of human trafficking to criminalize and what aspects not to criminalize.

6. There is an exception to this rule for people engaging in commercial sex who are younger than 18 years of age. “… the person induced to perform such an act has not attained 18 years of age.” 8 C.F.R. § 214.11(a).

7. All of the names in this chapter have been changed but examples are based on real client experiences.

8. Searching for child pornography is illegal even if you are doing it for a legal case. If a search must be conducted, leave the search to experts in law enforcement.

9. Mexico is specifically mentioned here because LGBT migrants have told advocates working at the US Mexico border that they were encouraged to come to Mexico by friends and ended up in a trafficking situation once they arrived.

10. A coyote is a person someone can pay to help them migrate to another country. Sometimes a person will pay a coyote to help them on their entire journey or just part of their journey.

11. A stash house is a place that coyotes/smugglers hold people before and after they cross into the United States.

12. Lisak, D (2013.) The Neurobiology of Trauma. ACASA Arkansas. [https://www.youtube.com/watch?v=py0mVt2Z7nc](https://www.youtube.com/watch?v=py0mVt2Z7nc).


14. Project TRUST, Understanding and Mitigating Trauma Responses (2021), [https://www.projecttrust.org/resources](https://www.projecttrust.org/resources).