

☒ Most commonly used types of coercion reported by trafficking facilitators:

- Economic Coercion (74%)
- Psychological Coercion (57%)
- Chemical Coercion (42%)

☒ The use of violent coercion was reported by only 12% of facilitators (*Physical and Sexual*).

What is coercion in this context?

The Social Science

The Nature and Extent of Gang Involvement in Sex Trafficking in San Diego County
Final Report
Submitted to
United States Department of Justice
Office of Justice Programs
National Institute of Justice
Grant No. 2012-BE-CX-0028

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June 2016

What is coercion in this context?

The Trafficking Statute

A scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in:

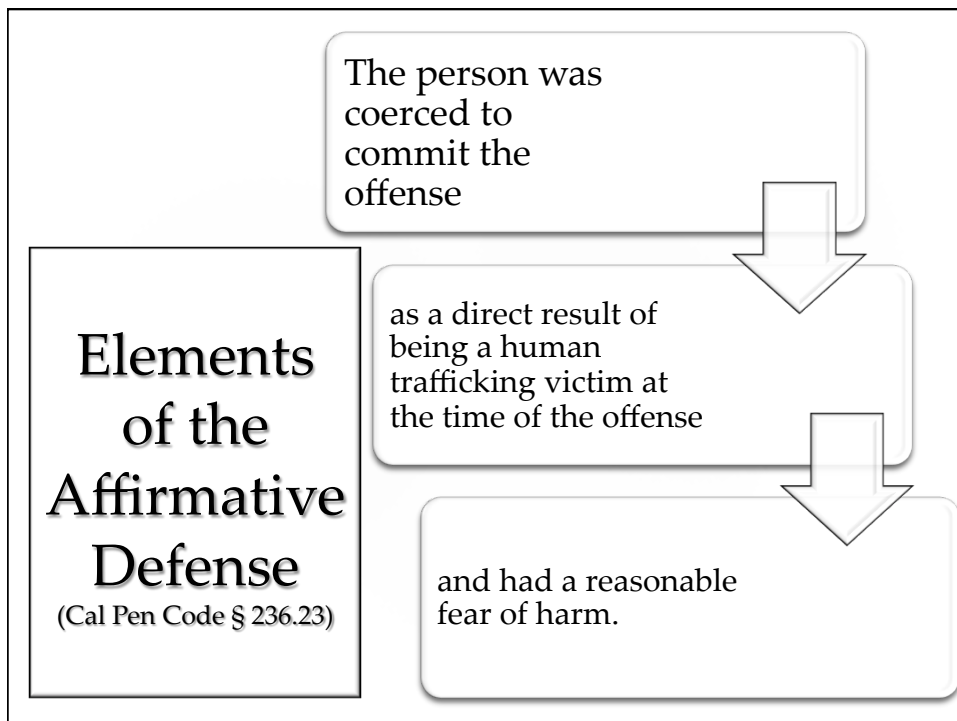
- **serious harm** to or physical restraint against any person;
- the abuse or threatened abuse of the legal process;
- debt bondage;
- or providing and facilitating the possession of a controlled substance to a person with the intent to impair the person's judgment.


What is coercion in this context?

The Trafficking Statute

"SERIOUS HARM" includes any harm, whether physical or nonphysical, **including psychological, financial, or reputational harm**, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor, services, or commercial sexual acts in order to avoid incurring that harm.

Coercion from who's perspective? { **THE VICTIM'S!**



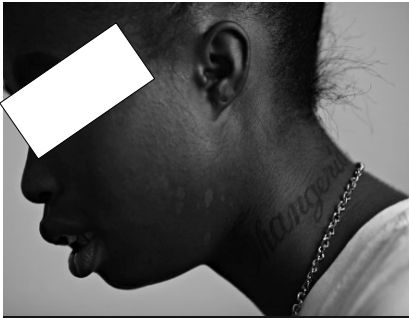


The Affirmative Defense (Cal Pen Code § 236.23)

- ⊗ Available for **any charge**
EXCEPT:
 - ⊗ serious felonies
 - ⊗ violent felonies
 - ⊗ human trafficking
- ⊗ Burden of Proof: on defense by a preponderance of the evidence
- ⊗ Applies to adults & juveniles

When may this affirmative defense be asserted?

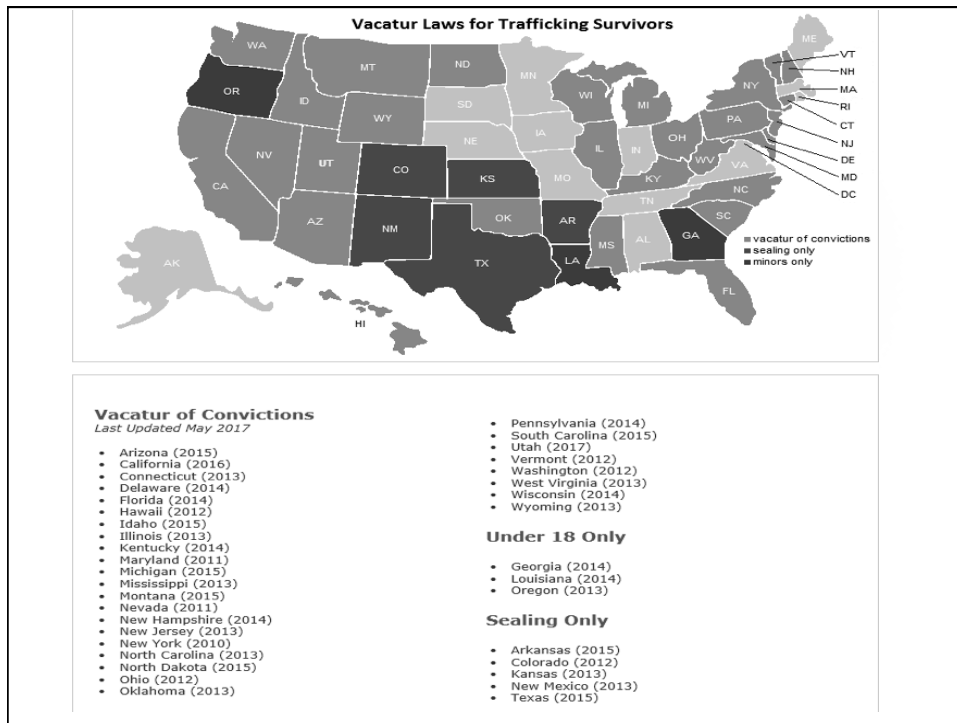
- ⊗ Any time before the entry of a plea of guilty
- ⊗ Before the conclusion of any trial for the offense
- ⊗ If asserted before the preliminary hearing, the **affirmative defense** shall, upon request by the defendant, be determined at the preliminary hearing.


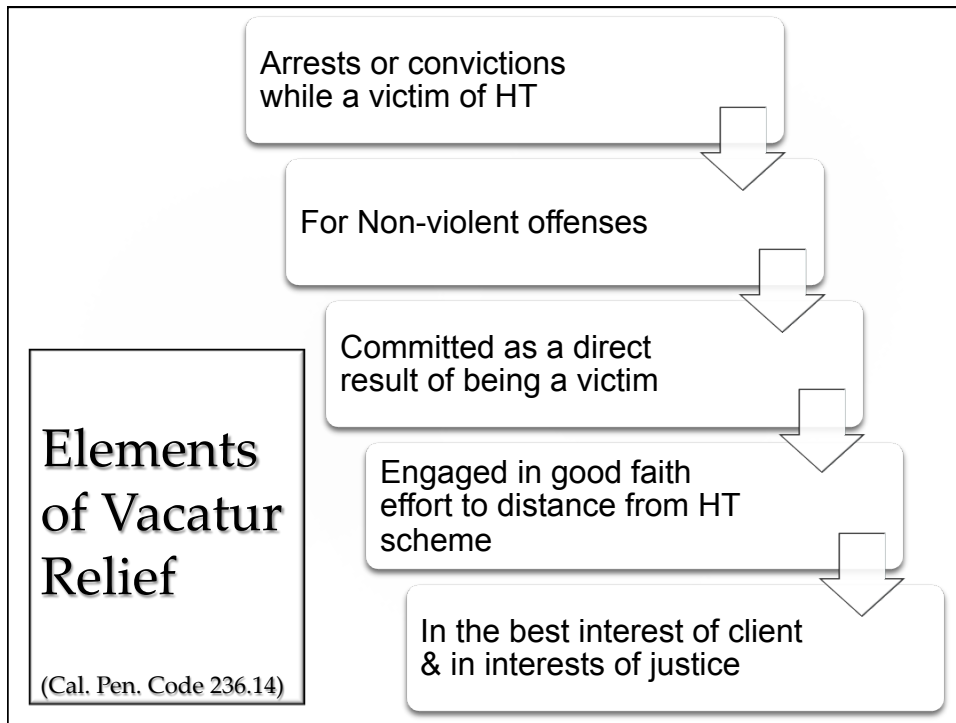


What does this affirmative defense do?

- Official finding of factual innocence
- All records in the case must be sealed
- The charge is deemed never to have occurred







Vacatur
(Cal Pen Code § 236.14)

- ⊗ Available for **any charge**
EXCEPT:
 - ⊗ violent felonies
- ⊗ Burden of Proof: on defense by clear and convincing evidence
- ⊗ Applies to adults & juveniles

⌘ Jurisdiction

⌘ ANYTHING GOES – IF EVERYONE AGREES!

⌘ San Diego Process

⌘ “Collaboration but corroboration”

⌘ Factors considered by prosecuting agencies

I was a victim of human trafficking at the time the crime(s) was/were committed;

The commission of the crime(s) was a direct result of being a victim of human trafficking;

I am engaged in a good faith effort to distance myself from the human trafficking scheme; and

It is in my best interest and in the interests of justice to grant this petition.

OTHER POINTS TO CONSIDER

RESULTS OF VACATUR:
Vacatur is the formal recognition of “factual innocence.”

Sealing & destruction of all records

- ⌘ DOJ
- ⌘ Court Records
- ⌘ \$\$\$\$\$\$
- ⌘ Fingerprints/booking records
- ⌘ Police/arrest records
- ⌘ Probation records/CD/R/Parole



{ Affirmative Defense

- ⊗ Available for **any charge EXCEPT**:
 - ⊗ serious felonies
 - ⊗ violent felonies
 - ⊗ human trafficking

- ⊗ Burden of Proof: on defense by a preponderance of the evidence

- ⊗ Elements:

- ⊗ The person was coerced to commit the offense
- ⊗ as a direct result of being a HT victim at the time of the offense
- ⊗ and had a reasonable fear of harm.

{ Vacatur

- ⊗ Available for **any charge EXCEPT**:
 - ⊗ violent felonies

- ⊗ Burden of Proof: on defense by clear and convincing evidence

- ⊗ Elements:

- ⊗ Arrests or convictions while a victim of HT
- ⊗ For Non-violent offenses
- ⊗ Committed as a direct result of being a victim
- ⊗ Engaged in good faith effort to distance from HT scheme
- ⊗ In the best interest of client & in interests of justice

Key Distinctions