Hiring to Firing Podcast — Hidden in Plain Sight: Human Trafficking, Compliance, and Corporate Accountability
Hosts: Tracey Diamond and Emily Schifter
Guest: Meg Kelsey
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Tracey Diamond:

Welcome to *Hiring to Firing*, the podcast. I'm Tracey Diamond, a partner with Troutman Pepper Locke, and I'm here with my partner and co-host, Emily Schifter. Together, we tackle all employment issues from hiring to firing.

Emily Schifter:

Today, we're so excited to welcome as our guest, Meg Kelsey, director, Center for Global Justice at the Regent University School of Law. We're so excited to have you here, Meg, and I know your organization and you have been a big partner of our firm in the past. So we're really glad to have you today.

Meg Kelsey:

Thank you, Emily. Thank you, Tracey. It's an honor to be here. I'm excited to dive into a topic that I work in every day, but many people don't realize how their work and their lives may intersect with this topic as well.

Emily Schifter:

Absolutely. Well, why don't you start by telling us a little bit about yourself and your work as the director at the Center for Global Justice?

Meg Kelsey:

Sure. So I'm the director of the Center for Global Justice, which is housed within Regent Law School. We're in Virginia Beach, Virginia. And it was launched in 2010 in response to the number of students we had coming who are interested in human rights. The Center has a twofold mission. One is to equip our students to be advocates in the realm of human rights. And also, the second part is to support advocacy partners around the globe who are doing human rights work, whether it's promoting the rule of law or advocating for marginalized populations. Men, women and children in religious minorities are in poverty. And a predominant area is anti-trafficking work that we do research globally and domestically.

And so the Center had been around 13 years and then a number of factors lined up, including support from Troutman Pepper Locke. Those factors lined up for us to launch a clinic within the center. And that just means for any law students who participated in clinic work, that means

we're actually taking cases, kind of operating a law firm within the law school. And so we directly represent human trafficking survivors in this clinic. The clinic's focus is on helping survivors overcome barriers that they face once they've exited exploitation, and one of those is having a criminal record. Many victims are forced to commit crimes while they're being exploited, and so we help them to clear that criminal record.

Emily Schifter:

It's such important work. So you're the perfect guest for us today because we are going to try and tackle the serious topic of the prevalence of forced labor, human trafficking and employment. I think our listeners might be familiar with this just kind of generally, like you mentioned, it's obviously a grave concern around the world, but I think it does come as a surprise to a lot of people when they learn it's also an issue in the US.

And where I live in Atlanta, I think it's pretty prevalent. We sit at the intersection of the Interstate 75 and 85, and we have a massively busy airport, and so people are aware of the issue. But I think even when people are familiar with it, they don't often think about how it might affect employers and how it might show up in the workplace. So we're glad to have you on board to shine a light a little bit on this topic.

So to get us started, Meg, could you just explain at a high level a little bit about what we're talking about when we talk about forced labor and human trafficking?

Meg Kelsey:

Sure. And there are a lot of misconceptions, so I love to start at this high level and simply define what it is we're talking about. Human trafficking involves the use of force, fraud or coercion to deceive or manipulate someone into either commercial sex, so exchanging something of value for sex, or labor, their work. And an easy way or easier way to think of this, the three elements, there are a couple different models. One is the AMP model, A-M-P, stands for action, means, purpose.

So the action is what is being done. That can be the act of moving or controlling a person, recruiting, harboring, transporting, and sex trafficking. This can also include soliciting or advertising a victim. And within the action, you just need one of those. And so what I'll point out there is that you don't have to move someone. You can harbor or hold someone. And we're seeing an increase across the world in exploitation through online means and online platforms and social media. And so what can happen is someone can be trafficked from their own home without ever leaving a bedroom, leaving their house. And so it's important to distinguish between even the crime of smuggling, which is moving someone across country lines, state lines, and trafficking, which human trafficking does not require the movement of a person. So that's the action, the what.

The means is the how, the methods to compel a victim, and that's the force, fraud, or coercion. Force can be physical, it can be sexual abuse, it can be physical confinement. The other two parts of that, the fraud and coercion are often more prevalent in cases that we see in our clinic and in a lot of trafficking across the US that often people think of, this is a misconception, of handcuffs or someone physically restrained. And that's not often the case. There are other

means that traffickers use to manipulate and hold someone. And so the fraud can be false promises of jobs, of marriage, of a better life. And the coercion can take a variety of forms as well, threats or debt bondage, psychological manipulation, even document confiscation, which we'll get into. So that's the means, the how.

And then the purpose is the why. Unto what? It's the goal of exploitation. And the most simple breakdown is labor or sex. So is it for the services, the work of someone, obtaining their labor or engaging someone in a commercial sex act?

So those are the main three elements that have to be proved, except if the victim is a child and it's a sex trafficking crime, you don't have to prove force, fraud or coercion. You don't have to prove that middle element because a juvenile cannot consent to commercial sex. So you don't have to prove the middle element, the M, or the means. And I'd just like to point out there's no such thing as a child prostitute, that we should take that out of even our understanding of this issue because there are no children who are able to consent to commercial sex.

So those are the basic three elements of the crime, but it's important to understand human trafficking is not monolithic. It takes many different forms. One nonprofit is the Polaris Project that historically had operated the National Human Trafficking Hotline, and they have a number of different studies, but they've identified 25 distinct types of human trafficking in the United States. And this ranges from sex trafficking in different contexts to labor trafficking across multiple industries. And some of the most common labor trafficking types we see include domestic work, agriculture, traveling sales crews, restaurants, even into beauty services and construction. But each typology, which we'll get into, each typology has different forms of recruitment, different patterns we see, control tactics, and even different victim demographics.

So understanding the distinction helps us recognize the trafficking can look very different depending on the context. It's not chains and locked doors. It could be someone working at a nail salon who can't leave because their passport's been taken. And so just to touch on a few global statistics to kind of give the scale of the issue, according to International Labor Organization and even International Organization for Migration, estimate put the total number of people in modern slavery at any given time at almost 50 million.

Tracey Diamond:

Wow.

Meg Kelsey:

So 49.6 million people are in modern slavery at any given time across those distinct types of human trafficking. And the International Labor Organization estimates that about 77% of victims are in forced labor and the rest and about in sex trafficking. So you see the majority is forced labor globally, and human trafficking comes second in terms of a criminal enterprise, comes second only to drug trafficking. And so it is the second most profitable criminal industry in the world, generating an estimated 150 billion in profits annually for traffickers.

So when we talk about anti-trafficking work, we are up against an enormous problem. This evil is generating such profits that we can see that it impacts across industries and across the globe.

Tracey Diamond:

Those numbers are staggering, Meg. It's really quite hard to wrap your arms around them at all. I did want to ask you something that you said that confused me a little bit. You said that, if I understood you correctly, that somebody could be trafficked just from their own home through social media. What's an example of that? How does that work?

Meg Kelsey:

Sure. So there's a growing awareness of different types of trafficking, as I mentioned. One note is that statistics and identifying victims can be very hard. Statistics are hard to come by and are all estimates. By some estimates, only 1% or less than 1% of victims are ever identified, and that's partly because it's such a hidden crime and can happen in homes, in bedrooms, in families. And there's a growing awareness, even a familial trafficking where with regards to sex trafficking, almost 50% of child victims and sex trafficking were trafficked by a family member. And the more likely family member to traffic a child is actually the mother, which is really hard to understand. Anyone who is around kids or has kids that's challenging, but we'll get into who's targeted and vulnerabilities that lead to trafficking. But there's often a number of vulnerabilities that will lead to this, whether it's mental health, instability or substance use disorder that often will be at play in familial trafficking.

And so either a child could be trafficked from a bedroom. We've even had a client who was trafficked by her husband in their household, and so she didn't go anywhere. The buyers came into the house. But with growing use of social media, traffickers have access to children and people, men and women all over the planet through screens and through internet. And so you may be familiar with the term grooming, which is more often applied in sex trafficking, but can also be at play in labor trafficking and recruiting employees. But it's a long game, essentially, that traffickers will use social media and online platforms to develop a relationship with someone. And so a kid could be going to school every day, but then they are having conversations on an app, on a platform over a number of months. And through that conversation, feel like they get to know someone.

And it can go a number of different ways. Either they, often a trafficker will invite ... just slowly crossing boundaries until they've crossed so far that there can be blackmail of some sort. So that gets into a little more of the sex trafficking, but those are some examples of how a person doesn't have to go far to be exploited.

Tracey Diamond:

So this would be a good opportunity to introduce our first clip. Today we've pulled clips from the Emmy Award-winning show, The Pitt, starring an executive produced by Noah Wyle of ER Fame. The series follows emergency department staff through the course of a single 15 hour work shift at the fictional Pittsburgh Trauma Medical Center. Each episode is an hour in this very long day in the life of an ER healthcare provider, and they really see it all in the course of this

one day, from emergency births to a young teen dying of a fentanyl overdose, to a doctor caught stealing medication, to a mass shooting.

Today, we're focusing on episode eight, where a young American girl is brought into the ER with symptoms of chlamydia. She is accompanied by her employer who refuses to leave her side even for a GYN exam. In our first clip, we are introduced to Piper, the employee, and her employer, who answers her medical questions for her.

Let's listen into the first clip.

[BEGIN CLIP]

Dr. McKay:

Hi, I'm Dr. McKay.

Piper:

Piper.

Laura:

Laura.

Dr. McKay:

And you guys are?

Piper:

She's my boss.

Dr. McKay:

Oh, what kind of work?

Laura:

I'm an accountant and she's my assistant.

Dr. McKay:

Oh, cool. Piper, are you okay with your boss being here while we talk?

Piper:

Yeah, I'm good.

Dr. McKay:

Are you sure? I'm going to be asking you some pretty personal questions.

Laura:

She doesn't mind. We have no secrets.

Dr. McKay:

Okay. So burning with urination, when did that start?

Laura:

About two days ago.

Dr. McKay:

Why don't we let Piper answer the questions?

Laura:

I'm sorry. It's just we've been waiting so long.

Piper:

About two days ago.

Dr. McKay:

Any blood in the urine?

Piper:

I don't think so.

Laura:

No, she would have definitely noticed that.

Dr. McKay:

Okay. I'm going to get you a gown and I'll be right back.

Piper:

Okay.

Dr. McKay:

Okay.

[END CLIP]

Emily Schifter:

So it turns out, as we will see in some of the following clips, that the hospital workers strongly suspect that this young woman is a victim of human trafficking. Meg, are there certain categories of individuals who are particularly vulnerable to becoming such a victim? I know you mentioned that there are definitely some characteristics, depending on the type of trafficking involved.

Meg Kelsey:

Right. And that's a good question to think about. Unfortunately, the answer is that any vulnerability can be exploited, but we do see some examples in this clip that kind of represent common vulnerabilities that are exploited. So the young girl in the show, Piper, comes from a rural area and it says she was in a bad relationship, it seems like, and it doesn't sound like there's much of any real family support. And so those three factors lend themselves to a form of isolation that assigns that an individual could be susceptible to human trafficking. Traffickers are incredibly skilled at identifying and exploiting some level of vulnerability. And so an unstable or abusive home or abusive relationship are definitely factors.

There was a 2022 study through the National Human Trafficking Hotline data that found that a majority of trafficking victims had experienced a series of adverse childhood experiences. So almost 96% of trafficking victims had experienced physical, sexual, or emotional abuse, and 91% experienced mental health challenges, 83% experienced poverty, and 69% ran away from home, which it sounds like Piper left her family support, and 62% experienced substance abuse. So you can see there some of the vulnerabilities and the kind of overarching definition of this is that the victim doesn't know what a healthy relationship looks like.

So a lot of anti-trafficking nonprofits who go into schools or are teaching in community settings just start with what is a healthy relationship and what is a healthy or balanced home life. And even within a broad definition, that will get at the root of a lot of these vulnerabilities. And so we see, basically, individuals in vulnerable situations due to economic hardship, which it sound like this young girl was looking for a way to make some money.

And we don't see it in this clip, but another vulnerability that's often exploited is immigration status or someone who is facing political instability or refugee status. Maybe they're leaving from violence in their home country, maybe leaving due to natural disasters, but a factor that has forced them to be displaced from their family, from their home country. And so those are other factors that are often at place, particularly with labor trafficking.

And recent reports have found that migrant workers are three times more likely to be exploited through forced labor than non-migrant workers. And so just that lack of roots, the roots to home, roots to home country. And so that insecurity of status, maybe insecurity of not knowing the language, the culture, the lack of access to public services, that all weakens the safety net that a lot of migrants would want.

Tracey Diamond:

So from an outsider's point of view, for folks that are looking to make sure that those around them or those they've been in contact with aren't victims, what are the signs they should be looking for of an incident that involves forced labor or human trafficking?

Meg Kelsey:

Yeah, that's an important topic, not just to know what trafficking is, but what does it look like in our communities. And first is just awareness that this is happening in our country and in our state, whatever state you're in, it is happening and in your city and in your community. And so there are some signs to look for in addition to recognizing possible vulnerabilities, which we mentioned, someone away from home, someone perhaps in poverty or out of their home country. Persons with disabilities often have difficulty in accessing education and decent work, and so having an eye for someone with disabilities who may have left home or on their own.

And this goes back a little bit to the past ... the previous question of who might be targeted, and then I'll go into some other red flags. But women and LGBTQI+ individuals are also at increased risk of being subjected to commercial sexual exploitation and labor, and runaway in homeless youth.

So as well, another vulnerable group would be Native Americans. In some US and Canadian sites, Native Americans represented 40% of those trafficked despite being only 10% of the population. So you see the disproportionate impact. So beyond just being part of a vulnerable group, there are red flags. An analysis of trends of calls received by the human trafficking hotline found that top traffickers, like the highest group that were labeled traffickers were employers. Almost 43% of traffickers within those calls were employers. And so not being ignorant of the fact that it can be in the labor setting and it can be an employer who is trafficking an employee. After that, it was family members, intimate partners, and others who had recruited online.

So one major red flag to look out for is lack of control over their own money or their own wages. Is someone else taking their money or diverting their money? Is someone else being paid rather than the worker? Another red flag is fraudulent recruitment practices. So being promised a job that's too good, sounds too good or pays more than the rate, or even offering an odd agreement, whether it's to pay off a debt, or their really steep recruitment fees are often a red

flag. Another issue to look for is unusual living conditions, which we saw and we see in this episode of The Pitt where workers being housed by their employer is generally questionable if there's some of the other red flags there. So either living with the employer or living in overcrowded substandard housing, if there's increase in workplace injuries or a pattern of injuries without proper medical treatment, that can be a red flag as well.

As well as if the employee's movement is restricted, so they're not allowed to go anywhere by themselves or don't have control over their schedule and where they live, someone who never seems to be able to leave work or go out independently, that can be a red flag as well. And perhaps one of the most obvious signs is their passport, their document, other identity documents have been taken and are being held by the employer. So the employee does not have possession of their own documents. That is a big concern.

And then a few red flags, we may not see these as much in the States, but additional indicators could be someone who appears malnourished and showing signs of physical abuse from work, or if they just seem fearful or anxious. We see anxiety a little bit, and I know we're on an audio podcast, but I was able to watch The Pitt episode and you can see there's some, there's anxiety with this employer. Really, the employee is anxious around the employer and always deferring, deferring to another person to speak for them, deferring to them for answers and not feeling free to communicate. Even responses that are very personal to them, they feel like they have to defer to someone else.

Emily Schifter:

Yeah. So that's a perfect segue to the next clip where we see a couple of those signs. We learn Piper's living with her employer, doesn't have access to her own phone, things like that. So let's take a listen.

[BEGIN CLIP]

Dr. McKay:

You from Pittsburgh?

Piper:

Two hours north, like Mill Village.

Dr. McKay:

Okay. You have any family you want to call?

Piper:

I don't have a phone.

Laura:

She can use mine if she needs to.

Dr. McKay:

Okay. Lay down. I've never heard of Mill Village.

Piper:

Yeah, nobody has. Population 400.

Dr. McKay:

Wow, that's small.

Piper:

Tell me about it. After high school, I had to get out of there.

Dr. McKay:

Well, you're lucky you found a job. Any pain around here?

Piper:

A little.

Dr. McKay:

Okay. Sit up for me. You gave us a urine specimen?

Laura:

Hours ago in the waiting room.

Dr. McKay:

Okay. Well, I'll find the results and then you might need a pelvic exam.

Laura:

Is that really necessary?

Dr. McKay:

It could be. If there's no bladder infection, it's important to check.

Piper:

Okay.

Dr. McKay:

And if we do a pelvic, Laura, we'll have you step outside for a minute.

Laura:

I prefer to stay with her for support.

Dr. McKay:

Piper, do you want some privacy?

Piper:

No, it's cool. She can stay.

Dr. McKay:

Okay.

[END CLIP]

Emily Schifter:

Meg, one thing you had mentioned is that there are certain industries where you tend to see more trafficking or where it tends to be more prevalent. Do you have any examples of those that kind of you've seen in your work?

Meg Kelsey:

Yes. So forced labor can occur in pretty much every industry, but there are certain industries that have kind of structural characteristics that make them higher risk for labor trafficking. And one is farming or agriculture. It's one of the most vulnerable sectors. For one, it often involves isolated locations where there's not a lot of oversight and then there's often temporary or seasonal work. And so there's movement of people which also lends to less oversight. There are often language barriers and workers who have irregular immigration status. And similar with construction and landscaping, it similarly involves mobile work sites and often employ vulnerable workers.

Another industry is the hospitality industry. It includes hotels and restaurants. It's another high risk sector because these businesses often have high turnover and may employ workers with limited English proficiency, and sometimes involve workers who live on site. And so it's harder to track, if they're not living with a family or living offsite, it's harder to track what's work and what's not and what's going on at work.

And we also see trafficking in domestic work, so nannies, housekeepers, caregivers working in private homes. And again, this is particularly insidious because the work is happening behind closed doors and it's hard to know what's going on unless someone enters the home to see the issues, the abuse, whatever may be going on. So also health and beauty services, including nail salons and massage businesses. IMBs are called illicit massage businesses, and those are hard to regulate because there is a legal business on the front and then behind the doors of the massage room that they're often usually women who are being forced to work long hours and to break the law.

Traveling sales crews is another industry really just luring people in, say, "You can have this incredible job and we're like a family and you're going to make so much money." And then they have to buy in. And so there's a form of debt bondage, they have to pay off this debt. And then carnivals are often common sites as well.

And what these industries have in common is some combination of low wages, high turnover, limited regulation or oversight, isolated work conditions, and employment of vulnerable populations.

Tracey Diamond:

Wow. Okay. Well, that brings us to our third clip. And in this clip, the hospital workers pretend that Piper needs a CT scan with radiation to separate Piper from her employer who just won't let her be alone with the workers otherwise. And they use this as an opportunity to ask her questions about her employment relationship.

[BEGIN CLIP]

Dr. McKay:

Some of your tests are concerning for a kidney stone.

Laura:

Wouldn't that give more pain?

Dr. McKay:

Not always. If it's a urine infection with a stone, you'll need to stay in the hospital for some IV antibiotics.

Piper:

What do we have to do?

Dr. McKay:

A CT scan of your kidneys.

Laura:

How long is that going to take?

Dr. McKay:

They can do it right now.

Laura:

Okay, great. Let's go.

Dr. McKay:

I'm sorry there's radiation. You won't be able to stay with her, but we'll be back as soon as the scan's done.

Laura:

You're good with this, right?

Piper:

Yeah, I'll be fine.

Dr. McKay:

We'll see you in a minute. So Laura's an accountant?

Piper:

Uh-huh.

Dr. McKay:

How'd you get the job?

Piper:

Online ad.

Dr. McKay:

Yeah.

Piper:

Zoom interview.

Dr. McKay:

Right. You must be good at math.

Piper:

Not really.

Nurse 1:

So what do you do for work?

Piper:

I answer the phones. I make appointments. I bring deposits to the bank.

Nurse 1:

You work with spreadsheets?

Piper:

She hasn't taught me that yet. This is where you do the CT?

Dr. McKay:

No. We wanted to give you some privacy for your pelvic exam.

Piper:

Laura's going to be so pissed.

Nurse 2:

Why would she be mad?

Dr. McKay:

Piper, you have any concerns you want to talk about?

Piper:

No, just the pain when I pee.

Nurse 2:

Anything you need to tell us about your job or your boss?

Piper:

No. No, it's all really great.

Dr. McKay:

Okay.

[END CLIP]

Tracey Diamond:

Okay. So it is a red flag here that Piper doesn't have the skills for the accounting job she was hired for and isn't being trained on even basic skills, like Excel. And Meg, you alluded to some other red flags that someone may be a victim. If anyone meets someone who they think is a victim of forced labor, what should they do?

Meg Kelsey:

Yeah, so those red flags are important. If you see something, we're starting to see those signs in the airport, if you see something to say something. And there are a number of ways to report. One is to call the National Human Trafficking Hotline. It's available 27/7. We can give the number, but also say it out loud here, but it's 1-888-373-7888, and they have services in more than 200 languages. You can also text them. You text help or info at 233733, and they have trained specialists who can help assess the situation and connect potential victims with services, and reports can be made anonymously.

Another excellent resource that's kind of growing technology is the Simply Report app, which you can download on your smartphone. And this app was developed by anti-trafficking organizations in appropriate ways utilizing AI, and it makes it easy to report suspected trafficking. You can take photos or record details and submit a report directly through your

phone, and it provides resources and guidance on what to look for. And even if you're not sure that what you're seeing is trafficking, it starts with a chatbot that can work through the facts that you're reporting, which is helpful.

And additionally, many states have their own human trafficking hotlines or task forces that can be familiar, particularly with local resources where you are. For example, here in Virginia, we have the Virginia Human Trafficking Hotline and Virginia Human Trafficking Task Force, and our state police runs a hotline. So it's important to have at least the National Trafficking Hotline plugged in your phone, download the Simply Report app, that way you'll be ready. Hopefully we don't identify this, but sadly, I will probably just warn you that the more you're aware, the more you will see some of the red flags around you. And so it's better to be prepared. We don't want to stick our heads in the sand because with growing awareness, that's the only way we can actually address the trafficking that's going on in our communities.

It's important to remember that trafficking victims may not self-identify as victims, and they may not know that what is going on in their life or in their relationships in their workplace, they may not know that that's trafficking. And often they don't at first, and they may also be distrustful of authorities for various reasons, whether it's fearing deportation or retaliation from their trafficker, just fearing for their own safety. And they've probably often been told as well that if they give up the trafficker, the consequences will be death or abuse, and that they'll be arrested for crimes they were forced to commit. So it's important to have that awareness. Don't insert yourself.

If you think someone is actively in danger, obviously call 911, but it's helpful to call in to report to professionals rather than trying to insert yourself because often victims need to be approached with a lot of sensitivity. It's crucial.

Emily Schifter:

That's a great point. So what laws are in place to protect workers, particularly that employers should be aware of in this area, beyond the resources that you mentioned?

Meg Kelsey:

Yeah. So there are a number of laws at the federal level, and then each state has developed laws to address human trafficking. The primary federal law is the Trafficking Victims Protection Act or Reauthorization Act, the TVPA, which addresses human trafficking, including labor trafficking and forced labor. And originally focused on criminal liability, but Congress has expanded it to allow civil lawsuits from victims. And that was passed in the year 2000, which isn't that long ago. And since 2000, each state then responded and has passed kind of their own laws, standalone laws to address human trafficking.

But the TVPA prohibits, for example, a company from gaining anything of value from participation in a venture which they knew or should have known has engaged in trafficking or labor. And so the should have known standard is critical. It means companies can't simply turn a blind eye to their supply chains or contractors, or hotels cannot ignore what's blatantly happening on their premises.

And it's important to understand while there are federal, there's the federal trafficking law, state trafficking laws that human trafficking itself often overlaps with discrimination. And so any laws dealing with discrimination have also been utilized to address human trafficking, such as Title VII of the Civil Rights Act, the ADEA, the Age Discrimination and Employment Act. And so these can apply to trafficking situations when exploitation includes discrimination based on protected classes. So for example, trafficking victims may experience discrimination based on race, national origin, sex. And so these laws can address that, even though it's not explicitly an anti-trafficking law. Or forced labor itself, the labor may involve discriminatory elements, for example, targeting workers based on immigration status, race, or national origin.

Tracey Diamond:

Meg, can you give us sort of a quick snapshot of some of the larger litigations or agency cases that you've seen?

Meg Kelsey:

Sure. So before we even had the TVPA, which was passed in 2000, there was a massive, basically a labor trafficking case, which was the first recognized case of modern slavery in the US since slavery was abolished. This was in 1995, the El Monte Thai garment slavery case, and that one was in El Monte or El Monte, California at a residential complex that was converted to a garment factory. And the victims were Thai nationals, mostly women who were recruited and held captive for almost seven years in these residential duplexes. They were forced to work by sewing clothing up to 22 hours a day. So ridiculous hours, they were surrounded by razor wire and armed guards. They could not leave.

They were physically detained and they had no contact with the outside world. Limiting contact either to share that they needed help or even to learn that what was happening to them was a form of slavery. And even when they wrote letters, those were censored. So all of these kind of effects and ways that traffickers operate to exploit vulnerabilities.

And so there was a massive coalition, federal and state, that they coordinated on an agency raid. It was 5:00 AM that they broke in and were able to rescue these women. And so that was before the TVPA was passed, but that really started a lot of the discussion and awareness of what was happening. This isn't just international, this isn't abroad and over there. This is in our borders, in our country, there are men and women being exploited. And so it led to TVPA, which also includes different types of visas, the U and the T visas for trafficking victims, and other anti-sweatshop laws in California. So that was before the TVPA passed.

And since then, there has been federal prosecution. Overall, the statistics show that federal prosecutions are more often in sex trafficking cases than labor trafficking, but there have been ... there's kind of, again, increasing awareness of how to identify the labor trafficking. And it's not just through DOJ and federal prosecution, but also with the discrimination laws, the EEOC has the kind of the civil rights violation approach. They're not bringing trafficking cases directly because that's the DOJ territory, but they're pursuing civil rights violations that often exist within trafficking situations. And the EOC has provide guidance recognizing that trafficking victims may face workplace discrimination.

And so one case under Title VII, *EOC vs Global Horizons* is a agriculture industry case with, again, Thai farm workers, and they were recruited into Hawaii and Washington and charged a recruitment fee that they had to repay. And so a form of debt bondage with increasing debt that they would never be able to pay off, and so putting up their homes and basically all of their livelihood to get to US. When they arrived, we see some of the common factors, their passports were confiscated immediately, forced to live in unsafe, overcrowded housing, subject to abuse, threatened deportation.

The company retaliated by reporting workers, the workers themselves to immigration authorities, and the workers were trapped. They had massive debt and no documents in a foreign country. And so a lot of the common, those tactics that we see. And eventually was reported. So the trafficking exploitation was over a period of about five years, 2003 to 2007, and the case was brought in 2011, and eventually the court ordered $7 million to the victims in the primary case. There was also a companion case, an additional 12 million awarded to 82 workers in a companion case. And so they were able to use Title VII to show that discrimination based on national origin and race against the Thai workers. In 2011 as well, there was another EEOC case based on the ADA where a food processing plant specifically targeted men with disabilities and over decades, this was an egregious case, some since the '70s up to almost 2009, the victims were targeted and subject to systematic abuse and forced to work long hours and couldn't leave and severely restricted, couldn't have access to their families.

And so that was another one in 2011. Basically, there was a shift in the EEOC produced some reports, there was growing awareness and they had three big cases in 2011 addressing human trafficking through these discrimination laws.

Tracey Diamond:

So what should companies do to avoid running afoul of the TVPA?

Meg Kelsey:

So that's a good question. The first response I would say is to be diligent in knowing what your supply chain looks like and enforcement that vet your suppliers, vet your contractors, conduct onsite audits, including unannounced visits, interview workers privately in their native language, and looking for the red flags we discussed. So who's holding the passports? Are there signs of debt bondage? So supply chain due diligence isn't optional anymore. It's both legal and an ethical imperative to map your supply chain and identify high risk areas, actively monitoring for trafficking indicators and reviewing the contracts with suppliers that those should include strong anti-trafficking provisions.

Just for example, requiring compliance with all applicable trafficking laws and prohibiting recruitment fees, charge to workers, requiring proper payment of wages, prohibiting confiscation of identity documents. So those contracts are important. And even having grievance mechanisms that allow workers in the supply chain to report concerns safely, including anonymous hotlines in the worker's native language is important.

In addition to that due diligence, I would say having trauma-informed HR practices, and this is an area that doesn't get enough attention, but HR professionals need to be trained in trauma-

informed practices because they're encountering trafficking survivors in multiple contexts. So as employees, as applicants to jobs or through workplace situations. And trauma-informed HR just means understanding how trafficking and exploitation affect survivors, that these individuals may have complex trauma. So understanding what does trauma mean? What does that look like in a job interview or in a job setting? And to have compassion and patience while also holding appropriate standards for a particular position.

Tracey Diamond:

And I think we saw that a little bit in The Pitt clips where Piper was really reluctant to admit that anything was untoward about her employer, and how the nursing staff and the doctors kind of were trying to get out the information in a circuitous way, keeping in mind that she was probably traumatized. I thought that was a very interesting sort of angle to the clip.

Meg Kelsey:

Right. Understanding that she's going to be distrustful of others and she doesn't know who to trust-

Tracey Diamond:

Right.

Meg Kelsey:

... and who actually cares about her because there's been such a disorientation of, "I thought it was my family, but they weren't there for me. And I think it's this employer because at least they're giving me something or giving me a house to stay in. And I don't know what normal employment looks like." And so it can be so complicated to parse through who is trustworthy. And so just understanding that a victim who's been through that, it may take time to build rapport or to trust.

And for HR professionals as well to know how to respond, if they suspect an employee is currently being trafficked, so not only identifying those red flags, but responding. And this requires sensitivity. Like we mentioned, that victims may not self-identify. You can't just confront someone and expect them to disclose because they may fear retaliation or may not recognize that their situation is trafficking.

So instead, like in the episode, provide information so they can learn a little more. If the victim is resisting kind of this implication, then all you can do is give information and educate that what they're going through might qualify, might be defined as trafficking. And so providing those resources and having HR prepared to know how to respond if they're seeing some of those red flags.

Tracey Diamond:

Yeah. So the bottom line for our employer listeners is the buck doesn't just stop with your own workforce, where most employers will think, "Of course, we're not trafficking our employees, so our obligation is complete." And that's not the case. You really need to dig deeper and make sure that your supply chain is not, or that you're not inadvertently allowing your supply chain to engage in these activities.

So, Meg, super important discussion here. We really thank you for joining us today.

Meg Kelsey:

Thank you.

Tracey Diamond:

Thank you for our listeners for listening in, and we'd love to hear from you. Shoot us an email, let us know what you think. Thanks so much.