

Human Trafficking Policy

Human Resources

Policy No.: HR. 01-36-001
Effective Date: 04/01/2014
Supersedes: N/A
Publication Date: 04/2014

1.0 Purpose

This policy sets forth the San Jose State University Research Foundation’s (“Research Foundation”) policy regarding human trafficking. It provides a clear definition of human trafficking, and describes how to report suspected occurrences of human trafficking. It also provides victims of human trafficking with information on where to obtain help.

2.0 Responsibility

The Research Foundation’s Senior Director of Human Resources, in close collaboration and partnership with the San Jose State University Police Department (“UPD”), is responsible for ensuring that this policy is implemented and administered in accordance with all applicable laws and guidelines, federal, state, and local.

3.0 Scope

This policy applies to all individuals who represent the Research Foundation including benefited and non-benefited employees, applicants for employment, independent contractors, and volunteers of the Research Foundation.

4.0 Definitions

Not applicable.

5.0 Policy

The SJSU Research Foundation does not participate in, condone, nor in any manner support human trafficking, coercion of commercial sex acts, or use of forced labor. Violations of this policy may lead to disciplinary actions up to and including termination of employment. Violations of this policy may also result in appropriate referral to federal, state, and local agencies for their independent review and follow up.

The Research Foundation hereby adopts and incorporates into its policy all definitions provided by both State and Federal law.

Human trafficking is both a federal crime, pursuant to the Trafficking Victims Protection Act (TVPA) of 2000, 2003, and 2005, as well as a state crime, pursuant to California Penal Code Sections 236–237.

Any and all cases of suspected human trafficking must be promptly reported to the Senior Director of Human Resources and/or to the UPD for their active assistance, as well as for referral to other appropriate federal, state, and local agencies.

5.1 What is Human Trafficking

5.1.1 In General

Human trafficking is a form of modern-day slavery. After drug dealing, trafficking humans is tied with arms dealing as the second largest criminal industry in the world, and is the fastest growing. According to the Department of Justice, California “is one of the nation’s top four destination states for trafficking human beings.” According to the U.S. Department of State, between 14,500 and 17,500 of those victims are trafficked into the United States.

Human trafficking is a crime that involves the use of force, fraud, or coercion to recruit, harbor, transport, provide or obtain a person for the purposes of sexual or labor exploitation. Victims of human trafficking are mostly young children, teenagers, men, and women.

5.1.2 California Definition

The California Legislature defines human trafficking as "all acts involved in the recruitment, abduction, transport, harboring, transfer, sale or receipt of persons, within national or across international borders, through force, coercion, fraud or deception, to place persons in situations of slavery or slavery-like conditions, forced labor or services, such as forced prostitution or sexual services, domestic servitude, bonded sweatshop labor, or other debt bondage."

As codified in the California Penal Code, anyone who "deprives or violates the personal liberty of another with the intent . . . to obtain forced labor or services" is guilty of human trafficking.

Depriving or violating a person's liberty includes "substantial and sustained restriction of another's liberty accomplished through fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out."

Forced labor or services include "labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, or coercion, or equivalent conduct that would reasonably overbear the will of the person."

5.1.3 Federal Definition

Section 103(8) of the TVPA defines the term “severe forms of trafficking in persons” as:

- a) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- b) The recruitment, harboring, transporting, providing, 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.

5.2 Identifying Human Trafficking

Identifying victims of human trafficking can be difficult because traffickers often isolate victims from their families, communities, and the public. Victims are sometimes kept locked behind closed doors.

Victims of human trafficking can also be hidden in plain sight. They may have a seemingly legal job at a hotel, factory, or restaurant, but are actually working for little or no pay. To a general observer, victims of human trafficking may look similar to other workers in their respective professions. Types of human trafficking include:

5.2.1 Sex Trafficking

Sex trafficking is the act of forcing, coercing, or transporting a person for the purpose of a commercial sex act. These crimes are primarily committed against women and children. Sex trafficking can occur in residential brothels, brothels disguised as massage parlors and strip clubs. It can also occur via online escort services and street prostitution.

5.2.2 Labor Trafficking

Labor trafficking is the act of forcing a person to work for little or no money. It can include forced labor in underground markets and sweatshops, as well as in legitimate businesses such as hotels, factories, restaurants, nail salons, construction, farming, and landscaping sites, and traveling sales crews.

5.2.3 Domestic Servitude

Domestic servitude is another form of labor trafficking that often involves women who are forced to live and work in the homes of employers who confiscate their legal documents and prevent them from leaving. Domestic workers can be U.S. citizens, lawfully-admitted foreign nationals, or undocumented immigrants.

6.0 Related Policy Information

6.1 Reporting Human Trafficking

Anyone who is a victim of human trafficking, knows of somebody who may be a victim of human trafficking, or has information about a potential trafficking situation must be promptly reported to:

- the Senior Director of Human Resources or any member of the Research Foundation's Human Resources department; or
- the San Jose State University Police Department (UPD) at **(408) 924-2222**; or
- the National Human Trafficking Resource Center Hotline **1-888-373-7888**; or
- the U.S. Department of Justice Hotline **1-888-428-7581**

6.2 Assistance to Victims of Human Trafficking

6.2.1 Federal Programs

Trafficking victims and their eligible family members may receive benefits and services as provided under the TVPA and Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 to the same extent as refugees. These benefits and services are federally-funded and individuals must be certified as trafficking victims by the federal Office of Refugee Resettlement (ORR).

To receive certification, victims of trafficking must be willing to assist with the investigation and prosecution of trafficking cases and have completed a bona fide application for a T-Visa or have received continued presence status from U.S. Citizenship and Immigration Services in order to contribute to the prosecution of human traffickers.

Once they have met these certification requirements, victims of trafficking will receive an official letter of certification from the ORR. Eligible family members of trafficking victims must hold a Derivative T-Visa. Children victims of trafficking under the age of 18 do not need to be certified in order to receive services and benefits. ORR issues a letter stating that a child is a victim of a severe form of trafficking and is therefore eligible for benefits.

6.2.2 State Programs

In addition to federal program benefits under TVPRA, there is a state-funded program for trafficking victims who have not yet been certified by ORR. Senate Bill 1569 (Chapter 672, Statutes of 2006) extended eligibility for benefits and services to noncertified victims of human trafficking and other serious crimes to the same extent as refugees, effective January 1, 2007.

For more information and eligibility requirements for the state-funded Trafficking and Crime Victims Assistance Program (TCVAP), see *All County Letter No. 06-60* or the *Refugee Programs Bureau Human Trafficking Fact Sheet*.

Benefits and services that are available to certified trafficking victims, victims eligible for TCVAP, and their eligible family members, include cash assistance, food assistance, medical assistance, and social services to assist with adjustment and facilitate self-sufficiency. These individuals must still meet income and resource requirements.

Minors who are in the U.S. and are identified as a trafficking victim by ORR are eligible to participate in the Unaccompanied Refugee Minors (URM) program.

In California, minors are served in the URM program through Catholic Charities of Santa Clara County (Northern Region) and Crittenton Services for Families and Children in Orange County (Southern Region) who work in partnership with Lutheran Immigration and Refugee Services.

The URM program provides foster care and resettlement services to minors who are refugees, asylees, or trafficking victims, and are in the U.S. alone without a parent or close relative willing or able to care for them.

7.0 Required Forms

Not applicable.

8.0 References and Related Information

California Office of the Attorney General, Human Trafficking:

<http://oag.ca.gov/human-trafficking>

California Penal Code Sections 236 and 237:

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=236-237>

Federal Victims of Trafficking and Violence Protection Act of 2000:

<http://www.state.gov/documents/organization/10492.pdf>

Employment Development Department, State of California:

http://www.edd.ca.gov/jobs_and_training/pubs/wsd12-12.pdf

Trafficking Victims Protection Act of 2000 (TVPA):

<http://www.state.gov/documents/organization/10492.pdf>

The Refugee Programs Bureau Human Trafficking Fact Sheet:

http://www.cdss.ca.gov/refugeeprogram/res/pdf/Factsheets/2014/Trafficking_Fact_Sheet_1_0.21.13.pdf

9.0 Record Retention

All documents and records are maintained in accordance with SJSU Research Foundation *Record Retention* requirements.

Record	Retention
<i>Human Trafficking Policy.</i>	This document is effective until further revised or updated. Outdated or revised documents will be maintained in accordance with Research Foundation Record Retention requirements. The Research Foundation will maintain the signed original and electronic copies of the approved policy and all updates and replacements.