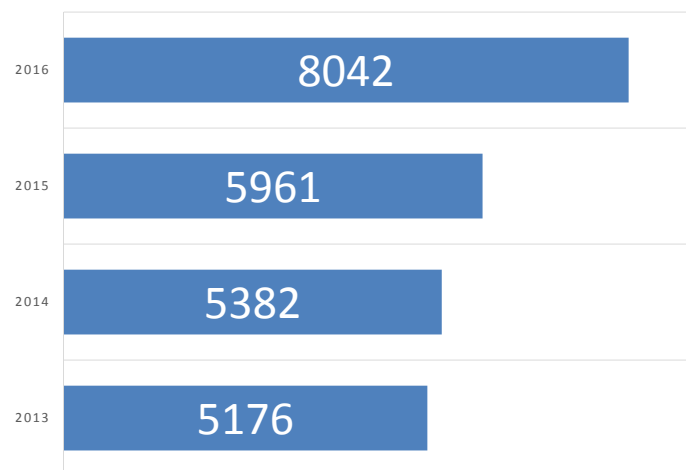


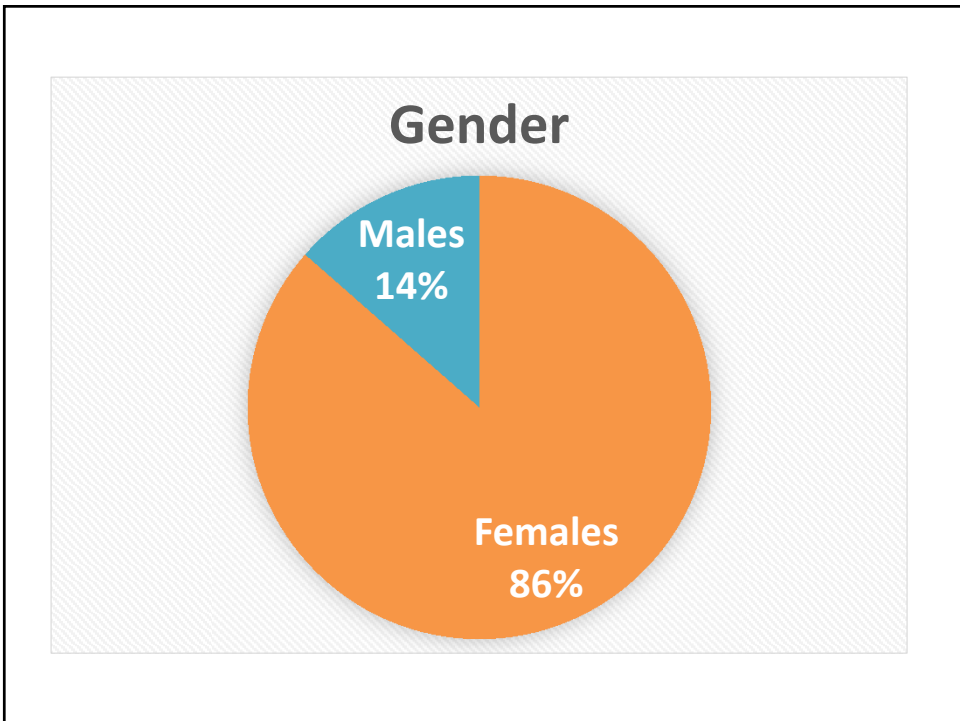
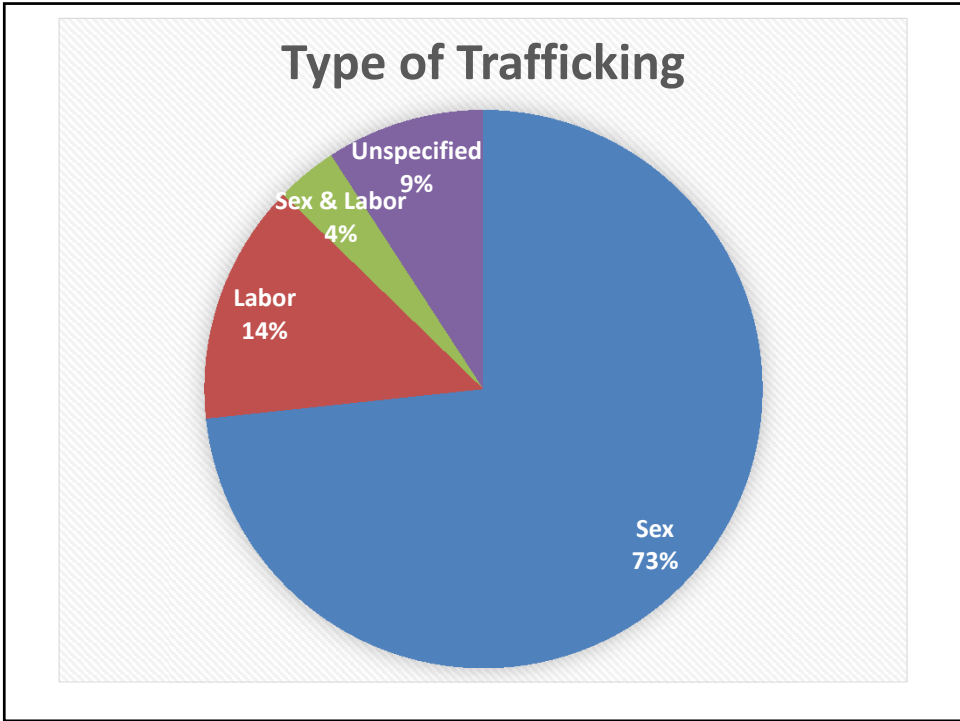
Reporting Human Trafficking to DSS or Law Enforcement

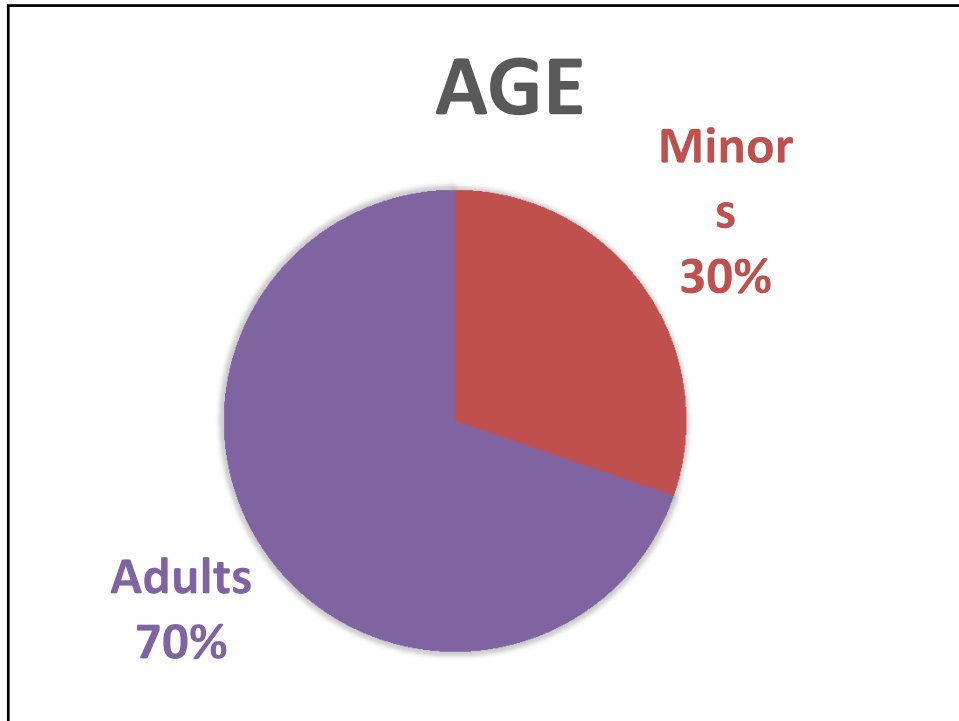
Sara DePasquale & Jill Moore
UNC School of Government
June 2017

Trafficking Hotline Cases

<http://polarisproject.org/sites/default/files/2016-Statistics.pdf>







- ### Top 5 Risk Factors
- Recent Migration/Relocation
 - Substance Use Concern
 - Runaway/Homeless Youth
 - Mental Health Concern
 - Unstable Housing

Top 5 Points of Access to Potential Help

- General Social Services
- Law Enforcement
- Supportive Friends/Family
- Health Services
- Child Welfare System

Trafficking

Sexual Servitude

- Commercial Exploitation
- Minors (under 18)
 - Automatic victim
 - Victim ≠ Prostitute

Involuntary Servitude

- Labor
 - regardless of compensation or satisfaction of debt
- Deception, coercion, or intimidation

Trafficking

Criminal

- Human Trafficking
- Involuntary Servitude
- Sexual Servitude
- Unlawful sale, surrender, purchase of a minor

Child Welfare

- Abused Juvenile

Trafficking

- Knowingly or in reckless disregard of consequences
- Recruits, harbors, transports, provides, obtains by any means
- Another person with intent they be held
 - Involuntary servitude
 - Sexual servitude

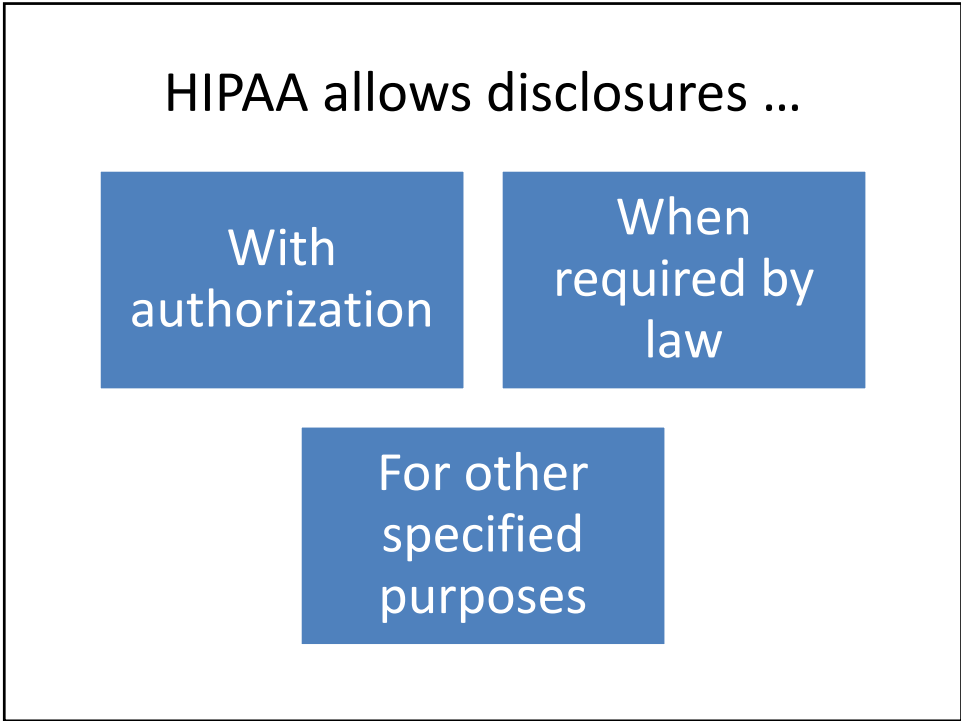
or

- Willfully or in reckless disregard of consequences
- Causes a minor to be held in
 - Involuntary servitude
 - Sexual servitude

Health care provider reporting

Why is this complicated?

- Reports involve disclosure of confidential information
- Do applicable confidentiality laws allow the disclosure?



REPORTING RE: MINOR VICTIMS

Universal Reporting

G.S. 7B-301(a)

- Any person or institution
- cause to suspect
- any juvenile is abused, neglected, or dependent as defined by G.S. 7B-101,
- shall report

Abused Juvenile

A child whose parent, guardian, custodian, or caretaker:

- inflicts, allows, or creates substantial risk of serious, non-accidental physical injury
- uses cruel or grossly inappropriate procedure or device to modify behavior
- commits or allows various sexual offenses against, with, or by the child
- creates or allows serious emotional damage
- encourages, approves, or directs certain delinquent acts of moral turpitude by the juvenile
- commits, allows to be committed human trafficking, involuntary servitude, sexual servitude

Neglected Juvenile

- does not receive proper care, supervision or discipline from parent, guardian, custodian or caretaker
- is not provided necessary medical / remedial care;
- has been abandoned;
- lives in injurious environment; or
- unlawful custody transfer/is placed for care or adoption in violation of law.

It is relevant if child lives where another child has

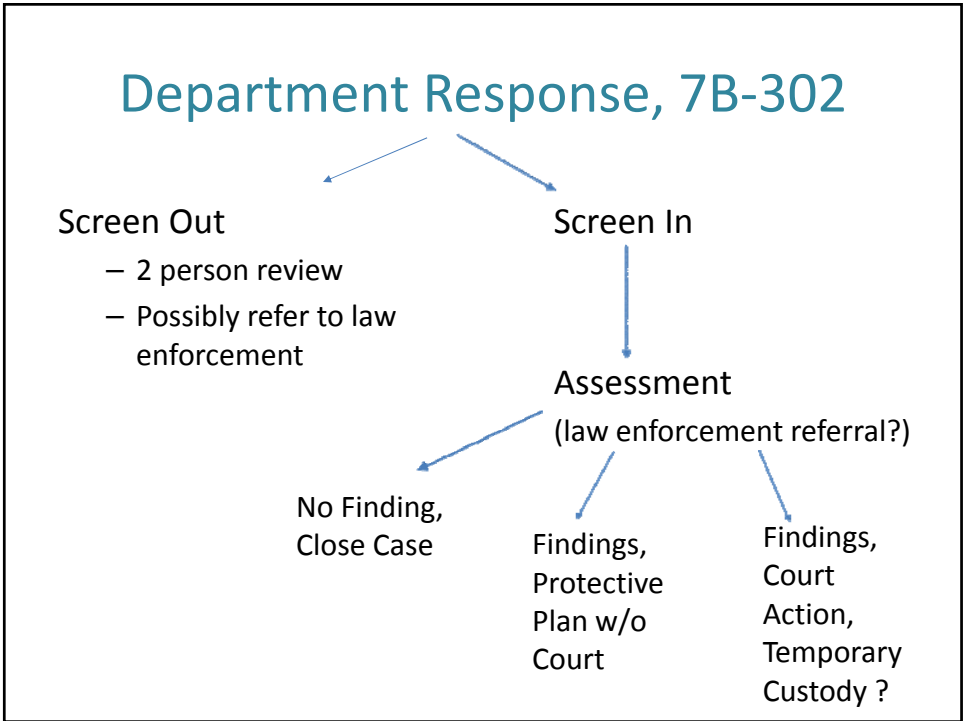
- died as a result of suspected abuse / neglect or
- been subjected to abuse / neglect by an adult who regularly lives in the home.

Dependent Juvenile

Needs assistance or placement because

1. child has no parent, guardian, or custodian responsible for his / her care, or
2. Parent, guardian, custodian
 - a. unable to provide for child's care or supervision
 - and
 - b. lacks an appropriate alternative child care arrangement.

Children under 18: DSS	Children under 16: Law Enforcement
<ul style="list-style-type: none"> ▪ Cause to suspect ▪ Abuse ▪ Neglect ▪ Dependency ▪ Good Faith ▪ Failure to Report: <ul style="list-style-type: none"> ▪ Class 1 misdemeanor 	<ul style="list-style-type: none"> ▪ Any person who reasonably suspects ▪ Disappearance of child <ul style="list-style-type: none"> ▪ Parent/person providing supervision ▪ Not know location ▪ Not had contact with child ▪ 24 hours ▪ <u>AND</u> reasonably suspects child may be in danger ▪ Good Faith ▪ Failure to Report: <ul style="list-style-type: none"> — Class I Felony



Certain injuries or illnesses must be reported to law enforcement

All ages, including minors:

- Gunshot wounds & other firearm injuries
- Illness from poisoning
- Wounds/injuries from knives/sharp instruments, if caused by a criminal act
- Grave bodily harm or grave illness, if caused by a criminal act of violence

Children under 18 only:

- Recurrent illness caused by nonaccidental trauma
- Serious physical injury caused by nonaccidental trauma

Summary: Reporting Minors

To DSS

- Abuse
- Neglect
- Dependency

To Law Enforcement

- Under 16, disappeared and in danger (Caylee's law)
- Under 18, serious physical injury or recurrent illness due to nonaccidental trauma
- Other injury reportable under state law

Discussion scenario



- 16-year-old positive for syphilis
- Unable to identify partners
- Communicable disease nurse learns that he is a runaway who lives with a group of adolescents and young men who are commercial sex workers

REPORTING RE: ADULT VICTIMS

Report to DSS?

Child protective services?

- No – limited to juveniles under the age of 18

Adult protective services?

- Maybe
- Reporting requirement: Disabled adult in need of protective services

Definitions

Disabled adult –

- Age 18+ or lawfully emancipated minor
- Physically or mentally incapacitated due to certain physical or mental conditions, developmental disabilities, or substance abuse

In need of protective services –

- Unable to perform or obtain essential services due to physical or mental incapacity

Report to law enforcement?

- Does the person have an injury or illness that is required to be reported?
- Does HIPAA allow the report even if it is not required?

Certain injuries or illnesses must be reported to law enforcement

All ages, including minors:

- Gunshot wounds & other firearm injuries
- Illness from poisoning
- Wounds/injuries from knives/sharp instruments, if caused by a criminal act
- Grave bodily harm or grave illness, if caused by a criminal act of violence

Authorization

- Must be in writing
- Form must contain specific elements

NC Department of Health and Human Services
Public Health Nursing and Professional Development

**PATIENT AUTHORIZATION
to Permit Use and Disclosure of
Health Information**

I am either the patient named above or the patient's legally authorized representative.

By signing this form, I authorize _____
to use or disclose to _____
the following protected health information (identify the information in a specific and meaningful fashion):

The purpose of the use or disclosure is (1) _____

I understand that, with certain exceptions, I have the right to revoke this Authorization at any time. If I want to revoke this authorization, I must do so in writing. The procedure for how I may revoke the authorization, as well as the exceptions to my right to revoke, are explained in _____

Notice of Privacy Practices, a copy of which has been provided to me.

Crime Victim

May disclose PHI about a crime victim to a **law enforcement officer who requests** information, if the **individual agrees** to disclosure

If individual can't agree because of incapacity or emergency, may disclose if particular conditions met:

- LE makes specific representations:
 - Information is needed to determine if there's been a violation of law by someone other than the victim
 - Information won't be used against victim
 - Immediate law enforcement activity that depends on disclosure will be materially and adversely affected by waiting until individual is able to agree to disclosure
- AND health care provider, exercising professional judgment, determines disclosure is in victim's best interest

Serious and imminent threat

Prevent or lessen threat

May disclose PHI if good faith belief that the disclosure is necessary to prevent or lessen a **serious and imminent threat** to the health or safety of the a person or the public.

Disclosure may be made to any person reasonably able to prevent or lessen threat.

Identify or apprehend individual

May disclose PHI to LE when **individual admits participation in violent crime that may have caused serious physical harm** to a victim, but

- Can't do this if admission is made in course of treatment for propensity to commit crime or in seeking such treatment
- There are limitations on PHI that may be disclosed
- Get help with this one

Summary: Required Reporting for Adults

To DSS

- Disabled adult in need of protective services

To Law Enforcement

- Injury reportable under state law

Summary: Disclosing Information to LE When a Report is Not Required (Adults and Minors)

Authorization

- Written, on standard form

Crime victim

- Law enforcement must inquire
- Victim must agree to disclosure
- If victim can't agree because of incapacity or emergency, three conditions to be met

Serious and imminent threat

- Disclosure necessary to prevent a serious & imminent threat to health or safety of person or public
- Individual admits participation in violent crime – see strict conditions on this and call your attorney

Discussion scenario

Facts

- 18-year-old with Chlamydia
- Commercial sex worker
- Tells CD nurse she is being coerced into this work and cannot leave without great personal risk
- Not disabled per definitions in Ch. 108A

Questions for discussion

- Report to DSS?
- Is report to LE mandatory?
- Would other HIPAA provision allow a report to LE?

Discussion scenario

- 20-year-old family planning client
- Commercial sex worker
- Not disabled per definitions in Ch. 108A
- LE has previously inquired about this patient. Officer said she is known to engage in prostitution, they are concerned she is trafficked and they're investigating that, they're not interested in charging her.

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