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ABSTRACT

Since the passage of the Trafficking Victims Protection Act nearly 20 years ago, there have been relatively few human trafficking (labor or sex) arrests, charges, and convictions, which casts doubt among some on the magnitude of the problem. However, the absence of cases may not be because they do not exist, but rather because of the hidden nature of trafficking. In this study, we build on the existing literature on police awareness and understanding of sex trafficking by examining a random sample of law enforcement case files for prostitution and human trafficking-related offenses. We conducted descriptive quantitative and qualitative analyses to assess the extent and direction of law enforcement misidentification of sex trafficking cases as well as potential correlates. The results indicate that the misidentification of sex trafficking victims by law enforcement remains a challenge. Implications for policy and practice, as well as future research, are discussed.

Introduction

In 2000, the U.S. passed federal legislation to combat and prevent sex and labor trafficking through the Trafficking Victims Protection Act (TVPA), which outlines a strategy for addressing human trafficking that highlights prevention, protection and prosecution, known as the 'Three P's' model. Sex trafficking, the focus of this paper, was defined as, 'the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act … induced by force, fraud, coercion, or in which the person induced to perform such an act has not attained 18 years of age.' The anti-trafficking movement has grown considerably since the passage of the TVPA. For example, the Department of Justice developed the Enhanced Collaborative Model Task Force to Combat Human Trafficking Program, which provided nearly $21 million in awards just between 2015 and 2017. Moreover, all 50 states have passed legislation to combat human trafficking activities (Chacon 2017).

The response was driven by claims that human trafficking is a widespread problem, subjugating tens of millions of people around the world (International Labour Office (ILO) & Walk Free Foundation 2017). Yet, there is extreme variation in the estimates, which range from 12.3 million (U.S. Department of State, 2010) to 45.8 million people (International Labour Office (ILO) & Walk Free Foundation 2017). This is not surprising given the different types of data used, including

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Supplemental data for this article can be accessed here.

administrative data from agencies serving victims at the point of crisis, surveys of vulnerable individuals in contact with social, healthcare, and criminal justice agencies, and interviews with representative samples of those at-risk for trafficking (National Academies of Sciences, Engineering, and Medicine 2020). The inability to derive consistent prevalence estimates has led some to argue that these estimates are unsubstantiated. For example, Weitzer questions four claims about the magnitude of human trafficking: (1) number of victims is large; (2) magnitude is steadily growing; (3) the industry is nearly as large as drug and weapons trading; and (4) trafficking for sex is more prevalent than for labor. His concerns about these various estimates include the inability to substantiate macrolevel estimates of the problem, reliance on flawed existing data, the large disparity between estimated and identified victims, and estimates of profits arising from trafficking are extremely mixed. He concludes by advocating for microlevel studies that should be able to provide more valid prevalence estimates, richer contextual information about those with lived experience, and more actionable information for the deployment of resources.

In addition to the lack of a precise estimates of the extent of trafficking, there have been relatively few human trafficking arrests, charges, and convictions, which further casts doubt among some on the magnitude of the problem. Across federal law enforcement agencies tasked with investigating trafficking, only 1,830 potential trafficking cases were opened in 2019 (U.S. Department of State 2020). Given estimates about the size of the problem, this seems remarkably low. However, the absence of cases may not be because they do not exist, but rather because of the hidden nature of trafficking. A central challenge in responding to trafficking and in particular, sex trafficking, is the identification of sexually exploited victims (Ryan and Zeplowitz 2016).

As Farrell and Pfeffer (2014) noted, newly defined crimes such as human trafficking may require police to develop new norms and routines to be effective at identification and investigation. Human trafficking victimization is hidden by nature and its identification may demand more proactive and less traditional policing methods and strategies. If law enforcement cannot accurately identify trafficking incidents in their communities, victims will be denied legal justice as their perpetrators will not be investigated, charged, and convicted. Trafficking victims will also not have access to a variety of legal, medical, and social services and benefits until they have been identified as such by law enforcement (Peters, 2013). Given this critical first step of identification, research on how law enforcement approaches and investigates trafficking cases is an essential step in improving their response to the problem. The current study builds on the extant literature surrounding law enforcement response to trafficking by examining characteristics of cases that law enforcement correctly, and incorrectly, identify as trafficking.

Police identification and investigation of sex trafficking cases

Early research on trafficking focused on police awareness and understanding of trafficking. This research has found that local law enforcement is uninformed about human trafficking, has limited experience with trafficking cases, and lacks protocols or policies tailored to trafficking (Mapp et al. 2016; Farrell, McDevitt, and Fahy 2008; Newton, Mulcahy, and Martin 2008; Clawson, Dutch, and Cummings 2006; Wilson, Walsh, and Kleuber 2006). For example, in an exploratory assessment of the police response to trafficking, Wilson, Walsh, and Kleuber (2006) conducted a survey of local law enforcement agencies serving at least 150,000 people and found that 72% of agencies believed that trafficking should be addressed by federal agencies and fewer than one in five agencies believed trafficking was a problem within their jurisdiction. Only 8% of the agencies included in the survey had any training on human trafficking. Although the sampled agencies (n = 163) are not representative of local law enforcement agencies in the country, they serve over half of the U.S. population. The results suggest that the preparation and attitudes of larger police agencies were not conducive to combatting trafficking in the early years of the TVPA's passage.

In another early exploratory study, Clawson, Dutch, and Cummings (2006) conducted telephone surveys with 121 law enforcement officers in cities across the country with known human trafficking

cases. Although the majority (57%) considered themselves to be knowledgeable about trafficking, only 44% considered themselves familiar with the TVPA. When asked about their agencies, the majority reported that human trafficking was a high priority (58%) and nearly three out of four respondents indicated that formal protocols for identifying and responding to trafficking cases were in place or being developed. Because this study was limited to agencies which had already identified human trafficking cases, the findings are not applicable to the broader swath of agencies in the U.S. without such experience.

Building on these early exploratory studies, Farrell, McDevitt, and Fahy (2008) conducted a national survey of nearly 2,000 law enforcement agencies to more systematically understand how law enforcement perceives and responds to human trafficking. They found that law enforcement perceives human trafficking to be rare or nonexistent in their community and were thus minimally prepared to identify and investigate cases. For example, only 18% of agencies had human trafficking training, 9% have a policy for responding to trafficking cases, and 4% had a specialized investigative unit or personnel. Larger agencies (serving a population of at least 75,000) were more likely to perceive trafficking as a more pervasive problem in their communities and were better prepared to identify and investigate cases.

In a study of the human trafficking response in 60 counties in the U.S., Newton, Mulcahy, and Martin (2008) similarly found a general lack of knowledge about human trafficking among law enforcement and prosecutors, with greater awareness in larger metropolitan areas. In a review of case records in four counties, they also found some evidence that when specialized training was provided, investigators produce well-written and detailed reports on potential trafficking incidents. They argued that systematic training and awareness raising are necessary first steps in identifying and responding to human trafficking cases.

More recent research suggests that a need for formal training remains. Mapp et al. (2016) surveyed a convenience sample of 175 local law enforcement officers in one Mid-Atlantic state to assess human trafficking knowledge of officers at all levels, including those on the frontline. Only 17% reported that they had received formal training and nearly two-thirds of officers reported that their only source of information about trafficking had come from mass media, including movies like 'Taken'. In responding to open-ended questions about the definition of trafficking, 71% provided a low quality or very basic definition of trafficking. However, receipt of human trafficking training or information from a formal source was found to significantly improve officer knowledge. The authors conclude that it is critical that officers receive formal training or other official sources of knowledge about human trafficking in order to effectively carry out their duties.

Building on this research on the knowledge and preparation for responding to human trafficking cases, there has been a growing body of research on law enforcement identification of human trafficking cases over the past decade. Using data from a nationally representative survey of over 3,000 law enforcement agencies, Farrell (2009) found that only 10% of agencies had investigated a human trafficking case since the TVPA was passed. Moreover, these agencies were not adequately prepared to identify trafficking cases; only 9% of agencies reported having a policy or protocol for responding to trafficking and three-quarters did not believe trafficking existed in their communities. This lack of experience with trafficking cases may make it more difficult for police to understand the demarcation between trafficking and related crimes, such as sexual exploitation and prostitution. Prostitution of a minor is a severe form of trafficking and does not require force, fraud, or coercion, which arguably should make this type of trafficking easier to identify. Yet, these victims are still frequently treated as offenders rather than victims. For example, in a case study of six law enforcement agencies, Halter (2010) found that in 40% of cases involving a juvenile involved in prostitution they were viewed as offenders rather than victims. Using a rapid assessment methodology in one metropolitan area, Reid (2013) found about 400 cases in which minors had been arrested and prosecuted for prostitution from 2000 to 2007 rather than treated as trafficking victims. During this same time period, very few cases of domestic minor trafficking were investigated and only one case was successfully prosecuted.

In addition to describing the extent of underidentification, some emerging research has sought to understand why these cases are being missed or wrongly classified. Farrell et al. (2012) conducted a multi-method study, including a systematic review of trafficking case records and in-depth interviews with law enforcement and victim service providers, to shed light on the challenges police face identifying and investigating trafficking cases. Of 140 closed trafficking cases reviewed, the most common means a case came to the attention of law enforcement were through tips or in the course of another type of investigation. Given the hidden nature of trafficking victimization, traditional reactive policing strategies may not be adequate and may help explain why few trafficking cases are uncovered. In addition to lack of proactive investigation techniques, they uncovered evidence that some trafficking cases were not properly labeled as such but rather processed as another crime type (e.g., prostitution). Their review of 530 non-trafficking cases revealed that 6% of these incidents had clear evidence of trafficking and another 3% had some evidence of trafficking. These findings suggest two reasons for the under-identification of trafficking cases: (1) proactive investigation techniques are not being used such that some victims never come in contact with the police and (2) law enforcement misclassifies trafficking cases as another crime.

Law enforcement responses to trafficking may be explained, at least in part, by its organizational and environmental context. In a study of medium to large law enforcement agencies, Farrell, Owens, and McDevitt (2014) found that organizational size and capacity and past experience with programmatic change increased an agency's likelihood of having identified human trafficking cases. Similarly, Jurek and King (2020) found that larger agencies are significantly more likely to create specialized human trafficking units than smaller agencies. These recent findings about the role of organizational characteristics in identifying and responding to trafficking are consistent with the earlier studies that found that understanding and awareness of trafficking also varied by agency size (Farrell, McDevitt, and Fahy 2008; Newton, Mulcahy, and Martin 2008).

Law enforcement culture may also impact how trafficking cases are investigated and classified (Farrell and Pfeffer 2014). Police use their experience with certain types of cases to develop routines and norms to help guide their investigations. When crimes are newly defined, such as human trafficking, these patterns and routines have not yet been developed. Farrell and Pfeffer (2014) found that, rather than develop new routines, police rely on tactics developed for more traditional crimes, such as prostitution (Farrell and Pfeffer 2014; Farrell, Pfeffer, and Bright 2015). The law enforcement officers interviewed indicated that they were typically reactive in their response to trafficking; when they were proactive, they relied on vice strategies, such as undercover operations for prostitution-related offenses. Relying on a prostitution framework facilitates the identification of a certain subset of victims but hinders the identification of the broader spectrum of trafficking victims. For example, these techniques may uncover victims working in areas that are already known to vice investigators but are not useful in identifying those in less traditional venues. Similarly, they may be useful in identifying the trafficking of minors in commercial sex, but rarely other types of trafficking, such as forced labor in domestic work or hospitality. Farrell, Owens, and McDevitt (2014) found that 45% of identified trafficking cases were in locations traditionally patrolled by vice units (e.g., street, hotel, internet).

To date, very few analyses have been conducted of human trafficking trainings for police. One such analysis was done by the San Francisco Mayor's Task Force on Anti-Human Trafficking. The CASE Act, passed in California in November of 2012, mandated that police officers who come into contact with victims of human trafficking complete two of hours of training related to human trafficking. As the only mandated human trafficking training for California police, the Task Force reviewed and provided feedback on the video that is the primary training source for police. The feedback they created to help law enforcement more accurately identify and help victims of human trafficking noted some problematic aspects of the required training. This included scenarios that reinforce racial profiling, inaccurate data cited about the age of entry, lack of representation of a diversity of people who experienced human trafficking, inattention to the significance of law enforcement and survivor

relationships, in addition to minimal focus on human trafficking in sectors outside the sex industry (City and County of San Francisco, 2016).

In some ways, the inability of law enforcement to accurately identify victims of labor or sex trafficking is not surprising. When the Trafficking Victims Protection Act was initially passed in 2000, its primary focus was on protecting international (non–U.S. citizens) women forced into 'sex slavery' (Peters, 2013, p.16). The primary focus on non-U.S. immigrant victims was emphasized by how protections like housing, case management, food, healthcare, cash assistance, and other services were provided to victims trafficked *into* the U.S., but not for Americans trafficked *within* U.S. borders (Peters, 2013). When the TVPA was reauthorized in 2005 there was an added focus on U.S. victims of sex trafficking, which was put into practice through federal funding being distributed to a few large cities (Peters, 2013). Even as awareness of domestic minor sex trafficking has increased since 2005, there continues to not be enough 'protections' (read: social services, housing, employment, and beyond) available to those who experience sex trafficking (Lutnick, 2016).

While research has made it clear that the law enforcement response to trafficking can be improved, there is a dearth of research seeking to understand where and how errors occur in identifying trafficking cases. However, some researchers acknowledge the impact of popular culture and the news media in framing public perceptions of trafficking victims. Sanford, Martínez, and Weitzer (2016) point out that 'the news media's framing is influenced not only by journalists and editors but also those providing information to news media, such as policy makers and interest groups' (p.141). Media representations of trafficking victims, as women and girls from the Global South, reinforce an image of 'innocence' rooted in the intersections of race, age, gender, and ethnicity (Andrijasevic and Mai 2016; Vance 2012). For instance, during her participatory research with a southern California sex trafficking outreach program, Elena Shih (2016) was instructed to document the age, race, gender, and ethnicity of those who entered and left a massage parlor. Further, this program depended on the suspicious behaviors outlined in, 'Rescue and Restore Human Trafficking Toolkit for Identifying Victims of Human Trafficking' (United States Department of Health & Human Services, 2013). Attributes of trafficking victims included racialized markers such as, 'Non-English speaking' and 'Recently brought to this country from Eastern Europe, Asia, Latin America, Canada, Africa, or India' (Shih 2016, p. 76). Undoubtedly the strategic use of specific narratives, stories, and images perpetuated by the media cause confusion among law enforcement and others who seek to help victims of trafficking. An important step in improving the identification and investigation of sex trafficking is understanding the types of cases that are likely to be misidentified. The current study seeks to build on this research by describing characteristics of cases that law enforcement misidentified.

Data and methods

The current study uses data collected as part of an evaluation of the San Francisco Mayor's Task Force on Anti-Human Trafficking funded by the National Institute of Justice (Lutnick and Dang 2018). Details about the data, measures, and analysis strategies are detailed below.

Data

As part of their evaluation, Lutnick and Dang (2018) used a two-stage sampling process. First, they purposively included all San Francisco Police Department (SFPD) incident reports labeled as human trafficking (sex and labor) cases. Then, they selected a random sample of SFPD case files for prostitution, pimping, and pandering from 2009, 2010, 2014, and 2015. The sample size for each year was calculated using the total number of prostitution and human trafficking offenses, and a 95% confidence interval. The years were selected to examine trends prior to and after the 2011 creation of the SFPD's Special Victim Unit (SVU). The SVU was created to investigate cases of human trafficking, and also fraud/elder abuse, domestic violence, and sexual assault. Prior to the creation of

SVU, potential human trafficking cases were investigated by the Vice Unit. Because the purpose of the present study is to better understand the identification of trafficking cases, the data has been pooled across the years. The results from the evaluation have been published elsewhere (see, for example, Lutnick and Dang 2018). For the current study, we subset their original cases to those that included someone selling sex (n = 541). We extracted specific information from each case and coded it for quantitative analysis. We also retained the narratives contained in the police incident reports for qualitative analysis.

Measures

This study focuses on three primary outcomes: (1) law enforcement identified the incident as trafficking, (2) elements of human trafficking were present, and (3) the incident was screened for trafficking. We used the incident codes assigned to an incident to measure whether law enforcement identified it as trafficking (1 = yes, 0 = no). To assess whether an incident had elements of human trafficking, we used a slightly revised version of Farrell et al.'s (2012) list,[1] 'Elements that Indicate Trafficking' (see Appendix A) and cross-referenced the facts of the narrative against that list. We used this review to measure whether trafficking elements were present (1 = yes, 0 = no/don't know). When an incident report did not contain sufficient information to make that determination, it was coded 'Don't Know'. For the analyses presented here, we collapsed 'no' and 'don't know' into one category due to the small sample size. It is important to note that this could bias the findings. For example, it is possible that trafficking elements were present, but law enforcement failed to document the evidence of trafficking. In a situation like that, the incident report would have been coded as having no evidence of trafficking because no evidence was included in the report. Conceptually, this variable contrasts cases for which there was clear evidence of trafficking versus cases for which there was either no evidence of trafficking or insufficient detail to determine. We also reviewed the facts of the narrative and coded whether the incident was screened for trafficking (1 = yes, 0 = no). San Francisco has a screening tool that includes questions about work duties, performing tasks unwillingly, threats at work, and ability to freely leave home and work, among others (see Appendix B).

In addition to these outcomes, we examined characteristics of the individual selling sex that may influence whether someone was perceived as a potential trafficking victim. Because this is an incident-level analysis which could include multiple individuals selling sex, we created dichotomous measures (1 = yes, 0 = no) of whether any individual in the incident had a given characteristic. Demographic characteristics, including being minor (under the age of 18), person of color, or female were included because they may influence a law enforcement officer's perception of the individual's vulnerability. We measured whether the incident involved a non-resident of San Francisco as it may suggest that the individual is being moved on a regional trafficking circuit. We also included whether the incident involved someone with a prior arrest record, which may make the officer view them more as an offender than potential victim. We also examined other characteristics of the incidents, including the presence of condoms[2] and whether the report included language indicating that the officer felt the person's manner of dress was indicative of prostitution[3] as these may also influence whether an officer views the individual as a victim or offender. Finally, an incident was coded for how it came to the attention of law enforcement. Cases resulted from police action (1 = yes, 0 = no) when it was police-initiated operations at massage establishments or hotels, through online communication (i.e., Backpage), and/or through actions related to the First Offender Prostitution Program[4] (FOPP). Although most FOPP operations set out to focus on men trying to purchase sex, they often also include efforts to screen online ads for images of people that look underage. Incidents that did not result from a police action may have been initiated through a tip (e.g., citizen or hotline), complaints, or an ongoing investigation.

Data analysis

Quantitative

Two coders reviewed the incident reports and extracted relevant information. Most of the data involved close-ended codes that captured discrete characteristics of the incident (e.g., demographics of the individual). There was one qualitative variable on the summary of the incident report narrative, which we analyzed using thematic analysis. To ensure intercoder reliability for both quantitative and qualitative variables, the coders dual coded 10% of all records at the beginning of the coding process. The project directors reviewed any differences that occurred and talked through the coding with the team and documented the decision process. A guidance document was created for the coders to reference for the remaining records.

We calculated descriptive statistics, including frequencies, to describe the distribution of variables in the study population. We then calculated descriptive statistics to develop profiles of various subsets of cases to assess the extent and direction of law enforcement misidentification of trafficking cases as well as potential correlates.

Qualitative

For the qualitative analysis we included all incident reports where either a) the incident report was labeled as human trafficking, but elements of sex trafficking were not present, or b) the incident report was not labeled as human trafficking, but elements of sex trafficking were present. Focusing the analyses on these two sets of incident reports allowed us to explore factors associated with misidentification of cases and the interpersonal, systemic, and structural consequences of this misidentification.

We utilized Braun and Clarke's (2006) adaptable process for conducting thematic analyses. For the first phase of the analytic process, 'Familiarizing yourself with your data,' one author read through each set of incident report narratives at least two times and noted questions, reactions, and ideas for further consideration in a memo journal. During the second phase, 'Generating initial codes', we engaged in an iterative process of identifying codes that were derived from common words, phrases, and behaviors used and described in each of the incident reports. Upon completing this process, we began the third phase of Braun and Clarke's analysis process, 'Searching for themes.' We went through the data under each code to identify groups of codes that would contribute to the construction of a theme. This process involved multiple iterations of sorting the data into categories, writing memos about the categories, re-sorting and re-organizing, and culminated with the identification of key themes.

Findings

The sample included 541 incidents that involved someone selling sex. As shown in Table 1, females were involved in nearly all (n = 526, 97%) incidents, persons of color were involved in nearly two-

Table 1. Characteristics of incidents involving someone selling sex (N = 541).

	Freq	Mean	Std. Deviation
Minor involved	26	0.05	0.214
Person of color involved	348	0.64	0.479
Female involved	526	0.97	0.164
Non-resident involved [a]	318	0.60	0.490
Condoms mentioned in report [a]	204	0.38	0.486
Individual with prior record involved [a]	374	0.74	0.440
Report describes individual dressed as a prostitute [a]	119	0.22	0.417
Came to attention of law enforcement as part of police action	132	0.24	0.430
Report mentioned screening for human trafficking	91	0.17	0.374
Law enforcement identified incident as human trafficking	42	0.08	0.268
Elements indicate human trafficking	34	0.06	0.243

aThese variables are missing data. Percentages are calculated using the cases available.

thirds of incidents (n = 348, 64%), and non-San Francisco residents were involved in 60% of incidents (n = 318). Fewer than one in ten incidents involved someone under the age of 18 (n = 26, 5%). Condoms were mentioned in over one-third (n = 204, 38%) and descriptions of a person dressed like a prostitute were present in 22% of the incident reports (n = 119). About one in four incidents (n = 132, 24%) came to the attention of law enforcement through some form of police action, such as massage establishment operations. Among these incidents, only 17% (n = 91) of the reports mentioned screening for human trafficking and about 8% (n = 42) of the incidents were identified as human trafficking by law enforcement. Based on our review of the incident reports, 6% (n = 34) included elements that indicate human trafficking occurred. Although the percentage of cases that were identified as trafficking was similar between law enforcement (8%) and the research team (6%), we wanted to further explore the similarities and differences in these cases.

If human trafficking was being appropriately identified by law enforcement, we would expect alignment between cases that law enforcement label as trafficking and cases that have clear indicators of human trafficking. As an initial assessment of this alignment, we created profiles of three subsets of the incidents:

(1) The incident was identified as trafficking by law enforcement
(2) The incident report included elements that indicate human trafficking occurred
(3) The incident report mentioned screening for human trafficking

As shown in Table 2, the types of incidents that were labeled as trafficking by law enforcement and those that we believe contain elements of trafficking were quite different. Using the Elements that Indicate Trafficking document in the appendix, we identified elements of trafficking in only 26% of incidents that law enforcement labeled as trafficking. The other 74% of incidents did not mention clear elements of trafficking in the case report, which indicates that they probably did not involve sex trafficking. Moreover, among the incidents that had clear elements of trafficking, law enforcement only identified one in three of these incidents as trafficking. This mismatch suggests that misidentification is happening in two directions: (1) law enforcement identifies cases as trafficking that do not actually contain legal elements of trafficking and (2) law enforcement fails to identify trafficking when its legal elements are present.

Although there are too few cases to conduct a multivariate analysis, we ran descriptive statistics on the 42 cases that law enforcement identified as trafficking and the 34 cases that contained legal elements. Given the small cell sizes, this was an exploratory exercise to shed light on the types of cases that law enforcement perceived to be trafficking versus cases that objectively contain elements of trafficking. One stark discrepancy involves how the incident came to the attention of law

Table 2. Profiles of incidents involving someone selling sex.

	Identified as Trafficking by Law Enforcement (N = 42)		Elements of Trafficking (N = 34)		Screened for Trafficking (N = 91)	
	Freq	%	Freq	%	Freq	%
Minor involved[1]	8	19.0	25	73.5	5	5.5
Person of color involved	38	90.5	26	76.5	71	78.0
Female involved	42	100.0	34	100.0	89	97.8
Non-resident involved [a]	25	65.8	23	69.7	58	66.7
Condoms mentioned [a]	9	23.1	17	50.0	18	20.0
Prior record [a]	11	45.8	17	81.0	42	53.2
Description of individual dressed as a prostitute [a]	4	10.5	1	3.0	35	38.9
Incident came to attention of law enforcement as part of police action	19	45.2	2	5.9	36	39.6
Law enforcement labeled incident as human trafficking	N/A	N/A	11	32.4	29	31.9
Elements indicate human trafficking	11	26.2	N/A	N/A	6	6.6
Report mentioned screening for human trafficking	29	69.0	6	17.6	N/A	N/A

aThese variables are missing data. Percentages are calculated using the cases available.

enforcement. Among incidents law enforcement identified as sex trafficking, nearly half (45%, n = 19) originated from a police action (e.g., police-initiated operations at massage establishments or hotels, through online communication). However, only 6% of incidents (n = 2) that we determined had elements of sex trafficking originated from a police action. The vast majority came to the attention of law enforcement through other means (e.g., tip or ongoing investigation). It appears that when law enforcement takes an action to uncover trafficking, they are more likely to label it as trafficking. Yet, these are not the cases for which legal elements of sex trafficking tend to be present.

When examining individual characteristics that are associated with these case outcomes, the presence of minors and a prior record of prostitution standout. While minors were involved in 19% (n = 8) of cases law enforcement identified as trafficking, nearly three-fourths (74%, n = 25) of cases with elements of trafficking involved minors.[5] About half of incidents that law enforcement identified as trafficking (46%, n = 11) involved someone with a prior record whereas 81% (n = 17) of those with clear elements of trafficking involved someone with a prior arrest record. This suggests that law enforcement may be under-identifying trafficking among minors[6] and those with a prior record or over-identifying trafficking among adults and individuals without a prior record. The findings regarding minors are particularly perplexing since the prostitution of a minor is a severe form of trafficking and does not require force, fraud, or coercion. These should be among the easiest cases for law enforcement to identify but that does not appear to be the case here.

To further understand the types of cases that are mislabeled by law enforcement, we examined characteristics of cases for which the law enforcement identification of trafficking did not align with the presence of trafficking elements. As shown in Table 3, there were only 11 cases that included elements of trafficking that were correctly identified by law enforcement whereas there were 54 cases that were incorrectly identified. The incorrectly identified cases fall into 2 categories: (1) cases that were 'overidentified,' or identified as trafficking by law enforcement when trafficking elements were not present (n = 31) and (2) cases that were 'underidentified,' or involved trafficking elements but were not identified as such by law enforcement (n = 23). While over half (54%) of cases correctly identified were screened for trafficking, less than one in ten (9%) arose from a police action. Among cases that police incorrectly identified as trafficking, 58% (n = 18) arose from a police action. This reinforces the above finding that police are more likely to identify incidents that arose from a police action as trafficking, regardless of whether the proper elements are present. When incidents were not identified as trafficking, police did not screen any of the individuals involved. The failure to screen for trafficking likely results in under-identification.

To deepen our understanding of misidentified cases, we conducted thematic analysis of two sets of incident report narratives: the 31 incidents that law enforcement identified as trafficking but the incident report did not include clear elements of trafficking, and the 23 cases that include the legal elements of trafficking but were not identified by law enforcement. In 20 of these overidentified cases, the person selling sex was booked and cited for prostitution and also referred to sex trafficking

Table 3. Characteristics of properly labeled and mislabeled incidents.

	Correctly Identified (N = 11)		Overidentification (N = 31)		Underidentification (N = 23)	
	Freq	%	Freq	%	Freq	%
Minor involved	8	72.7	0	0.0	17	73.9
Person of color involved	10	90.9	28	90.3	16	69.6
Female involved	11	100.0	31	100.0	23	100.0
Non-resident involved [a]	9	90.0	16	57.1	14	60.9
Condoms mentioned [a]	4	40.0	5	17.2	13	56.5
Prior record [a]	4	100.0	7	35.0	1	76.5
Description of individual dressed as a prostitute [a]	0	0.0	4	14.3	1	4.3
Incident came to attention of law enforcement as part of police action	1	9.1	18	58.1	1	4.3
Report mentioned screening for human trafficking	1	54.5	23	74.2	0	0.0

aThese variables are missing data. Percentages are calculated using the cases available.

services.[7] Of these incidents, 12 cases were also coded as involving Human Trafficking or First Offender Prostitution Program (FOPP) Operations, the goal of which is to target individuals trying to purchase sex. Among the related characteristics across the incidents, we elaborate on three themes here: Law Enforcement Designated Indicators, Arresting Victims, and Offering Service Referrals.

Law enforcement designated indicators

In one particular incident with an 18-year-old black woman that was labeled as both FOPP and a Human Trafficking Operation, law enforcement found a contact in her phone listed as, 'My Dad' and a photo album labeled, 'Me and Daddy.' The police felt that this was indicative of an exploiter. After her father showed up with her birth certificate and social security card, the police provided her information on sex trafficking and advised that she would be cited pending further investigation. Given that the initial concern of law enforcement was to determine if she was being exploited, it is odd that upon her father showing up with documentation that said she was in fact 18-years old, she was simultaneously given information for sex trafficking services and threatened that she could be cited upon further investigation. From the reports, it is not clear why this incident would have been identified as trafficking after the father arrived with proper identification, and if potentially identified as trafficking, why she would be criminalized for being victimized.

Among the 31 cases overidentified as sex trafficking, seven of them occurred at massage establishments where the workers are primarily Asian Americans. At each encounter, the massage workers were asked if they were being forced to work and each time responded that they were not being forced. Although all massage workers denied being forced, and did not indicate other elements indicative of trafficking, they were all categorized as experiencing human trafficking.

Arresting victims of sex trafficking

Among the 23 cases that had clear elements of sex trafficking, but law enforcement failed to identify as such, a commonality that arose was the arrest of an individual selling sex even though the incident met the criteria for trafficking. For example, 14 of the identified 23 cases involved youth under the age of 18. In almost all instances, youth were arrested and taken to the Juvenile Justice Center or Youth Guidance Center. One particularly salient example involved a girl who said she was not a prostitute but rather was working against her will. She told law enforcement that she was at a friend's house that night and that a friend of the friend was going to pick them up and take them shopping in Sacramento. Once they were picked up, she realized she was being driven out of the area. She learned that her friend's friend was a 'pimp'[8] and he told her that she had to work for him, or he would hurt her and her children. She was driven from Sacramento and dropped off in San Francisco. She was arrested about 15 minutes later. The police booked her based on the likelihood of continuing the offense and notified Vice about the incident. Despite the individual reporting that she was forced against her will, a clear indicator of trafficking, she was arrested and treated as an offender rather than a potential trafficking victim. It is important to note that this incident occurred prior to the inclusion of human trafficking cases in SVU. Most of the false negatives occurred prior to the SVU, so it is unclear at this point whether this trend is continuing.

Another report stated that law enforcement overheard a third party say to a woman he was walking with, 'Come on, get working girl, and stay on the phone, you know, go down there.' Eventually both parties involved in the incident were arrested and police learned that the woman working was 16 years old. Although, this particular incident quotes a third party telling a minor to work (potentially resembling 'force'–a marker of sexual exploitation) and this youth was under 18 (under federal law this designates her a victim of sex trafficking) she was arrested and taken to the Youth Guidance Center.

Offering service referrals

A service referral was always offered on a Human Trafficking Operation, even if the individual was arrested for prostitution and not viewed as a trafficking victim by law enforcement. Throughout incident reports, prior to identifying or misidentifying as sex trafficking, law enforcement first placed the individual in handcuffs, then questioned and screened for Human Trafficking. After a determination was made, despite the outcome, the individual in question was offered local services for human trafficking victims. Most often, the offered services were refused and, in most reports where law enforcement made arrests, they also offered Human Trafficking services, even when the person arrested said that they were not in need of those services. The order in which these steps occurred demonstrates that the primary concern of law enforcement is of prostitution-related criminal activity and not of victimization.

Discussion

The current study builds on a growing body of research highlighting the difficulty law enforcement has in identifying human trafficking (Farrell, Owens, and McDevitt 2014; Farrell and Pfeffer 2014; Farrell, Pfeffer, and Bright 2015; Farrell, McDevitt, and Fahy 2008; Newton, Mulcahy, and Martin 2008; Clawson, Dutch, and Cummings 2006; Wilson, Walsh, and Kleuber 2006). Failure to identify trafficking victims results in a miscarriage of justice in which perpetrators remain free and victims are arrested and treated as offenders and not linked with essential services and care. Prior research has indicated that proactive approaches are rarely taken, and when they are, traditional vice techniques are used (Farrell and Pfeffer 2014; Farrell, Pfeffer, and Bright 2015). The current study focused on San Francisco, which is actively trying to combat human trafficking. Despite their efforts, identification issues still exist. In short, we found evidence of both false positives (i.e., law enforcement identifies a case as trafficking that is not) and false negatives (i.e., law enforcement fails to identify trafficking). Among cases that the police identified as trafficking, only one in four had clear elements of trafficking in the case report. Among cases that had clear elements of trafficking, law enforcement only labeled one in three of these incidents as trafficking.

In the beginning of this article, we noted that a wide range of estimates exist about the extent of sex trafficking. Therefore, it was not a surprise to us to learn about the over and under-identification by law enforcement. However, our findings illuminate how such estimates may differ based on the source and means of the data. We are particularly concerned about the cases of minors with a prior record that were not identified as sex trafficking. Instead of being given a referral to services, the girls in these cases were arrested and sent to juvenile detention. Although the goal of human trafficking police operations is to identify and help sexually exploited girls, misidentification in these incidents meant that minors were (re)connected with the criminal justice system which is likely to harm them instead of help.

One source of misidentification may be the reliance on stereotypes to identify victims of sex trafficking. Congruent with other studies, our findings reveal that those being under-identified, and instead arrested for selling sex, are mostly minors, people of color, and female. Girls of color trading sex are more likely to encounter stigma, negative responses by law enforcement and service providers, and trauma in the process of seeking services (Dank et al. 2015; Menaker and Franklin 2015; Torres and Paz 2012). Racial bias due to the adultification of black girls within the criminal legal system has led to their incarceration as young as 13–14 when active in sex trade. Through the process of adultification, black girls become stereotyped as uncontrollable and unable to regulate their developing emotions and bodies (Epstein, Blake, and González 2017). Common behaviors among children, like throwing a tantrum, are labeled as threatening and dangerous and are used as a weapon of the state to justify criminalizing them as adults before they turn 18 years old (Ritchie 2017; Epstein, Blake, and González 2017). Being arrested as a minor when the federal trafficking law states that you are a victim of a severe form of trafficking illuminates the grasp of stereotypes when

assessing trafficking status. As such, the combination of our quantitative and qualitative findings evoke concern that those most in need of connection to services are being under-identified and are more likely to be labeled as criminals.

For instance, the assumption by law enforcement that Asian women working in massage establishments must be victims of human trafficking, is indicative of the ways that law enforcement is influenced by traditional racial stereotypes that portray Asian women as infantile and submissive. Stereotypes related to trafficking inform the reader that only some women, people of color, and minors are viewed as victims or engaging in a specific sex trade (i.e. Asian women who work in massage establishments; young white women are seen as victims of DMST), while others are already assumed to be engaged in prostitution and related criminal activity (i.e. Black women and girls have historically been sexualized and portrayed as sexually promiscuous instead of sexually victimized (Collins, 2004).Therefore, when evidence of trafficking appears to fall outside of media or politically influenced narratives, it is likely for misidentification to occur. To counter deeply engrained stereotypes about those involved in sex trade, criminologists Menaker and Franklin (2015) advocate that training on human trafficking be grounded in empirically based research that serves to demystify the lives of those who experience human trafficking.

Another source of misidentification appears to result from seeking cases through traditional vice actions. About half of the cases labeled as trafficking originated from traditional vice strategies, yet only 6% of these cases actually contained clear evidence of trafficking. One cause of this is that the SFPD considers massage establishment operations[9] and operations targeting men purchasing sex as human trafficking operations, which suggests they have a prevalent sensitivity to trafficking when engaging in these types of actions. As further evidence of this source of misidentification, service referrals were always provided during human trafficking operations, regardless of whether the individual was arrested for prostitution or viewed as a trafficking victim. Before referrals were provided, individuals were placed in handcuffs and questioned. This practice likely serves to confuse victims and may result in their failure to cooperate with law enforcement or consider law enforcement a resource in the future if they needed help. In short, when law enforcement takes an action to uncover sex trafficking, they see it (whether it is there or not).

We also found an interesting case, described above, where some of the language law enforcement believes is indicative of trafficking (i.e. 'Daddy' to refer to a third party) leads them to completely misinterpret a situation (in that case 'Daddy' literally meant someone's dad). The presence of false positives arising from police action suggests that the limited resources available to law enforcement may be misplaced. Police actions frequently result in screening individuals for trafficking and labeling the incident as trafficking. Yet, cases that clearly contain elements of trafficking rarely result from a police action.

Prior research has suggested that proactive identification strategies will be more successful than reactive strategies. However, the findings here suggest that the use of traditional sting operations may also result in overidentification. As such, traditional vice operations appear to be a poor strategy; if these actions were successful, we would expect higher rates of correctly identifying sex trafficking cases. Moreover, these types of police actions should not be labeled as human trafficking operations. The Department of Justice released a memo that prohibits Enhanced Collaboration Models Task Forces from using funds for these types of operations (Hammond-Decker 2018). Regardless of funding sources, we recommend that 'John' stings and similar operations are not automatically labeled as human trafficking operations or incidents. Clarifying the role of such operations may help reduce the tendency to overidentify trafficking in these situations.

These findings raise the obvious question of how can we improve the identification of human trafficking? Because this is a newly defined crime, evidence-based approaches specifically developed for investigating trafficking have not been fully developed. Collaborative approaches between people who have experienced trafficking, law enforcement, victim service providers, and other stakeholders are necessary to fully develop, evaluate, and disseminate promising strategies. Future

research is needed to better understand what techniques can be employed to reduce both false positives and false negatives.

Although justice for victims is the most critical issue surrounding proper identification, misidentifying incidents of trafficking also has implications for how we understand the problem because cases that are misidentified will also be mislabeled in their record management systems. If law enforcement agencies misidentify, and subsequently mislabel prostitution cases as human trafficking, or vice versa, it skews our understanding of the problem and potentially how resources are allocated. Any interventions or policies that are made using this data will be based on poor evidence and may not have the intended impact. Moreover, although this issue starts at the local level, mislabeling cases also feeds into state and national reporting systems. Since the 1930s, the FBI's Uniform Crime Reporting Program (UCR) has been the primary indicator of the prevalence and nature of crime. In 2008, the FBI added human trafficking for commercial sex and indentured servitude to the UCR. However, there is evidence that this information is not being consistently collected and reported.

Farrell and Reichert (2017) conducted a survey of UCR program managers to better understand the challenges they face in collecting standardized data on human trafficking. About 48% of the participating UCR managers indicated that reporting of human trafficking in their state was encouraged or promoted. However, even if reporting is encouraged, it will not be accurate if local agencies misidentify and mislabel trafficking incidents. If states are not consistently reporting human trafficking to the FBI, the data will result in misleading evidence about the extent of trafficking as well as its geographic distribution. If local agencies are unable to correctly identify and label crime types, it will contribute to a larger misunderstanding of the issue at the state- and national-levels. While it was beyond the scope of this study to assess how these cases were investigated and reported to the UCR, future research should take this next step to assess case processing, investigation, and reporting.

Finally, it is important to note a couple limitations to the current study. First, the study focuses on only one city and the results may not be generalizable to other areas in the United States. However, San Francisco is often positioned as a 'hot spot' of human trafficking and California requires law enforcement officers to undergo training on trafficking. This may suggest that San Francisco should be better equipped than other communities to identify sex trafficking cases. Moreover, the results are consistent with prior research, which suggests that other jurisdictions experience similar issues identifying human trafficking cases.

Second, the study relies on a relatively small number of trafficking cases and all findings are descriptive in nature. The number of cases available for analysis prevented the use of multivariate models to understand which case characteristics may be most important in driving misidentification. Although the number of cases is small, we hope this descriptive analysis will lay the foundation for future research on the magnitude and causes of misidentification.

Third, our measure of whether elements of trafficking were present relied on information captured in police case files. It is possible that police reports contain inaccurate accounts of an incident or that crucial information was not included in the report. Our decision to use police report data to label cases as false positives or false negatives is built on the assumption that the police report is a reasonably accurate and complete description of the facts in the case. Although these records may not be a perfect encapsulation of an incident, we do not have reason to believe that either data inaccuracies or gaps occurred systematically. Prior research has found that human trafficking training may improve an investigators ability to produce well-written and detailed reports on potential trafficking incidents (Newton, Mulcahy, and Martin 2008). Because California law mandates that police officers who come into contact with victims of human trafficking complete a specialized human trafficking training, all officers in San Francisco responsible for completing case reports should have received this training.

Given the small sample size, we collapsed cases for which there was no evidence of trafficking and those for which there was not enough information to make a determination. If law enforcement failed to document evidence of trafficking, the case may have been erroneously coded as having no evidence of trafficking (e.g., cases of human trafficking with bad recordkeeping may have been

included with non-human trafficking cases). However, this limitation is common in the use of administrative data for which researchers have no control over the thoroughness or accuracy of which it is collected. It is also important to note that the U.S. focus on trafficking is narrowly focused on trafficking in the sex industry and much less is known about labor trafficking. The current study is also limited in this respect. However, it is important to note that we did not set out to focus only trafficking in the sex industry but rather included all cases of human trafficking during the study period in San Francisco. However, only one of the trafficking incident reports in our data included exploitation in a different labor sector. Despite these limitations, the study findings build on research suggesting that law enforcement understanding of and identification of trafficking must be improved. Future research is needed to guide the development of best practices for the identification and investigation of human trafficking cases.

Notes

1. *The list Farrell and colleagues created was based on the elements of the crime as specified in the TVPA. These are the same elements used in California to define the crime (see https://oag.ca.gov/human-trafficking/what-is).*
2. Based on Lutnick and Dang's (2018) findings, when condoms were mentioned in SFPD incident reports it was associated with a 54% reduction in odds (p = 0.02) of screening for human trafficking and a 58% (p = 0.02) reduction in odds of the incident report correctly identifying whether or not an incident involved human trafficking.
3. All incident reports included a brief description of what the person, or people, was wearing. It was common to see the following phrase, 'based on manner of dress determined she was loitering for prostitution' included in the reports. The manner of dress considered indicative of engaging in prostitution was quite varied. Some examples include the following: 'Black jacket, tight blue jean pants, and tall black boots'; 'A black down jacket, black shirt, short blue jeans skirt, and black knee-high boots'; 'Wearing revealing clothing on a very cold night'; 'Sports bra and daisy duke shorts'.
4. Under the FOPP, first-time purchasers of sex who have no prior violent offenses may enroll in an educational seminar in lieu of prosecution. The FOPP was established in San Francisco in 1995.
5. The results varied slightly for the pre- and post-SVU time periods. Minors made up 20% of cases labeled as trafficking prior to the SVU and 27% post-SVU. No cases screened for trafficking involved minors pre-SVU; about 10% of cases screened for trafficking in the post-SVU period involved minors.
6. Minors were involved in 26 of the 541 incidents in our sample. The research team found indicators of trafficking in all but one of these incidents. The one case we did not identify as trafficking involved a minor who had not had any clients yet.
7. When a report includes the language that someone was referred to human trafficking services it means they received at least one of the following: a referral card to a local service provider, the National Human Trafficking Hotline number, or the contact information for SFPD-SVU (personal communication. Antonio Flores, 2017, 24 May).
8. Quotations used to indicate that this is the term used in the incident report.
9. With the massage establishments operations one or two decoys would enter the establishment first to try to see commercial sex happening and/or negotiate commercial sex with a massage worker. The remaining operation team members would then enter after a period of time. These sting operations differ from inspections solely done by Department of Public Health workers for code violations.

Disclosure statement

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