



Survivors' criminal records for crimes they were forced to commit are with them for life, like their own fingerprints.

Demanding an End to the Criminalization of Survivors

“Human trafficking laws haven’t caught up. Cast fills in the gaps.”

Nagwa Ibrahim, Director of Legal Services, Cast



Survivors of human trafficking are sometimes forced to commit crimes by traffickers. Despite being victims, survivors - especially BIPOC - are being arrested, charged, jailed and convicted of offences directly related to their trafficking. **Survivors’ criminal records for crimes they were forced to commit are with them for life, like their own fingerprints.**

Survivors are being victimized by the criminal legal system, which is perpetuating human trafficking rather than addressing it. California law protects survivors who were forced to commit nonviolent offenses from being criminalized - yet they are still being arrested, charged and convicted due to a lack of awareness of or disregard for survivors’ legal rights. As a result, survivors are afraid to ask law enforcement for help and

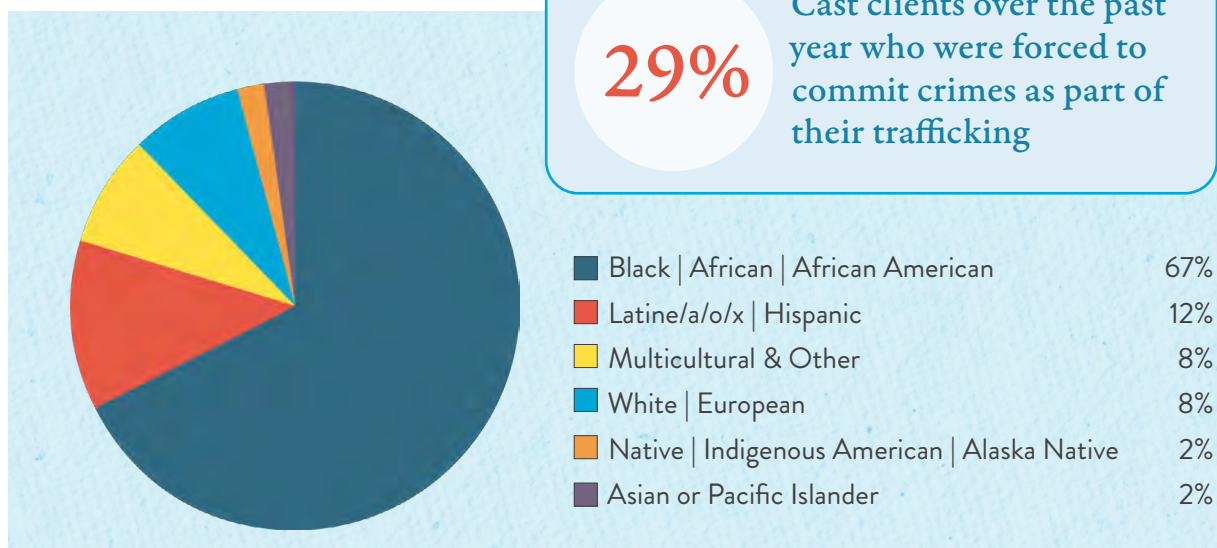
human trafficking continues to be grossly under-reported. When they do report, the experience is often traumatizing. **Survivors, particularly BIPOC, are very often not believed when they report to law enforcement or are threatened with criminalization if they do not cooperate with them.** There is also a lack of protection for survivors when they are forced to testify against their traffickers, which is not only triggering but can be extremely dangerous. Since the first federal law to address human trafficking was only enacted in 2000, there are still many gaps within the laws that do not account for the reality of what survivors of human trafficking endure and the legal protections needed to address human trafficking.

As they are criminalized and their criminal records follow them throughout their lives, survivors of human trafficking are forced to the margins of society once more. They can't get jobs or housing and are even more vulnerable to homelessness and exploitation, including being trafficked again. We know survivors who have gone to interview after interview, got a job, and were then fired for having a record. 31% of the survivors we served in the last year had criminal records.

29% of them had been forced to commit crimes - and 67% of this group are Black. **Structural racism within the criminal legal system, especially against the Black community, is not only harming survivors, it is also perpetuating human trafficking.**

Cast's team of staff attorneys spend countless hours clearing survivors' criminal charges and records that should have never happened. We raise awareness among prosecutors, public defenders, private criminal defense attorneys, and judges - as well as those writing the laws - on the complexity of human trafficking and the impact of harmful policies, and we advocate for better policies that honor survivors' human rights.

In partnership with the Alliance to End Slavery and Trafficking (ATEST) and others, Cast supported the [Trafficking Survivors Relief Act of 2022](#), which if passed, will give survivors a path to clear their federal criminal records of non-violent offenses committed as a result of their trafficking.



POLICE

Understanding Forced Criminality



“Traffickers utilize force, fraud, and coercion to control their victims. We replicate these circumstances when we threaten survivors with prosecution. **By threatening arrest and incarceration, we show survivors that they cannot trust our systems, that they are not there to protect them.** These practices only make it more difficult for survivors to trust the services that are available to them such as housing, healthcare, and counseling.”

Leigh LaChapelle, Cast Associate
Director of Survivor Advocacy

When someone is forced to commit a crime as a result of their trafficking experience, it is called ‘forced criminality’. Sometimes a form of labor trafficking, forced criminality is grossly under-reported in the United States. For example, traffickers sometimes force people to sell drugs, engage in identity theft, credit card fraud, or other types

of theft. It is only since 2017 that California has protected survivors from being arrested or charged for some crimes related to trafficking and made it possible to clear their records if they already were. There is still no federal law protecting survivors from being unjustly criminalized for crimes they were forced to commit as a result of their trafficking.

Tracy was forced to make an impossible choice



A recent Cast client had an experience that we see time and again, especially among Black survivors.

Tracy was sex trafficked for eight years by someone who she was romantically involved with before she turned 18. She tried to report him to the police three times but they turned her away, saying it was a domestic matter.

When other victims came forward, the police finally asked to speak with her.

Tracy had no attorney with her during the interview. She admitted that she was forced to commit crimes as part of her trafficking.

The police then told her that she had to testify in front of the trafficker and that if she did not, they would charge her for those crimes she was forced to commit.

Tracy had to choose between a criminal record and testifying in front of the man who exploited her, which put her safety at risk. She chose the latter.

Cast represented Tracy in court, making sure she was protected during the process, and got older charges related to her trafficking dismissed.

“We work with prosecutors and public defenders to ensure that victims are not further victimized by the criminal legal system through unjust criminalization or the threat of it.”

Nagwa Ibrahim, Director of Legal Services, Cast



What Cast is doing

For over two decades, Cast has witnessed the impact of forced criminality and the wrongful criminalization of survivors. This year, we have been talking about it more with those who have the power to make a difference. We:

- Raised awareness of forced criminality with the Los Angeles County District Attorney's Office, asking for a focus on services for victims, rather than convictions. Cast spoke about human trafficking at two town halls, provided non-stereotyped messaging in advance of the Superbowl, and provided survivor feedback to the Department of Consumer and Business Affairs on posters that businesses are required to post in workplaces.
- Advised attorneys across the United States on using a race equity lens when supporting survivors, for example how victim rights advocacy can be a tool for anti-racism in the criminal legal system.
- Supported the passing of the Safer Streets for All Act, repealing a California law that allowed police to engage in discriminatory policing of Black, Brown and transgender communities especially. This law was being used to criminalize and punish survivors based on race, gender and sexual orientation. [Read more](#) about how this law will help to prevent human trafficking.

Immigrants are especially vulnerable

We applied for T visas and Green Cards for survivors with a success rate of 99% and 100% respectively. The T visa allows foreign national survivors to stay in the US and entitles them to public benefits. It is a lifeline for many who come to the US to help support their families at home but whose vulnerability as immigrants is exploited.

At 18, David was ready to start studying law in Mexico but when his family fell on hard times, he came to the US to find work. After doing odd jobs for a few years, he heard about a well-paid opportunity on a farm and agreed to do it. But the job was a sham and he was brought to a building with

guard dogs, locks on the door, and people with guns who took his possessions and identity documents. He was forced to work all night. The next day, law enforcement arrived and arrested the traffickers, who were running an illegal marijuana farm. Even though David was a human trafficking victim who had been forced to work there, he was also arrested and charged. Thanks to Cast, David's charges were dismissed and he was able to receive a T visa so that he could work legally and safely. Our next step with David will be applying for his Green Card.

Public safety laws should not allow bias and racism to lead enforcement practices. We want laws and systems that better protect survivors and prevent trafficking from happening in the first place, including: improving the process for clearing survivors' criminal records, ending the practice of criminal records following people for life, reducing

over-policing of Black and Brown communities, allowing access to work authorization while T visa applications are pending, and increasing the ability of transgender people to access safety. These are examples of what we mean by a human rights response to human trafficking.