

Local Problems and Local Solutions to an International Outrage

Panelists:

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Brief History Lesson

- 2005
 - California Trafficking Victims Protection Act (TVPA)
- Before November 9, 2012
 - Sex and labor trafficking in one section
 - Deprivation of liberty required – minors
 - Adult triad: 3 – 4 – 5 years
 - Child triad: 3 – 6 – 8 years



Brief History Lesson

- After November 9, 2012 (Prop. 35)
 - Drastically increased penalties
 - Divided sex and labor trafficking
 - Deprivation of liberty not required – minors
 - Explicitly states consent not a defense – minors
 - Required 290 registration (lifetime sex registration) for sex traffickers

Proving HT Crimes

PC 266h – pimping

1. The Defendant knew the Victim was a prostitute;
AND
2. Money earned by prostitute supported Defendant;
OR
3. The Defendant asked for, or received, payment for soliciting prostitution customers.

Proving HT Crimes

PC 266i – pandering

1. The Defendant persuaded or procured a person to be a prostitute; OR
2. The Defendant used promises/threats/violence or any device or scheme to cause/induce a person to become a prostitute; AND
3. The Defendant intended to influence a person to be a prostitute.

Proving HT Crimes

PC 236.1(a) & (b) – human trafficking **adult**

1. The Defendant deprived or violated a person's personal liberty;
2. With the intent to effect or maintain a violation of pimping, pandering, child pornography OR forced labor or services.



Key definition

“Deprivation of liberty”

- Substantial and sustained restriction of another person’s liberty accomplished through
- Force, fear, fraud, deceit, coercion, violence, duress, menace, threat
- Under circumstances in which the Victim reasonably believes that it is likely threat would be carried out.

Proving HT Crimes

PC 236.1(c) – human trafficking **minor**

1. To cause, induce or persuade OR attempt to cause, induce a person who is a minor to engage in a commercial sex act;
2. With the intent to effect or maintain a violation of pimping, pandering, child pornography, etc.

Does **not** require “deprivation of liberty”

But if there is “deprivation of liberty”: **15 → life**

Related Crimes

PC 245(a)(1) – assault with a deadly weapon or force likely

1. The Defendant did an act with a deadly weapon/that by its nature would directly and probably result in the application of force to a person;
2. The force used was likely to produce great bodily injury;
3. The Defendant did that act willfully;
4. When the Defendant acted, he was aware of facts that would lead a reasonable person to realize that his act by its nature would directly and probably result in the application of force to someone;
5. When the Defendant acted, he had the present ability to apply force likely to produce great bodily injury/with a deadly weapon;
6. The Defendant did not act in self-defense.

Related Crimes

PC 261(a) – rape

1. The Defendant had sexual intercourse with a woman;
2. He and the woman were not married to each other at the time of intercourse;
3. The woman did not consent to the intercourse;
4. The Defendant accomplished the intercourse by force or fear/future threats of bodily harm/threat of official action.

Related Crimes

PC 647(b) - prostitution

1. The Defendant requested/solicited that another person engage in an act of prostitution;
2. The Defendant intended to engage in an act of prostitution with the other person;
3. The other person received the communication containing the request.

Related Crimes

PC 148.9 – false identification to a police officer

1. The Defendant falsely represented or identified herself as another person/as a fictitious person to a peace officer;
2. The false information was given while the peace officer was engaged in the performance of his or her duties as a peace officer;
3. The Defendant knew or should have known that the person receiving the information was a peace officer;
4. The Defendant intended to evade proper identification by the peace officer.



Pimping/Pandering vs. Human Trafficking Sentences

Pimping/Pandering

- Pimping
 - 3 – 4 – 6 years
- Pimping of a minor under 16
 - 3 – 6 – 8 years, 290
- Pandering
 - 3 – 4 – 6 years

Human Trafficking

- HT sex – adult
 - 8 – 14 – 20 years
- HT sex – minor
 - 5 – 8 – 12 years, 290
- HT sex w/ force – minor
 - 15 - life

Sentencing differences

PC 236.1 – human trafficking

1. (a) – labor
 - Prison triad: 5 – 8 – 12
2. (b) – sexual exploitation of adult
 - Prison triad: 8 – 14 – 20
3. (c)(1) – sexual exploitation of child
 - Prison triad: 5 – 8 – 12

Sentencing differences

PC 236.1 – human trafficking

1. (c)(2) – sexual exploitation of child with “deprivation of liberty”
 - Prison: 15 → life
2. 236.1(b) & (c) – mandatory 290
3. 236.4(b) – GBI
 - Prison triad: 5 – 7 – 10
4. 266(h)(2) – pimping of a minor under 16
 - Prison triad: 3 – 6 – 8 + mandatory 290

Fact Pattern #1

Officer Jones sees 13 year old on street in high prostitution neighborhood at 4 p.m. As he drives up, she approaches him and tells him that she ran away from home in L.A. six months ago, and has been pimped out by adult male for last 5 months. He is beating her, raping her, and forcing her to be a prostitute and she needs help. He takes her to the Receiving Center. Officer Jones finds out that her parents reported her missing six months ago. While at the RAIC, initial efforts to contact her parents in Los Angeles are unsuccessful. It is now 7 p.m.

Fact Pattern #2

Undercover officer sees young female teen on the street. She solicits sex for money with him and he arrests her for solicitation of prostitution. He learns that she is 15 years old. She will not say who her pimp is, how she got on the streets, where she lives, or any identifying information except her name "Helen Dibbers" (possibly fake) and date of birth (1/1/00) (also possibly fake). No child of that name has been reported missing in the last five years. She speaks with an accent and says that her native language is Spanish. After talking with a patient, and persistent officer, she reveals her true name: Juana Doe and date of birth 1/18/01, and also the names of her parents in Costa Rica. She says that she had been at a group home in San Jose but had run away from it after hearing about working for sex from a friend in that home.

Fact Pattern #3

An adult female (27 years old), Joanie, is arrested for prostitution in a “call-girl” sting where an undercover officer has responded to an online advertisement for prostitution and arranged a sex for money in a San Jose hotel room. After her arrest, the adult says that her pimp Freddie is from San Francisco, and dropped her off at the hotel. She also says that he pimps out five other young women and teens, and that she knows that two of them are under 18 – she thinks closer to 14. She has been working as a prostitute for more than 10 years (since she was 17) and is only revealing this information about her pimp because she doesn’t think it’s right to pimp out a girl as young as 14. She only knows the girl as “Steph.”