



CONTRA COSTA COUNTY DISTRICT ATTORNEY'S OFFICE

Dana Filkowski

Co-Chair, Contra Costa Human Trafficking Task Force
Supervisor, Human Trafficking Prosecution Unit

Views of the speaker are not necessarily those of the District Attorney

CONTRA COSTA HUMAN TRAFFICKING TASK FORCE



- Started in October, 2018 with a Federal Grant Award
- County-wide local, state & federal law enforcement task force that collaborates with victim service providers to investigate and prosecute all forms of trafficking
 - DA – Hub / Intel
 - 26 Contra Costa Law Enforcement Agencies
 - State Agencies: DIR; FTB; EDD
 - Federal Agencies: Homeland Security Investigations; FBI; US Attorney's Office
 - Victim-Service Providers include Alliance to End Abuse; CVS; STAND!; Calli House; Bay Area Legal Aid; International Rescue Committee (IRC); Love Never Fails, Justice at Last, Family Justice Centers



TRAFFICKING: WHAT IT'S NOT

- Smuggling
 - No requirement that a person be moved or transported
- False Imprisonment - CA Penal Code Sec. 236
 - Human Trafficking in violation of CA Penal Code Sec. 236.1 has no requirement that a person be locked up or held against their will
 - *People v. Oliver* (2020) 54 Cal.App.5th 1084, 1096
- Happening mostly in other Countries
 - According to the National Human Trafficking Hotline, CA has one of the highest reporting rates of HT cases in the US
- If happening here, happens mostly to people from other Countries
 - According to the National Hotline, most victims are US Citizens / LPR

CRIMES OF TRAFFICKING VS. CRIMES EXPLOITATION



- Trafficking = exploitation + liberty deprivation
- If no liberty deprivation/violation we look for evidence of other forms of criminal sex / labor exploitation.
 - Pimping, pandering, procurement, creation/distribution of pornography
 - Theft of labor, extortion, other Labor Code violations

WHAT IS “DEPRIVATION OF LIBERTY?”



- *Includes* substantial and sustained restriction of another’s liberty through:
 - Force
 - Fear
 - Fraud
 - Deceit
 - Coercion
 - Duress
 - Menace
 - Threat of Unlawful Injury
- This is a “non-exhaustive list” *People v. Oliver* (2020) 54 Cal.App.5th 1084, 1097
- A victim’s consent is no defense
 - PC 236.1(e); *People v. Oliver* (2020) 54 Cal.App.5th 1084, 1088



IDENTIFYING VICTIMS & EXPLOITERS

What we've seen in Contra Costa County Criminal Cases

CA'S STATUTORY CHECK LIST

(PC 236.2)

- If police have contact with someone who has been deprived of their personal liberty
- Regardless of citizenship of the person
- Police *shall* consider whether following indicators of human trafficking are present:
 - Signs of trauma, fatigue, injury or other evidence of poor care;
 - Person is withdrawn, afraid to talk or their communications are censored by another person
 - Person doesn't have freedom of movement
 - Person lives and works in one place
 - Person owes a debt to their employer
 - Security measures are used to control who has contact with the person
 - Person doesn't have control over their ID / immigration documents

IDENTIFYING EXPLOITERS & VICTIMS



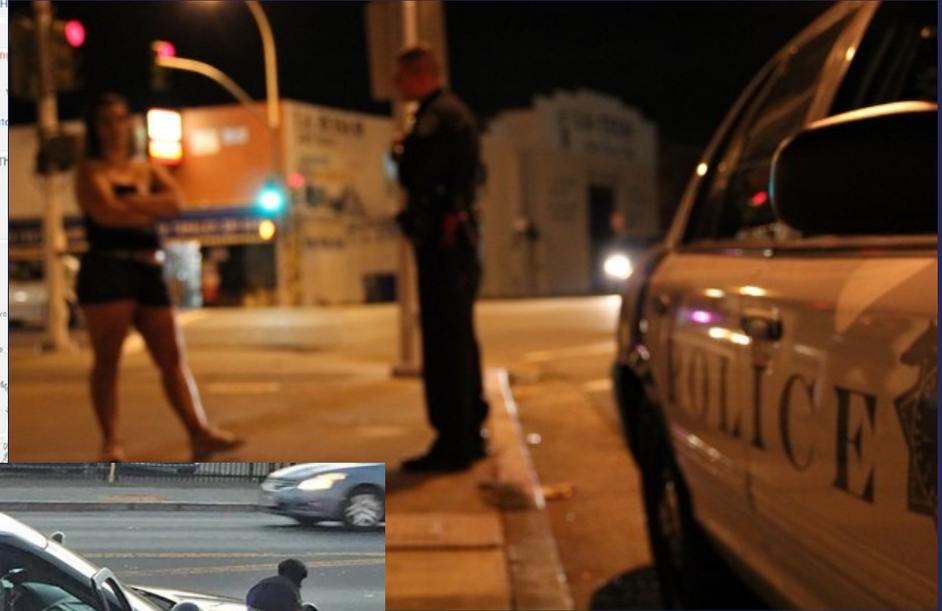
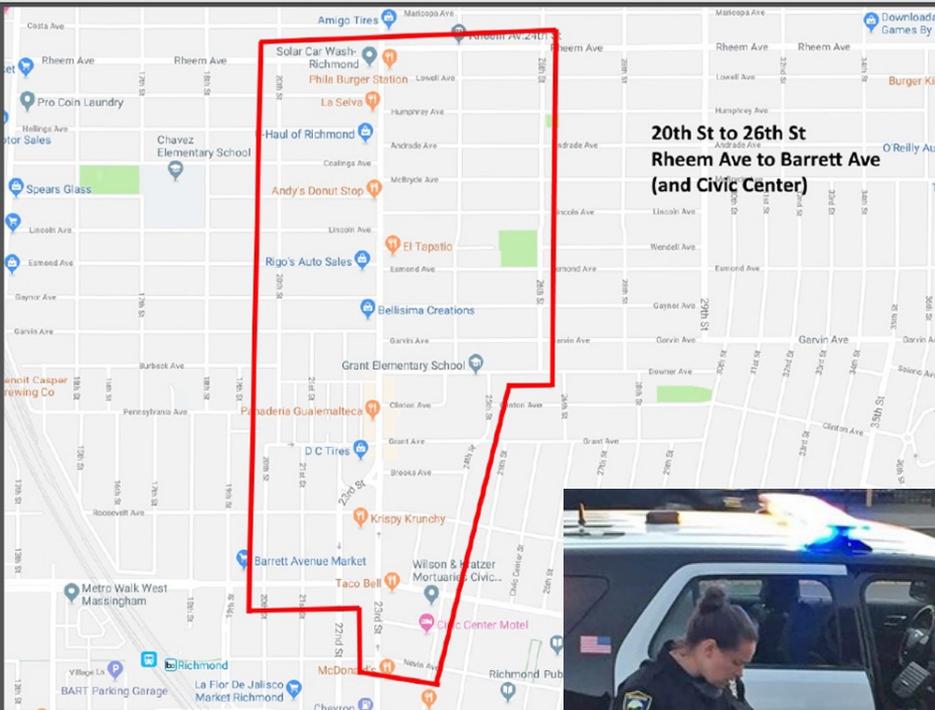
- Exploiters are:
 - Motivated by Greed
 - Charismatic & Convincing
 - Excellent at finding, grooming, controlling & manipulating victims
 - From all walks of life & all parts of our County
 - Often in same culture group as victims
 - Often have experienced abuse themselves
- Victims are:
 - Vulnerable
 - Culture / Immigration Status
 - Relationship / Trust / Bonded
 - Prior violence / abuse
 - Limited Education
 - Lack of Money
 - Life Crisis
 - From all walks of life & all parts of our County



SEX TRAFFICKING

Contra Costa Trends

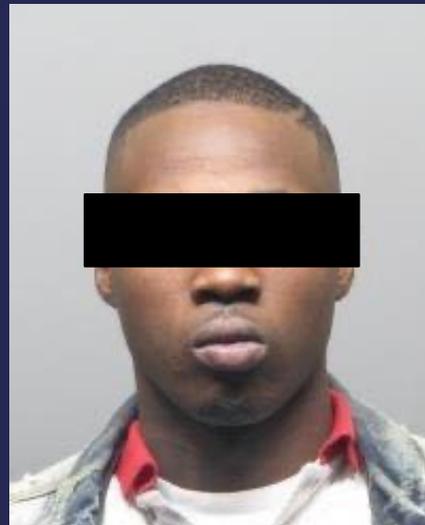
ON "THE BLADE"



EXPLOITING INTIMATE RELATIONSHIPS



- Many are trafficking / pimping their girlfriends; HT initially presents as Domestic Violence
 - 4/12/19: East Bay Pimp Gets 16 Years for Trafficking Minors, Related Charges
 - <https://www.sfgate.com/news/bayarea/article/East-Bay-Pimp-Gets-16-Years-For-Trafficking-13770448.php#photo-17234709>



“...you sold me hella dreams...”

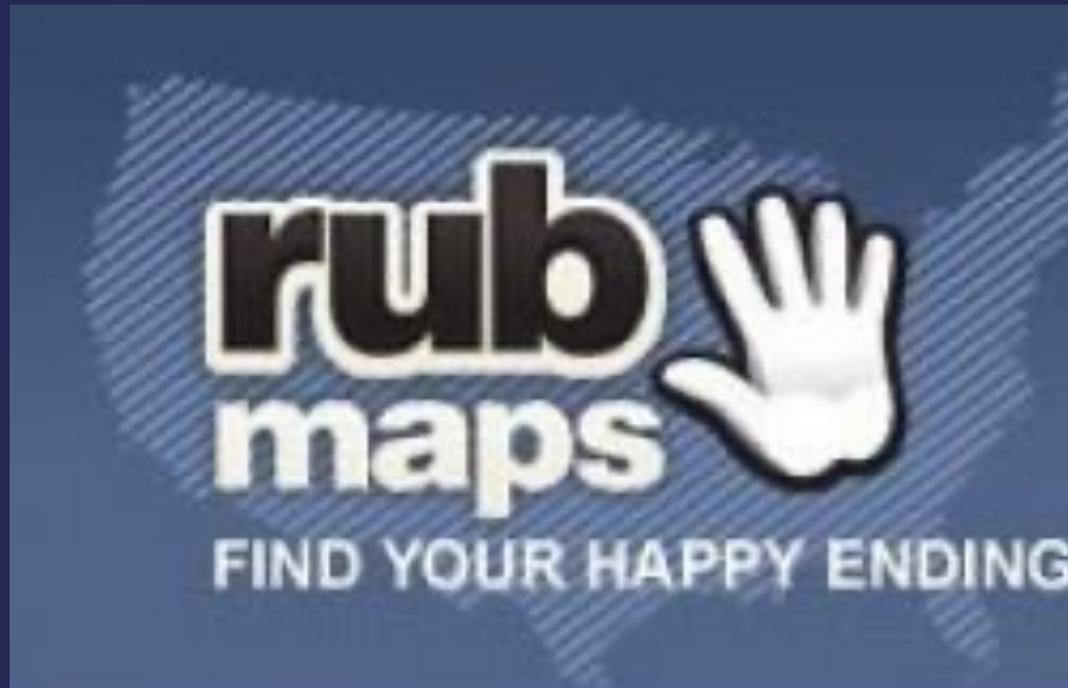
ON THE CIRCUIT



- San Ramon / Danville man used violence and threats to keep women “on automatic” across multiple states for his benefit
- “There’s a superstar out there that’s waiting to be discovered...she’s working at Walmart and got kicked out of the house ‘cuz her stepfather was raping her at 17 and she’s struggling,” Joseph says in the call. “You’re going to look like Jesus descending from the heavens to this (expletive).”
 - - Convicted trafficker James Vernon Joseph, Jr.
 - <https://www.eastbaytimes.com/2017/07/19/from-male-stripper-to-pimp-danville-trafficking-defendant-takes-stand-describes-life-in-the-sex-industry>
 - <https://www.mercurynews.com/2021/05/04/appeals-court-upholds-contra-costas-biggest-human-trafficking-conviction/>



BROTHELS / ILLICIT MASSAGE PARLORS



FEMALE PIMPS



- 7/18/19 Nicole Smith convicted of pimping and sentenced to 3 years in prison for selling two women for sex on the blade, in motels and using the internet across multiple states
- <https://www.mercurynews.com/2019/07/18/richmond-boss-lady-pimp-sentenced-to-state-prison/>

HTTF UNDERCOVER ENFORCEMENT OPERATIONS



- Officer poses as a sex buyer / sex worker
 - Hotel call-in stings
 - Car dates
 - Street-level exploitation
 - Recruitment
- Officer poses as a minor/youth
 - On-line recruitment/exploitation via social media platforms, dating sites
 - To catch a predator



ON-LINE DATING



CONTRA COSTA HERALD

NEWS OF BY AND FOR THE PEOPLE OF CONTRA COSTA COUNTY, CALIFORNIA

ARTS & ENTERTAINMENT

BUSINESS

COMMUNITY

CRIME

DINING

EDUCATION

FAITH

HEALTH

NEWS

POLITICS & ELECTIONS

REAL ESTATE

Human Trafficking Task Force announces results of two operations in Pittsburg and Richmond

JUNE 22, 2021 BY PUBLISHER — LEAVE A COMMENT

Multi-agency effort results in four arrests, one felony, 10 victims helped



<https://contracostaherald.com/human-trafficking-task-force-announces-results-of-two-operations-in-pittsburg-and-Richmond/>



LEGAL PROTECTIONS

For Survivors in the Criminal Justice System

SURVIVORS AS CRIME VICTIMS



- CCCDA's Goal: Make our victims/survivors whole while holding exploiters accountable
 - Victim's Bill of Rights (*Marsy's Law* - CA Const. Ar. 1, Sec. 28) includes entitlements for victims:
 - To be treated with fairness and respect for privacy/dignity and to be free from intimidation, harassment and abuse in the criminal justice process;
 - To be reasonably protected from the defendant/persons acting on behalf
 - To prevent disclosure of confidential information/records to the defense
 - To be heard (Victim Impact Statement)
 - Defendant is court-ordered to pay restitution for all economic losses suffered as a result of the crime
 - Counseling, medical, moving/security, civil lawyer

SURVIVORS AS CRIME VICTIMS



- Compensation for Lost income
 - As of Jan 2020 trafficking victims can apply to CA Victim Compensation Board for lost income during the time they were trafficked
 - Up to 40 hours / week using CA minimum wage laws to calculate value of victim's labor
 - As much as \$10,000 per year, for up to two years.
 - If victim is a minor, VCB holds the funds until he/she is 18
 - <https://victims.ca.gov/victims/issues/humantrafficking/>
 - CCCDA Advocates / Restitution Specialist can help here!

SURVIVORS AS CRIME VICTIMS



- PC 293.5: Victims are “Jane Doe” / “John Doe” in court and in documents
- PC 765(a): Court must protect all witnesses from undue harassment or embarrassment
- PC 765(b): Witnesses under 14 get “special care” in court to protect from undue harassment or embarrassment
- PC 868.6: Nonthreatening Court environment for kids under 16
- PC 868.5: All prosecution witnesses entitled to two support persons of their own choosing

SURVIVORS AS CRIME VICTIMS



- NO Victim Blaming/Shaming Allowed!
 - EC 1107.5: Expert Witness to explain effects of HT on HT Victims
 - Nature and effect of physical, emotional and mental abuse on the beliefs, perceptions and behaviors of HT Victims
 - Explain why victims stay, why victims don't leave, how exploiters work to overcome victims' will, how victims are recruited and manipulated with "selling the dream"
 - EC 1161(b): Defense can't introduce any evidence of the victim's sexual history or history of engaging in commercial sex acts to attack her credibility or impeach her character.
 - "History" means any time before trial so even includes behavior which happened after the exploiter's arrest.
 - *People v. Calhoun* (2019) 38 Cal.App.5th 275

SURVIVORS AS DEFENDANTS



- HT is a complete criminal defense (PC 236.23(f))
 - If the accused was coerced to commit an offense as a direct result of being a human trafficking victim at the time of the offense and had a reasonable fear of harm
 - Effective January applies to all crimes except violent felonies listed in PC 667.5(c)
 - CCCDA already considers this in decisions to file criminal charges
- HT reduces criminal sentences (PC 1016.7 / 1170)
 - As of Jan. 2022, prosecutors and sentencing judges are required to consider whether intimate partner violence or human trafficking occurring prior to or during commission of an offense was a contributing factor in its commission

SURVIVORS AS DEFENDANTS



- HT Survivors can clear their criminal records to get a fresh start
 - Petition the Court for Vacatur (Penal Code Sec. 236.14)
 - If an arrest or conviction is nonviolent and directly resulted from being a victim of HT and they have distanced themselves from the trafficking operation
 - CCCDA does *not* oppose these petitions



GET INVOLVED

In Our Community

GET INVOLVED:

SUPPORT LOCAL DIRECT SERVICE PARTNERS



- Community Violence Solutions www.cvsolutions.org
- Bay Area Legal Aid <https://baylegal.org/>
- International Rescue Committee www.help.resue.org
- Justice at Last <https://www.justiceatlast.org>
- Love Never Fails <https://www.loveneverfailsus.com>
- MISSEY <https://missey.org>
- STAND! <https://www.standffov.org>
- Family Justice Centers <https://www.cocofamilyjustice.org>

GET INVOLVED:

JOIN & LEARN



- Contra Costa Family Justice Centers: Family Justice Institute
 - <http://www.cocofamilyjustice.org/wp-content/uploads/2015/03/2019-V5.pdf>
- Contra Costa Human Trafficking Coalition
 - <https://www.contracostacoalition.org/get-involved-1>
- Contra Costa Alliance to End Abuse: Calendar of Events for January Human Trafficking Awareness Month
 - <http://contracostaalliance.org/get-involved/>
- Contra Costa Board of Supervisors Meeting 9am Jan. 11
 - HT Awareness Month Proclamation - live streaming https://contra-costa.granicus.com/ViewPublisher.php?view_id=1



GET HELP/RESOURCES:

- Report Suspected Trafficking: Contra Costa DA Tip Line
 - 925-957-8658
- Connect to Resources: Contra Costa DA Webpage:
 - <https://www.contracosta.ca.gov/7690/Human-Trafficking-Unit>



CONTRA COSTA COUNTY DISTRICT ATTORNEY'S OFFICE

Dana Filkowski, Supervisor
Human Trafficking Unit / Task Force

dfilkowski@contracostada.org