




MASTER ENFORCEMENT TRAINING PROGRAM

Enforcing Labor and Criminal Law to Address Child Labor, Forced Labor, and Human Trafficking

PROSECUTION



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Table of Contents

INTRODUCTION TO MODULE 4	5
LESSON 4.1: CASE EVALUATION	6
EXERCISE 4.1.1: CASE EVALUATION DISCUSSION	9
EXERCISE 4.1.2: CASE EVALUATION SCENARIO	10
HANDOUT 4.1.2: CASE EVALUATION SCENARIO	12
LESSON 4.2: PRE-TRIAL AND BAIL	13
RESTRICTIONS ON THE RIGHT TO BAIL	14
BAIL PENDING APPEAL	14
EXERCISE 4.2.1: BAIL DISCUSSION	15
EXERCISE 4.2.2: BAIL SCENARIOS	16
HANDOUT 4.2.2: BAIL SCENARIOS	18
LESSON 4.3: CONSIDERATIONS FOR VICTIMS AND SURVIVORS IN THE TRIAL PROCESS	19
CHILDREN: SPECIAL CONSIDERATIONS	20
BEFORE TRIAL	20
DURING AND POST-TRIAL	21
CONSIDERING THE NEEDS OF VICTIMS AND SURVIVORS	22
VICTIM/SURVIVOR IMPACT STATEMENTS	23
EXERCISE 4.3.1: ETP VICTIM AND SURVIVOR NEEDS IN THE TRIAL PROCESS	24
EXERCISE 4.3.2: VICTIMS' AND SURVIVORS' RIGHTS SCENARIO	26
LESSON 4.4: TRIAL PRACTICE	27
OPENING STATEMENTS	29
DIRECT EXAMINATION (EXAMINATION-IN-CHIEF)	30
FORMULATING QUESTIONS FOR DIRECT EXAMINATION	30
CROSS-EXAMINATION	31
EXPERT WITNESSES	33
IMPEACHMENT	34
CLOSING ARGUMENTS	36
EXERCISE 4.4.1: OPEN AND CLOSED QUESTIONS	38
EXERCISE 4.4.2: OPENING STATEMENTS	39
EXERCISE 4.4.3: DIRECT EXAMINATION	41
HANDOUT 4.4.2A: PROSECUTION WITNESSES	43
HANDOUT 4.4.2B: DEFENSE WITNESSES	58

EXERCISE 4.4.4: CROSS EXAMINATION	71
EXERCISE 4.4.5: CLOSING ARGUMENTS	73
LESSON 4.5: EVIDENCE	75
TYPES OF EVIDENCE USED IN CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING CASES	76
HOW TO INTRODUCE EVIDENCE AT TRIAL	80
EXERCISE 4.5.1: EVIDENCE ENERGIZER	84
EXERCISE 4.5.2: ADMITTING EVIDENCE DRILL	85
HANDOUT 4.5.2A: FACILITATOR SCRIPT	87
HANDOUT 4.5.2B: PIECES OF EVIDENCE	88
LESSON 4.6 MUTUAL LEGAL ASSISTANCE (MLA)	91
EXERCISE 4.6.1: MUTUAL LEGAL ASSISTANCE DISCUSSION	93

Introduction to Module 4

After an instance of child labor, forced labor, or human trafficking is identified, investigated, and referred to the proper authorities, the next step is to ensure the effective prosecution of these crimes. This module will cover all of the aspects of a successful prosecution, including how to evaluate a case, issues relating to bail for those accused of a crime, considerations for victims during the trial process, all aspects of trial practice, using evidence during trial, and mutual legal assistance. This module includes discussion questions and interactive excises that allow participants to practice using the skills they have learned.



Photo Credit: Kevin Doncaster, 2017, India

Lesson 4.1: Case Evaluation

Objective:

- To learn how to evaluate a case, including whether or not to bring child labor, forced labor, or human trafficking charges.

Time:

 2 hours and 5 minutes

Steps:

- Exercise 4.1.1: Case Evaluation Discussion
 - 15 minutes
- Present PowerPoint Presentation 4.1: Case Evaluation
 - 20 minutes
- Exercise 4.1.2: Case Evaluation Scenario
 - 1 hour and 30 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.1: *Case Evaluation Scenario*
- Projector
- Handout 4.1.2: *Case Evaluation Scenario*

For a prosecutor, the most consequential decision he or she may make in any case is whether or not to bring charges. In deciding to bring charges, the prosecutor must determine that the existing evidence is sufficient to convict a suspect. This is a very serious matter because at stake may be the life, liberty and/or property of the accused, and the safety and well-being of the public.

Deciding whether to bring charges requires an objective, independent analysis of a case. The standard for making a decision to charge is *whether, based on the existing evidence, there is a reasonable prospect of conviction*. In other words, is there sufficient evidence to establish *each element of the proposed offense* with respect to the person to be charged?

Such evidence may come from one or more of a variety of sources.

First, there will likely be statements from various persons, such as statements from:

- Witnesses
- Police, labor inspectors, or other investigating officers
- Relevant experts
- Victims/suspects
- The accused

There will also likely be documents, in paper or electronic form, as well as physical evidence and perhaps medical evidence.

A proper evaluation of the case should include consideration of four key areas.

- the factual theory of the case,
- the legal theory of the case,
- an evaluation of the evidence, and
- public interest considerations.

The factual theory of the case focuses on what happened. This inquiry should answer the questions of what really happened, what are the key facts, what is the best evidence, and what were the motives of the suspect/potential defendant.

Once the facts of the case have been evaluated, the prosecutor should consider the legal theory of the case. Here, a prosecutor needs to apply the factual analysis to the law. Questions to answer include: What are the potential charges? What are the elements that must be proved? What state of mind must be proved? What facts can be used to prove those elements? And, what are the sources for those facts?

Next, the prosecutor must evaluate the evidence. Consider whether the evidence provides reasonable grounds to believe that the suspect committed the offense. The available evidence should be evaluated according to its relevance, admissibility, credibility, whether it is reliable and accurate, and the strength of any rebuttal evidence. It can be helpful to create an evidence table like the one provided below (which includes sample charges and sample evidence). In transnational child labor, forced labor, or human trafficking cases where some critical evidence may be located outside of your country, you may want to evaluate the feasibility and practicability to obtain evidence from a foreign country. Please refer to Lesson 4.6 (Mutual Legal Assistance (MLA)) for more detail.

Element to prove	Evidence	Source of evidence	Counter-evidence	Comments
Charge 1: Human Trafficking				
Element 1: The recruitment, transportation, transfer, harboring or receipt of persons	<ul style="list-style-type: none"> • Falsified passport • Car used in transporting victim/survivor • Victim/survivor statement 	<ul style="list-style-type: none"> • Found at job site during rescue operation • Found parked at job site during raid • Survivor interview 	<ul style="list-style-type: none"> • Statement of the accused 	
Element 2: By means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person	Use and threat of force: <ul style="list-style-type: none"> • Medical records documenting victim injuries • Text messages threatening violence • Victim/survivor statement 	<ul style="list-style-type: none"> • Medical exam conducted after rescue • Survivor's mobile phone • Survivor interview 	<ul style="list-style-type: none"> • Accused says he did not send the text messages 	<ul style="list-style-type: none"> • Need corroborating evidence tying him to the messages
Element 3: For the purpose of exploitation	Exploitation-Prostitution <ul style="list-style-type: none"> • Website advertising sexual services • Victim/survivor statement 	<ul style="list-style-type: none"> • Public website • Survivor interview 	<ul style="list-style-type: none"> • Accused claims the website is not his 	<ul style="list-style-type: none"> • Need to tie the website to the employer

Element to prove	Evidence	Source of evidence	Counter-evidence	Comments
Charge 2: Hazardous Child Labor				
Element 1: Child under the age of 18	<ul style="list-style-type: none"> • Birth certificate • Victim/survivor statement 	<ul style="list-style-type: none"> • Family of the survivor 	<ul style="list-style-type: none"> • False documents claim the survivor is 20 years old 	
Element 2: Work likely to harm health, safety, or morals (includes work on the Hazardous Work List, which includes prostitution)	Prostitution <ul style="list-style-type: none"> • Website advertising sexual services • Victim/survivor statement 	<ul style="list-style-type: none"> • Public website • Victim/survivor interview 	<ul style="list-style-type: none"> • Accused claims the website is not his 	<ul style="list-style-type: none"> • Need to tie the website to the employer

Finally, the prosecutor should consider the *public interest aspects of the case*. For example, it can be important to take into account the culpability of the suspect, the harm done to the victim and/or community, the status of the survivor (e.g., age, vulnerability), the suspect's age at the time of the offense, and whether sources of information need protecting. The prosecutor must also decide if the proposed charges are a proportionate response to the alleged crime.

Exercise 4.1.1: Case Evaluation Discussion

Objective:

- To begin thinking about how to evaluate child labor, forced labor, and human trafficking cases.

Time:

 15 minutes

Materials And Preparation:

- One flipchart and markers for the facilitator

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants to discuss the following questions in a large group. Write key points on the flipchart:
 - What factors should be considered when determining whether a case should be prosecuted?
 - What makes a strong case?
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- When evaluating a case it is important to remember that there must be evidence to prove the charges being brought, and there must be a factual theory and legal theory.
- Strong cases have evidence that is credible, admissible, and reliable.
- Evaluating cases will be discussed further in the lesson.

Exercise 4.1.2: Case Evaluation Scenario

Objective:

- To familiarize participants with the concepts relevant to case evaluation.

Time:

 1 hour and 30 minutes

Materials And Preparation:

- Text of relevant statutes
- Flipchart and markers
- Make copies of Handout 4.1.2: *Case Evaluation Scenario*
- Write the following questions on the flipchart (or white board/chalk board):

Human Trafficking

- Is there enough evidence to bring human trafficking charges?
- Child trafficking?
- Forced labor?
- Who can be charged for perpetrating human trafficking?
- Does there seem to be sufficient evidence against Ray Sims? How about the Sotos?
- What are the strong points of the case?
- What are the weak points of the case?
- Should you recommend that a human trafficking action be brought against Ray Sims absent additional evidence? How about the Sotos?
- What additional evidence would be sufficient to bring an action against Ray Sims on human trafficking charges? How about the Sotos?

Child labor

- Is there enough evidence to bring child labor charges?
- What additional evidence could make the child labor case stronger?
- Absent additional evidence, should a child labor case be brought against Ray? How about the Sotos?
- Should that be in addition to or instead of forced labor/human trafficking charges?
- What additional evidence could make the child labor case stronger?
- Does Edward have any way to recover damages relating to his injury suffered while working for Ray Sims?
- Should a child labor case be brought against the European buyer?

Steps:

- Split participants into four different groups with a facilitator for each group.
- Ask the participants to review the scenario in Handout 4.1.2: *Case Evaluation Scenario*.
 - 5 minutes

- Each group should discuss amongst themselves the questions written on the flip chart paper. Participants should consider the questions from the point of view of a prosecutor considering charges against Ray Sims and/or the Sotos.
 - 50 minutes
- Each group should nominate a representative. One at a time, each representative should come to the front of the room to present the conclusions made by their group. Other participants may ask questions or add comments.
 - 30 minutes
- Wrap up by reviewing the key messages.
 - 5 minutes

Key Messages:

- To properly evaluate a potential case, one must consider the following:
 - What charges can properly be supported by the evidence? Who can charges be brought against?
 - Are the potential sanctions appropriate for the defendant in the event of conviction?
 - Are there other charges that would be more appropriate?
 - Is there a reasonable prospect of conviction on these charges?
 - Can the existing evidence be strengthened by further investigation?



Photo Credit: Barb Mayer, 2007, Cambodia

HANDOUT 4.1.2: CASE EVALUATION SCENARIO

Edward Lee (15) and his sister, **Maria Lee** (13) live with their parents, Daniel and Ana Lee in a small village called Smallville in Country B. In July 2021, Ana chatted with Miranda Soto, a respected member of the village. Miranda's husband, Antonio Soto, was a successful local trader and the Sotos were known in the village for their prosperity. Miranda offered to help connect Edward with a job opportunity provided by Antonio or one of his contacts. While Ana and her neighbors knew Antonio was a skilled trader doing cross-border business in the region, they did not know the specifics of his business.

A few days later, Miranda shared a job opportunity for Edward at an export business and Maria at a small shop affiliated with the export business in Capitalford in the adjacent Country A, a more prosperous country than Country B. Ana and Daniel were hesitant about Maria traveling so far away from home, but ultimately let both children go to Capitalford because Maria would be able to go to school a few hours a day. Once the Lees informed the Sotos of their decision, the Sotos requested the children's passports for international travel and onboarding logistics. The Lee family applied for passports for their children and excitedly handed them over to the Sotos, forgetting to ask when the passports would be returned.

In August 2021, the Soto's family friend, Ray Sims, picked up Edward and Maria at their house by car. Edward and Maria were surprised when the car dropped them off at a garment factory. This was the first time they learned that they would be working at a garment factory, and not at the export business and the small shop respectively. Both were frightened and confused but did not question Ray or ask to be taken home for fear of disappointing their exultant parents.

Edward and Maria stayed in the factory in a small, windowless dorm rooms with wooden plank beds. Ray explained to Edward and Maria their working hours and their general tasks. In the factory, Edward sewed buttons and embroidering using old sewing machine that needs repairs. There were a few times when Edward almost got his fingers stuck in the old sewing machine. Maria focused on folding and packing finished clothing. Ray was stern but reasonable. He oversaw Edward and Maria's work from a distance. The food was decent, and consisted mostly of vegetables, fruits, and rice, with the occasional meat. There were about 50 workers at the factory with the Lees among the youngest. Both Edward and Maria were isolated from the outside world and their parents. They had a mobile phone, but it was not functional. They often asked Ray to speak with their parents, but each time Ray claimed he was providing regular updates to their parents.

In October 2021, a European businessman visited the factory with the goal to partner with more local factories to supply the products his employer—a multinational fashion brand—needs. To meet the businessman's demands, Edward and Maria's work increased to 14-17 hours daily with less pay, and less frequently. Additionally, some portions of their wages were held back to cover their transportation costs. Ray also began to monitor Edward and Maria more closely. Due to worsening conditions and lack of sleep, Edward accidentally caught his left fingers and hand in the sewing machine in December 2021. Edward was taken to a local man, who washed the cut and applied medication to the wound. Edward was tasked with a few days of lighter work while his wound healed.

In January 2022, Maria overheard a telephone conversation between Ray and Antonio, where Ray asked for "younger workers" from the villages in neighboring countries. A week ago, officials from the Ministry of Labor conducted a raid on the factory after learning children may have working there in dangerous conditions. Edward and Maria were taken into custody by the officials and handed over to the local office of the Ministry of Health and Social Welfare in Country A. Ray and Antonio have been taken into custody, respectively, in Country A.

Lesson 4.2: Pre-Trial and Bail

Objective:

- Learn the basics about the right to bail and considerations for whether it is granted.

Time:



2 hours and 15 minutes

Steps:

- Exercise 4.2.1: Bail Discussion
 - 15 minutes
- Present PowerPoint Presentation 4.2: Pre-Trial and Bail
 - 20 minutes
- Exercise 4.2.2: Bail Scenarios
 - 1 hour and 40 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.1: *Pre-Trial and Bail*
- Projector
- Handout 4.2.2: *Bail Scenarios*

The term “bail” refers to the conditions under which a defendant detained by the authorities can be released pending trial. Bail generally involves a deposit of money or other property with the court to guarantee the defendant’s later appearance. The purpose of bail is to provide assurance that the defendant will appear in court when required.

Everyone ordinarily has the right to liberty and to be presumed innocent unless convicted by a court. In many countries, individuals have the right to bail unless there are compelling reasons not to grant bail. In some extremely serious cases, there may be a presumption against granting bail, such as with certain very violent crimes, sexual crimes, crimes relating to terrorism, or crimes punishable by death. Thus, there may be a presumption against granting bail in some human trafficking, child labor, and forced labor cases.

Restrictions on the Right to Bail

The right to bail may be subject to reasonable restrictions. A court will determine whether to grant bail, and under what circumstances, **based upon its evaluation of the following factors:**

- The gravity of the charge against the defendant
- The strength of the case against the defendant
- The seriousness of the punishment that may be imposed if the defendant is found guilty
- The risk that the accused will commit further crimes
- The risk that the accused will seek to intimidate or harm the alleged survivor or potential witnesses
- The risk that the accused will flee to another jurisdiction and not return to face trial voluntarily

In evaluating these factors, the court will also consider the background and circumstances of the accused, the accused's ties to the local community, and the health of the accused. For example, a business owner charged with child labor may be more likely to be granted bail if he or she has ties to the local community such as his or her business or family, since this lessens the chance that the accused will flee to another jurisdiction and not return to face trial. The conditions imposed by the court may not be "excessive" or the failure to grant bail will be tantamount to imprisonment without any conviction of a crime.

Bail does not always require or only require the deposit of money. Bail may also be granted subject to other conditions when appropriate, such as the surrender of the accused's passport, periodic check-ins by the accused with the police or other authorities, and/or confinement to the accused's home, enforced by some form of location monitoring. In all cases, the conditions placed on bail should be appropriate to the circumstances of the defendant and the public interest.

Bail Pending Appeal

A person convicted of a crime may seek to be released on bail pending an appeal of the conviction, but the court's consideration of this request will look to very different factors than for pre-trial bail. Having been convicted at trial, the accused is no longer entitled to a presumption of innocence, and the accused will normally bear the burden of establishing why bail should be granted. In this regard, the court will consider, among other things, the likelihood of success of the appeal as well as the risk that the full sentence could be served by the time the appeal is heard. Depending on the weight of these factors, bail pending appeal may be an appropriate action and can be subject to the same conditions on the defendant as pre-trial bail.

Exercise 4.2.1: Bail Discussion

Objective:

- To begin thinking about bail in child labor, forced labor, and human trafficking cases.

Time:

 15 minutes

Materials And Preparation:

- One flipchart and markers for the facilitator

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants to discuss the following questions in a large group. Write key points on the flipchart:
- What factors should be considered when determining bail?
- Are there circumstances in which bail should not be granted? If yes, what types of circumstances?
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- When determining bail the circumstances of the accused and charges against him or her should be considered. Bail can vary for the same offense if one accused trafficker has more financial resources than the other.
- The presumption should be to grant bail, but in some cases this may not be appropriate if the accused is deemed too great a flight risk or the risk to survivors or the public is too high.

Exercise 4.2.2: Bail Scenarios

Objective:

- To become familiar with the considerations relevant to determinations as to whether to grant bail to a defendant before trial.

Time:



1 hour and 40 minutes

Materials And Preparation:

- One flipchart for each group and one for the facilitator
- Markers
- Make copies of Handout 4.2.2: *Bail Scenarios* for each group
- Facilitator should identify local bail rules and review them with participants
- Facilitator should prepare a flipchart in advance with the following questions to be exhibited at the front of the room as a guide for the group discussions:
 1. Under local law, a defendant is entitled to be released on bail unless _____.
 2. What are the main considerations relevant to granting pre-trial bail?
 - a. Defendant's right to liberty prior to having been convicted of any crime.
 - b. Potential that the defendant will flee and not return for trial.
 - c. Public's right to safety.

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Ask participants to form three groups.
- Instruct each group to review the scenarios found in Handout 4.2.2: *Bail Scenarios*.
- Each group should prepare to argue (or listen to arguments) for each case based on the following assignments:
- Scenario #1:
 - Group 1 will represent the defendant and argue to the other participants why the defendant should receive bail.
 - Group 2 will represent the state and argue against the grant of bail under the circumstances proposed and propose different bail terms if appropriate.
 - Group 3 will hear these arguments and render a decision in each case.
- Scenario #2:
 - Group 2 will represent the defendant and argue to the other participants why the defendant should receive bail.
 - Group 3 will represent the state and argue against the grant of bail under the circumstances proposed and propose different bail terms if appropriate.
 - Group 1 will hear these arguments and render a decision in each case.

- Scenario #3:
 - Group 3 will represent the defendant and argue to the other participants why the defendant should receive bail.
 - Group 1 will represent the state and argue against the grant of bail under the circumstances proposed and propose different bail terms if appropriate.
 - Group 2 will hear these arguments and render a decision in each case.
- Each group should choose a spokesperson who will address each case on behalf of the group.
 - 60 minutes
- Participants should act out the arguments for each scenario in front of the large group.
 - 30 minutes
- Wrap up with Q&A and key messages below.
 - 5 minutes

KEY MESSAGES:

- While defendants are entitled to bail under most circumstances, the purpose of bail is to permit a defendant to remain free while at the same time balancing that against the prospect that the defendant will flee and not return for trial or the defendant will commit additional crimes or intimidate or harm potential witnesses against him/her.



Photo Credit: Marcel Corzet/ILCO, 2010, Bolivia

HANDOUT 4.2.2: BAIL SCENARIOS

1. Defendant Stefan Lopez is accused of forced labor offenses in connection with his cattle farm. He is alleged to have forced 19 men to work for no wages.
 - a. Lopez allegedly kept his workers in locked buildings and directed his men to administer beatings to those who tried to leave.
 - b. Lopez is a major local employer and his farm is one of the largest in the province.
 - c. Lopez was originally investigated after one of his former workers came forward and made allegations that he had been held prisoner. That worker was later found severely beaten and no longer willing to cooperate with authorities.
 - d. Lopez is now in poor health and confined to a wheelchair as a result of an accident last year.
 - e. Should Lopez be released on bail? If yes, should the amount be high or low?

2. Defendant Maria Sanchez is accused of child labor offenses in connection with a 12-year old girl who lives with her and perform housework full time.
 - a. Prosecution asks that bail be set at a large amount given the serious nature of the alleged offense.
 - b. Defense requests that Sanchez be released without bail.
 - i. Sanchez is a single parent with two young daughters of her own at home.
 - ii. Sanchez has no prior offenses.
 - iii. Sanchez was born and raised in this area and has never travelled beyond it.
 - c. Should Sanchez be released on bail? If yes, should the amount be high or low?

3. Defendant Stephen Cortez is accused of human trafficking in connection with seven Chilean women who work in a local hair salon.
 - a. Cortez denies the charges and says that he was not aware that the women had been trafficked.
 - b. Cortez is originally from Chile and often travels there. His two sons and his ex-wife now live in Chile.
 - c. Cortez was previously convicted of violating child labor laws and of various assault charges.
 - d. Should Cortez be granted bail? If yes, should the amount be high or low?

Lesson 4.3: Considerations for Victims and Survivors in the Trial Process

Objective:

- Understand the things about the trial process that may be especially important to victims of child labor, forced labor, or human trafficking victim. This may include providing information to victims/survivors, protecting victims/survivors' rights, and using victim/survivor impact statements.

Time:

 2 hours

Steps:

- Exercise 4.3.1: ETP Victims/Survivors' Needs in the Trial Process
 - 20 minutes
- Present PowerPoint Presentation 4.3: Considerations for Victims and Survivors in the Trial Process
 - 30 minutes
- Exercise 4.3.2: Victims/Survivors' Rights Scenario
 - 1 hour and 10 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.3: *Considerations for Victims and Survivors in the Trial Process*
- Projector
- ETP Case Study

In prosecuting cases of child labor, forced labor, or human trafficking, the participation of victims/survivors can be particularly important. With regard to any such situation, the participation of the victim/survivor must be carefully evaluated, along with extensive preparation to ensure that this does not further traumatize the victim/survivor.

Children: Special Considerations

There are a host of additional considerations when working with child victim/survivors or witnesses, such as different rules for corroboration, voir dire, and the role of parents and guardians. For more information about voir dire, refer to Lesson 4.5: Evidence.

To start, in many countries child witnesses in court have special rights. For example, in many jurisdictions, persons under the age of 18 are entitled to special rights or accommodations. Everything in the court process must be calibrated to accommodate the **best interests of the child**. Additionally, children have a right to be heard and to express their views, to be treated with dignity and compassion, to protection from hardship during the judicial process, and to information on the status of the case.

Like all witnesses, children need to be prepared in advance for court and the justice process. Prosecutors need to provide adequate information to parents/guardians and children, including what services are available, what are the court procedures, what time and place will the hearing occur, and what is the progress of the case. In some countries, orientation sessions regarding court procedure are provided by victim/survivor support or other relevant units. When working with a child to prepare, be sure to take the age of the child into account when providing information, and have an open attitude and answer questions whenever possible.

If you decide to call a child as a witness, you will need to prepare them for the stand. Consider a multi-agency approach, using the resources and expertise of survivor support staff, parents, social workers, and other professionals. When possible, try to schedule the hearing in the morning at time that is compatible with the child's school schedule. Provide a child-friendly room where the child can wait during trial until their time to give testimony, and provide them with water and snacks if appropriate.

When a child takes the stand, the rules may be quite different than the rules for adults. For example, some countries do not require oaths for children below a certain age, and many allow for special measures for any person under 18, such as video recorded evidence, testifying from behind a screen, or in-camera testimony. To determine whether such an accommodation is appropriate, the court will generally take several factors into account, such as the age and maturity of the child and the ability of the child to understand the situation.

Questioning a child is different from questioning an adult. The language you use should be clear, simple, and age-appropriate. Be protective of the child on the stand and ensure that the questioning on both sides is carried out in a respectful manner.

- Do NOT ask repetitive questions or speak too quickly, ask for unrealistically specific details or times, or shout or be aggressive or impatient.
- DO ask the judge to enforce breaks should the child request one, let the child explain in his or her own words, and have patience.

Parents are entitled to attend their child's testimony and the court can order their attendance or their removal dependent on the best interests of the child. If the parent's presence appears to cause the child stress or fear, it may be better to have a social worker present instead.

Finally, try to have the child excused from proceedings at which his or her attendance is not important. It is best for the child to instead attend school and achieve some normalcy during this time.

Before Trial

It is important to keep in mind that child labor, forced labor, and human trafficking victims/survivors have been through a very difficult experience, sometimes over the course of many years, and they may be hesitant to work with law enforcement to prosecute alleged wrongdoers. Before any trial, survivors must be well informed of their rights and the processes that are involved so they can make an informed decision about their participation, and feel more comfortable regarding their role.

Prior to participating in any trial, survivors should be informed about their own rights, and about the legal and procedural aspects of the trial. It is important to inform the survivor of the charges against the accused and the possible outcomes, including the potential sentence/penalty and, in particular, the possibility of acquittal. The survivor should be informed about the evidence that is expected to be relied upon by both sides, and made aware of any potentially painful or upsetting testimony or exhibits.

Most survivors are not familiar with court proceedings, and do not know things that you may take for granted, such as where the defendant will sit in the court room, or who will ask them questions, or what it means to be under oath. Helping them understand the process at a detailed level make a survivor more confident about appearing at trial.

Finally, lawyers must inform a survivor of their own rights regarding the trial process

- In some jurisdictions, if the survivor wishes to attend the trial in person, they can invite support persons (i.e. family and friends) to accompany them to trial.
- In some cases /courtrooms, there may be additional protection mechanisms available, such a video/teleconferencing for testimony so the survivor does not have to be in the same room as the defendant.
- Where the survivor may not be able to understand the language of the trial, the prosecution should arrange for the survivor to be provided with an interpreter.
- Be sure to work closely with the survivor to avoid, to the extent possible, any retraumatization.

Sometimes there may not be any trial. This may due to the fact that no perpetrators have been identified, or because a rule of legal procedure, no trial is required. In such situations, survivors should be provided with information about the investigation and the reason why no trial will be held. Similarly, survivors should be informed in a timely manner of any plea bargain or deferred prosecution agreement. Generally, a survivor has the right to give their views about a plea bargain, but cannot override a prosecutor's final decision. It is important to make that clear to survivors at the start of the plea bargaining process that they can inform but not control the outcome.

During and Post-Trial

Survivors have rights during the trial process, including but not limited to the right to be present and to be heard. They must be able to attend court free from intimidation or harassment.

If there is a risk of intimidation or harassment, either from the defendant, his or her associates, or the public, prosecutors should consider using special security measures, such as:

- Ensuring security in court (for example, by using armed guards or metal detectors)
- Providing law enforcement transport to and from court for survivors
- Allowing victims to use separate exits and entrances to the court
- Redaction of the victim/survivor's name and address from statements provided pre-trial or read out in trial
- Closing the court to the public for portions of the hearings
- Allowing the survivor to appear in a concealed manner (for example, with face covered or testifying from behind a screen) or via videoconference
- Allowing the victim/survivor to read their victim/survivor impact statement accompanied by a support person

A prosecutor's obligation to the survivor does not end with the issuance of a verdict. Survivors should be kept updated after the trial regarding appeals, sentencing, parole, and release. Immediately post-trial, survivors should be informed of potential or actual appeals (if filled) and should be given the right to speak at post-conviction proceedings such as sentencing hearings. Further, if the perpetrator is granted a custodial sentence, survivors should receive prior notice of any parole hearings or possible release. They are entitled to express their opinion about possible release, such as via written statement submitted to any hearings. Keeping survivors informed during these processes helps to ensure their fair treatment and consideration.

Considering the Needs of Victims and Survivors

Victims and survivors must not be discriminated against on the basis of race, color, gender, age, language, creed, religion, nationality, political or other opinion, cultural belief or practices, property, birth or family status, ethnic or social origin, disability, or any other grounds. Victims and survivors must also be treated in a manner which takes into account his or her cultural values of beliefs.

Victims and survivors of child labor, forced labor and/or human trafficking often require special gender considerations of some kind, depending upon their particular experiences.

Most (but not all) victims and survivors of sex trafficking are female, and many of these survivors are likely to have suffered extreme forms of trauma, generally at the hands of males. For this reason, a female survivor may be reluctant to openly discuss her experiences with male interviewers, and a female interviewer should be used.

These kinds of issues are not limited to female victims and survivors. Males may be particularly reluctant to admit that they have been victims/survivors of child labor/forced labor/human trafficking, as this may conflict with their personal concept of masculinity. To identify as a victim/survivor may be particularly unpalatable to males because victimhood strongly implies weakness and vulnerability. This may be particularly uncomfortable for a male to acknowledge in front of a female. For this reason, a male victim/survivor may be reluctant to openly discuss his experiences with a female interviewer, and a male interviewer should be used.

These dynamics will be present even more strongly at a trial. Both male and female survivors are likely to have even greater fear and/or embarrassment about discussing their experiences in court, and potentially in front of the very person who has previously inflicted trauma upon them. There is no magic solution to these difficulties, but the best outcomes can be obtained by remaining aware of this dynamic and trying to address it.

Whenever possible, inquire whether the victim/survivor would prefer to speak to a male or female officer, and consider plain clothes officers when possible to avoid intimidating already traumatized victims/survivors. Speaking to a uniformed officer may intimidate victims/survivors of child labor, forced, labor, and human trafficking.

If the survivor would be more comfortable conversing in a language other than the dominant language used in court, an interpreter should be provided to permit the survivor to speak in a language of their choice.

Child labor, forced labor, and human trafficking victims/survivors may have been seriously injured as a result of their experiences, and they have the right to be supported properly. In addition to physical harm, victims/survivors may suffer from emotional and mental harm, such as Post-Traumatic Stress Disorder (PTSD).

To ensure that interviewing a victim/survivor does not aggravate his or her injuries, there are several best practices that officers should follow:

- **Location:** Choose the most private room available
- **Volume:** Ensure the room is quiet, free from disruption, loud noises, and interruptions
- **Basic Comfort:** Ensure the victim/survivor is comfortable and has access to refreshments, tissues, and breaks
- **Irritants:** Avoid exposing victims/survivors to unpleasant stimuli, such as smoking
- **Safety:** Ensure that victims/survivors do not feel more at risk; this may mean separating male and female victims/survivors and accompanying minors.

Safeguarding the Survivor's Right to Dignity: Child labor, forced labor, and human trafficking survivors have already experienced considerable forms of indignity during the crime. It is important to do what is possible afterward to preserve their dignity and help them heal from the trauma of their experiences. It is important to allow vulnerable victims/survivors to contact their family or a caregiver, except in the cases in which a child's parent or guardian is suspected of being involved in the child's illegal labor or trafficking. If this is the case, a social worker should be present. Be sure to address each victim/survivor in a manner appropriate to his or her age and intellectual development.

Communicating with Victims and Survivors — Key Tips:

1. DO attempt to communicate trust, support, and confidence
2. DO calm and comfort victims/survivors. Ask “How are you doing?”
3. DO allow victims to tell their stories in their own words
4. DO reassure them their feelings are natural
5. DO be willing to listen and validate their experience with empathy and support
6. DO be encouraging but not unrealistic
7. DO treat each victim/survivor and their experiences as unique
8. DO understand that many victims/survivors have extreme difficulty reconstructing their life after a violent crime
 1. DON'T be judgmental or blame the victim/survivor
 2. DON'T make promises to the survivor
 3. DON'T try to frame the victim/survivor's experience to any possibly similar experiences, including your own
 4. DON'T make decisions or choices for victim/survivor
 5. DON'T make references to any religious platitude
 6. DON'T take sides with or against a victim/survivor

Victim/Survivor Impact Statements

Depending on the jurisdiction, a child labor, forced labor, or human trafficking victim may be able to present a victim/survivor impact statement at the time of sentencing, which is allowed on a case by case basis. The court may consider such a statement in determining the perpetrator's sentence.

A victim/survivor impact statement is a statement made by the victim, or where incapacitated, the victim's representative. It outlines the psychological, emotional, physical, economic or social impact of the offence committed against the victim/survivor.

The victim/survivor impact statement can be written or oral and should include information on the impact of the offence on the victim/survivor's life and any concerns the victim/survivor may have about their safety. Such a statement gives a victim/survivor an opportunity to describe the effects of the crime on them, and is a way of implementing the right to be heard.

If a victim/survivor expresses a wish to make a victim/survivor impact statement, he or she should be referred to an appropriate survivors' service agency for assistance in preparing the victim/survivor impact statement. The making of a victim/survivor impact statement is not mandatory.

As with other interactions between prosecutors and victims/survivors, it is important to inform the victim/survivor about the role of the victim/survivor impact statement and who may see it, such as prosecution, defense counsel, the accused, and the judge or magistrate.

Structure of a Victim/Survivor Impact Statement: The information provided should be relevant to the victim/survivor and their family's experience only. Typically, a victim/survivor impact statement includes a description of the type of harm experienced by the victim/survivor. This can be financial (lost wages, medical or treatment expenses, transportation costs); social/lifestyle (changes to social commitments, impact to accommodation, employment, or education); and/or physical (injuries, details of physical effects). Victim/survivor impact statements can also include emotional or psychological trauma, such as its lasting impact.

If the crime has resulted in death, the victim/survivor's representative may want to write about the loved one who was killed, their importance, relationship to the victim/survivor, and the life that they led.

Note that victims/survivors can withdraw their participation in a case at any time. Victim/survivor impact statements can be used at any time including post-trial proceedings such as parole.

Exercise 4.3.1: ETP Victim and Survivor Needs in the Trial Process

Objectives:

- To begin thinking about victim and survivor needs during the trial process of child labor, forced labor, and/or human trafficking cases.
- Revisit the ETP case studies to think about the experience for victims and survivors during the next stage of the trial process.

Time:

 20 Minutes

Materials and preparation:

- One flipchart and markers for the facilitator
- ETP Case Studies 1-4

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants to review the ETP Case Studies in a large group. For each of the case studies, have the group discuss the following:
 - What needs do you think this victim/survivor may have during a child labor, forced labor, and/or human trafficking trial?
 - How can those needs be addressed?
 - 15 minutes
- Wrap up with key messages below.
 - 3 minutes

Key messages:

- When evaluating a case it is important to remember that there must be evidence to prove the charges being brought, and there must be a factual theory and legal theory.
- Strong cases have evidence that is credible, admissible, and reliable.

Exercise 4.3.2: Victims' and Survivors' Rights

Scenario

Objective:

- To familiarize participants with the victims'/survivors' rights concepts.

Time:

 1 hour and 10 minutes

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Read aloud the following scenario:

Teresa is ten years old. A year ago, she was sent to live with her "aunt" in the capital, where she was to have access to a better education than that available where her parents live.

Teresa's aunt has not allowed her to attend school, but instead has insisted that teresa do chores around the house. Even though she is only 10, she has become very good at doing the cleaning and the laundry, and has been learning to cook the family's meals. She doesn't play with other children, and reportedly has marks that look like cigarette burns on her arms.

One of the aunt's neighbors contacted the authorities after noticing that Teresa never went to school like the other children. Social services personnel also noticed signs that Teresa may have been sexually abused by the "aunt's" husband.

- As a group, discuss the following questions from the perspective of a worker with the child welfare agency who needs to understand what has happened to teresa:
 1. Teresa's aunt demands that she be present if you are going to talk with teresa. She says that you have no right to talk with teresa without her permission.
 - a. Should the aunt be present for your interview?
 - b. What about the aunt's husband?
 2. Teresa has not been communicative since authorities arrived. Carlos, who is a man about 45 years of age, is one of your best interviewers, and he would like to do the speak with Teresa. Who should conduct the interview?
 3. Teresa begins to describe her life with the aunt, and it quickly becomes clear that she is very unwilling to trust middle-aged women. Should you reconsider having carlos talk with her? If carlos does the interview, should a female be present as well?
 4. You offer to contact teresa's parents, but she reacts forcefully that she does not want you to do this. Should you be in contact with her parents anyway? Must you be in contact with them?
 5. Teresa expresses a desire to go to school like other children her age. She has never previously attended school. How can she best be re-integrated into the educational system? Should she be sent to school with children her age, or should you seek help trying to determine the appropriate grade level for her to begin?
- 1 hour
- Wrap up with Q&A and key messages below.
 - 5 minutes

Key messages:

- Children have rights that we need to take into consideration.
- It is critical to take the victim/survivor's feelings and needs into account.
- A victim/survivor-centered approach may be both most appropriate and most effective.
- Trauma may make it difficult to communicate with a victim/survivor.
- Some kinds of interviewers may be more likely to establish meaningful communication with a victim/survivor.

Lesson 4.4: Trial Practice

Trial practice varies significantly across different legal systems. The following exercises and PowerPoint presentations are designed based on the common law system. Some of them may be similar to your country's practice, while others can be significantly different. Nonetheless, you may want to review, pick and choose, or adapt the portions that can be useful to your practice.

Objective:

- To learn skills related to each part of a trial, including opening statements, direct examination, cross-examination, expert witnesses, impeachment, and closing arguments, to ensure successful prosecution of child labor, forced labor, and human trafficking cases.

Time:



6 hours and 45 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.4.1: *Opening Statements*
- PowerPoint Presentation 4.4.2: *Direct Examination*
- PowerPoint Presentation 4.4.3: *Cross Examination*
- PowerPoint Presentation 4.4.4: *Expert Witnesses*
- PowerPoint Presentation 4.4.5: *Impeachment*
- PowerPoint Presentation 4.4.6: *Closing Arguments*
- Projector

Steps:

- Exercise 4.4.1: Open and Closed Questions
 - 30 minutes
- PowerPoint Presentation 4.4.1: *Opening Statements*
 - 15 min
- Exercise 4.4.2: *Opening Statements*
 - 1 hour and 20 minutes
- PowerPoint Presentation 4.4.2: *Direct Examination*
 - 15 minutes
- Exercise 4.4.3: *Direct Examination*
 - 1 hour and 5 minutes
- PowerPoint Presentation 4.4.3: *Cross Examination*
 - 15 minutes

- Exercise 4.4.4: Cross Examination
 - 1 hour and 10 minutes
- PowerPoint Presentation 4.4.4: Expert Witnesses
 - 15 minutes
- PowerPoint Presentation 4.4.5: Impeachment
 - 15 minutes
- PowerPoint Presentation 4.4.6: Closing Arguments
 - 15 minutes
- Exercise 4.4.5: Closing Arguments
 - 1 hour and 25 minutes

Opening Statements

The opening statement is a prosecutor's first opportunity to explain their child labor, forced labor, or human trafficking case to the court. Opening statements help judges, magistrates, and juries quickly understand the facts and law at issue. Opening statements serve to fulfill several important purposes, including stating what the evidence and witnesses will prove, previewing the merits of the case, and serving as a high-level road map for the judge, magistrate, and/or jury.

Key elements to a successful opening statement include the theme, the legal theory of the case, and persuasive organization of the facts.

- The theme should provide a short, easy-to-remember explanation of why justice or moral reason compels a judge or jury to rule in your favour.
- The legal theory of the case states why the law and facts support a ruling in the prosecution's favour.
- Finally, key facts of the case must be organized in a manner that will persuade the judge or jury.

In developing the content of an opening statement, there are several important considerations. Everything stated must be true, and the prosecutor must be able to prove it. The opening statement should focus on the prosecution's big ideas, and the central evidence and witnesses of the case. Depending on the case, the prosecutor may also decide to present the weaknesses or "bad evidence" in their case in order to address them before the defense has a chance to frame them. While an opening statement should aim to outline the evidence and key points of the case in a persuasive manner, an opening statement should avoid being argumentative.

It is essential to structure the opening statement in a simple, logical manner. The following is one way to structure an opening statement:

1. Theme/ theory of the case
2. Brief outline of the opening
3. Introduction to key actors, places, and things
4. Key issues in contention
5. The "story"- a concise narrative of the facts. Depending on the case, it might be best to order the story chronologically or based upon the elements of the case.
6. Key pieces of evidence/witnesses and what they will prove
7. Weaknesses in the prosecution's case
8. Conclusion and request for a verdict

Additional Tips

- Start strong and end strong
- Know your audience
- Use visual aids
- Avoid repetition and rhetorical questions
- Use simple language
- Be professional and courteous
- Talk, do not read, to your audience
- Practice voice level, tone, and pace
- Be concise

Direct Examination (Examination-in-Chief)

The purpose of direct examination is to get the witnesses to tell the story of the case and to obtain oral evidence for the prosecution's case.

During direct examination, the witness is the storyteller and the focus of attention in the courtroom. The prosecutor's job is to guide the witness's story by using open-ended questions. The prosecutor's tone should be conversational and inquiring, though the prosecutor should already know the answers that the witness will give as a result of prior preparation. The prosecutor should also use direct examination to introduce exhibits on behalf of the prosecution's case. If a witness needs an interpreter, an interpreter should be arranged for in advance.

In organizing a direct examination, the prosecutor should first introduce and accredit the witness — that is, the prosecutor should ask questions that will help the fact finder understand how the witness knows what they know and why the fact finder should believe the witness. Next, the prosecutor should ask relevant questions to set the scene. The prosecutor can then proceed to the core aspect of the direct examination, in which the witness describes the actions that occurred. Questions should typically follow the chronological order of events. It may be helpful to think about the direct examination as a story that is split into different chapters; each set of questions should have its own title or heading, and the prosecutor should use transitions between each. For example:

Prosecutor: "You've been telling us about the promises made to you by Defendant, now I would like to move on to the actual working conditions you experienced."

Formulating Questions for Direct Examination

The manner of questioning is important for a successful direct examination. On direct examination, prosecutors should use open-ended questions, which are those questions that require elaboration rather than a simple "yes" or "no" answer. Open-ended questions allow the witness to tell their story. Open-ended questions often begin with:

- "Who?" "What?" "When?" "Where?" "Why?" "How?"
- "Describe"
- "Explain for me"
- "Tell me about"

Prosecutors should *not* ask leading questions during direct examination. A leading question is one that suggests the answer that the questioner hopes or expects to receive. For example:

- Leading: "The weapon was owned by your cousin, correct?"
- Non-leading: "Who owned the weapon?"

If a prosecutor asks a leading question, defense counsel may object on that basis. Exceptions to the leading questions rule may be made for matters which are introductory or undisputed.

All questions should be simple and short. Only ask one question at a time- do not ask compound questions. For example:

- Compound Question **X**: "How many hours per day were you working, and did work cause you to miss school?"
- Instead, break the question into two, **√**: "How many hours per day were you working?" [Witness answers.] "Did work cause you to miss school?"

ADDITIONAL TIPS

Make the story interesting:

- Humanize the witness
- Practice your pace, inflection, tone
- Use exhibits, diagrams, and physical evidence
- Simplify the story; eliminate clutter; and use plain language

Listen actively and ask follow up questions:

- Prosecutor: "What were your job duties at the garment factory?"
- Witness: "My job was to operate the machinery."
- Prosecutor: "You said you operated the machinery. Can you tell us more about what that entails?"

Anticipate cross-examination:

- Seek to bring out critical weaknesses during your examination-in-chief
- Weave responses to weaknesses of your case into your presentation

Cross-Examination

Cross-examination is the questioning of a witness called by the other party. The purpose of the cross-examination may be to obtain favorable evidence that supports the prosecution's case; to discredit unfavorable evidence and/or the witness who gave it; to test the veracity of a witness; or to test the accuracy and completeness of the witness' story. Cross-examination can also be used to introduce additional exhibits, though waiting to introduce exhibits during cross-examination can be risky if there is a chance that the witness will not be called by opposing counsel.

When planning for cross-examination, prosecutors should first determine their goal for cross-examining the witness. Lawyers are not required to cross-examine every witness, and they should cross-examine only if there is some sort of advantage or effect to be gained. When considering the potential advantages of cross-examining a witness, the prosecutor should consider what might be needed from the witness and whether that evidence can realistically be obtained from that witness. When thinking about the potential effect of cross-examining a witness, the prosecutor should ask themselves whether the cross-examination will affect the opinions of the judge or jury. If a lawyer decides there is no advantage or effect to be gained, the prosecutor should probably decline to cross-examine.

After formulating the goal for the cross-examination, the prosecutor should plan potential questions that will permit them to achieve that goal. Cross-examination is often organized by topic, rather than chronologically like direct examination. While it is important to plan questions ahead of time, it is also essential to be able to reassess the questions both during and after the direct examination of the witness, particularly when new statements are made by the witness. Also note that in many jurisdictions, cross-examination is limited to matters raised during direct examination. In other words, a prosecutor cannot cross-examine a witness on a topic that was not raised by the defense or the witness during the direct examination.

Formulating Questions for Cross-Examination: During cross-examination, the lawyer should be the storyteller (rather than the witness, as in direct examination). This will require the lawyer to maintain control of the story as it is told by the witness, and to do this, the prosecutor should only ask questions that they already know the answer to. Prosecutors should also use leading questions, which are permitted during cross-examination. As discussed above, a leading question is one that suggests the answer within the question. By asking leading questions, the prosecutor can limit the witness to simple "yes" or "no" answers and prevent the witness from further explanation that might not fit with the prosecutor's story. As with direct examination, questions on cross should use simple language and should focus on one fact per question. For example:

- Prosecutor: You are a factory supervisor?
- Witness: Yes.
- Prosecutor: You have worked as a supervisor for 15 years?
- Witness: Yes.
- Prosecutor: And you have worked as a supervisor for XYZ Corp for 10 years?
- Witness: Yes.
- Prosecutor: And you start work at 9:00am every day?
- Witness: Yes.

Techniques for Managing Difficult Witnesses: During cross-examination, prosecutors may have to deal with difficult or uncooperative witnesses. Below are some tips for managing various types of witnesses on cross:

Difficult Witness	Tips
Evasive witness	<ul style="list-style-type: none"> • Repeat question until answered • Reword question • Refer to evasiveness in closing arguments
Argumentative witness	<ul style="list-style-type: none"> • Ask only yes/no questions • Move quickly to next question • Do not argue with the witness
Talkative witness	<ul style="list-style-type: none"> • Cut witness off by asking next question • Ask witness to answer with only a yes/no
Dishonest witness	<ul style="list-style-type: none"> • Ask for more details about the point in question • Repeat questions later in cross-examination

It is important not to become argumentative with witnesses and to maintain control of the conversation. It is also important to know when to end the cross-examination; once you have gotten what you wanted from your questioning, or have gotten as close as you believe you will, close the cross-examination.

Expert Witnesses

An expert witness is a person engaged to give an opinion based on their experience, knowledge, and expertise in a given field. An expert witness should provide *independent, impartial, and unbiased evidence* to the court. An expert witness should assist the court in understanding the evidence or determining a fact in issue.

There are various types of expert witnesses. Some experts are called to testify based on their given training, personal observation, and experience, while other experts are called to provide testimony on scientific tests and methods.

Examples of expert witnesses include:

- Forensic scientists- Can provide evidence in order to help determine whether a crime has occurred or to connect the suspect to the crime, etc. They may use and testify as to a variety of forensic sciences, such as:
 - DNA and fingerprint analysis
 - Ballistics
 - Drug testing
- Forensic accountants- Can testify regarding financial accounts, records, fraud, etc.
- Medical professionals- Can testify regarding the nature and extent of injuries, illnesses, or the cause of death, etc.

Local law will govern the admissibility of expert testimony. As a general matter, local law will likely require that an expert's qualifications be proven and satisfied to the Court before testimony may be accepted.

HOW TO USE EXPERTS EFFECTIVELY: Speaking with an expert early on in building your case will help to clarify the evidence and explain the facts. Prosecutors should provide documents and other relevant evidence to the expert early for a complete analysis. Experts may be able to advise on other possible evidence that the lawyer should seek, and expert opinions can inform the charging decisions or plea negotiations. Do not wait until trial to speak with the expert.

Prosecutors should also research their expert witnesses. A prosecutor should know their expert's background, such as education and work experience, as well as their standing among their colleagues. Ensure that the expert's opinions or methods are consistent with at least some, if not a majority, of the experts in their field, and research whether anything in the expert's past experience may reduce their credibility.

In some situations, the lawyer can choose their expert witness. In choosing an expert witness, be mindful that not every expert is an effective expert witness. Experts are more persuasive if they are knowledgeable, impartial, dynamic, confident, and well prepared.

When working with an expert, it is important to listen and engage. Do not have an expert testify simply because it is required. Be flexible with your case theory and listen to critiques. Remember experts are impartial. *Do not expect your expert to fit into your case theory and do not cause the expert to believe that he or she is working for you.* Listen to and welcome warnings from the expert because any flaw or weakness in the expert testimony can be an argument for the opposing side. The earlier the exposure of the weaknesses, the better.

EXPERT'S TESTIMONY: An expert's communication skills are essential for an effective testimony. Prosecutors should advise their experts to follow these tips:

- Be brief, no long narratives
- Use simple language, avoid technical and shorthand terms
- Use visual aids
- Use examples and analogies
- Speak as equals, not as someone with superior knowledge

Lawyers may also practice with the experts during case preparation to increase the effectiveness of expert testimony.

In conducting direct examination of an expert, prosecutors should ask questions on the following:

1. Introduction, credentials and qualifications of the expert, such as years of study, relevant degrees, and years of experience with relevant matters
2. Expert's opinions
3. Process for forming the opinions—analysis, test results, etc.
4. Bases for opinions—explain and support conclusions

The defense may also call its own expert witnesses, either to counter the testimony of the prosecution's experts or to introduce new evidence. **When cross-examining an expert witness, potential areas of inquiry may include:**

- Expert's Qualifications
 - Has the expert attained the highest degree in that field?
 - How much hands-on experience do they have?
 - Is their expertise in a different area than the one involved in the trial?
- Bias and Interest
 - Does the expert widely advertise her services?
 - How much money does he make from testifying?
 - Do they primarily testify for plaintiffs or defendants or a particular lawyer or law firm?
- Process Conducted
 - Did the expert's process match industry standards?
 - Were any mistakes made throughout the process?
- Data Relied On
 - Accuracy of information or sources given
 - Assumptions made to reach the conclusion
- What the Expert Did Not Do
 - Identify all the procedures and tests that can be done and show some were never done
- Prior Inconsistent Statements
 - Commit the expert to her testimony, credit the impeaching source, and then confront the expert with the prior statement

Impeachment

Impeachment is the process of discrediting a witness. Most often, impeachment occurs when opposing counsel asks questions on cross-examination designed to elicit facts from the witness that discredit or expose inconsistencies in the witness's testimony. The goal of impeachment is to cause the judge, magistrate, or jury to question the witness's credibility and therefore their testimony.

Effective impeachment will depend on lawyers' identification of the witness to be impeached. Before and during the trial, prosecutors should try to determine which witnesses would be most helpful to discredit, or, in other words, which witness's testimony is most damaging to their own case. During the trial, prosecutors should pay attention to all contradictory facts and statements offered by the defense. For example, lawyers should track any statements made during a witness's testimony that are inconsistent with his or her prior statements.

Impeaching a witness by prior inconsistent statements is a very common and effective way to cast doubt on the witness's credibility. Prior inconsistent statements can be (1) a contradiction of an earlier statement by the witness or (2) testimony on a detail that was omitted in the earlier statement.

Contradiction	Omission
<ul style="list-style-type: none"> a. In court: The car was green. b. In earlier statement: The car was red 	<ul style="list-style-type: none"> a. In court: The car was green and had a flag. b. In earlier statement: The car was green.

Local law may contain very specific requirements with regard to impeaching witnesses' prior statements. Prosecutors should study those requirements, because opportunities to impeach witnesses may be fleeting at trial and lawyers should be well prepared to seize such opportunities.

Prosecutor may also attempt to impeach a witness by presenting new evidence that is not yet properly before the court, called extrinsic evidence. Local laws may have various limitations as to when and what kind of extrinsic evidence can be used for impeachment. This is because extrinsic evidence on a witness's credibility can distract the court or the jurors from the current issue in dispute. Some extrinsic evidence may lead to a mini-trial of the witness rather than focusing on the current legal proceeding against the defendant. Such extrinsic evidence will likely be excluded by local laws.

As with other aspects of trial, it is important to prepare for impeachment. Think carefully about the order of questions and ensure all questions are clear. Consider which kinds of prior statements hold the most weight and thus are most valuable to use during impeachment, such prior testimony under oath and written statements signed by the witness. When referring to prior inconsistent statements, it is important to use quotes rather than paraphrasing, so make sure to have the exact quote available. In addition, if they exist, have source documents accessible as backup.

To effectively impeach a witness, a prosecutor should follow the three C's: **C**ommit, **C**redit, and **C**onfront.

(1) Make the witness **COMMIT** to the Statement

- Repeat and recommit the witness to the statement he or she made in court
 - "You told us here in court that the car was green?"
- Or ask the question based on the earlier statement that you believe is correct.
 - "The car was actually red wasn't it?"

(2) **CREDIT** the Circumstances

- Attempt to give as much credibility and weight as possible to the prior statement
- Explain the circumstances surrounding the earlier, original statement: date, place, time, etc.
- Get the witness to admit to having made the earlier statement and that the witness understood the surrounding circumstances:
 - Identify statement, signature, etc.
 - Language that says the statement is truthful
- When the prior statement contains a contradiction, credit the:
 - Importance of the circumstances
 - Duty involved in making the statement
 - Proximity in time to the event in question

- When the prior statement contains an omission, credit the:
 - Opportunity to include the omitted fact at the time of the prior statement
 - Duty to include all relevant facts in the original statement
 - Need to be complete when making the original statement

(3) **CONFRONT** the Witness with the Prior Inconsistent Statement

- Confront the witness with the prior inconsistent statement
- If in writing, identify the text with the prior statement and read verbatim
- Do not give the witness a way out of the statement
- Confront, then STOP. DO NOT ASK witness to explain the contradiction or omission.

Closing Arguments

Closing arguments are a key aspect of a prosecutor's case. The judge, magistrate, and/or jury needs to feel that the verdict is factually, legally, and morally correct, and the closing is the last opportunity to address the factfinder and to convince them to rule in your favour.

While during the opening statement lawyers are restricted to stating the facts, during closing arguments lawyers can argue the merits of the case:

- Opening Statement: *"Witness [X] will testify that [Event] occurred."*
- Closing Argument: *"As we know from Witness [X]'s testimony, [Event] occurred and this establishes who should be held responsible in this case."*

ORGANIZING THE CLOSING ARGUMENT:

Every closing submission should have a theme. The theme should be stated at the beginning of the closing and should be referred to throughout. It should also link back to the theme presented during the opening statement, providing continuity to the case. For example, "I promised to prove [x], [y], and [z] and I did..."

While the theme provides the main heading for the closing argument, early on the prosecutor should also provide an outline or roadmap for the argument. Make sure to actually cover each of those points and then review the outline again towards the end of the argument. For example:

- "I am going to make three points why the Accused should be found guilty."
- Point 1
- Point 2
- Point 3
- "I have presented to you three reasons why the Accused should be found guilty."

Make sure to use headlines and transitions during the closing argument to ensure it is both smooth and understandable.

There are various ways to organize the body of the closing argument. The closing could be organized chronologically by witness, chronologically by events, by charge, by topic, or some other method. Whatever method of organization is used, it is important to (1) use the best facts and arguments, (2) address the weaknesses of the case, (3) refer to exhibits for emphasis, (4) know your audience, and (5) start and end strong.

1. Use the best facts/arguments
 - a. Discuss the facts that support each element
 - b. Include logical inferences
 - c. Use all relevant witness testimony, including opposing party witness testimony
 - d. Accept what the opposing party concedes
 - e. Argue credibly
 - f. Tie to your theme
2. Address the weaknesses
 - a. Anticipate and acknowledge weaknesses and bad facts
 - b. Anticipate and raise questions about the other side's argument that the court should consider
3. Use exhibits effectively
 - a. Choose only the most persuasive exhibits
 - b. Make them easy to read — project on a screen if possible
 - c. Practice how you will handle them and where you will store them
4. Know your audience
 - a. Use visual aids
 - b. Avoid repetition and rhetorical questions
 - c. Use simple language
 - d. Be professional and courteous
 - e. Talk, don't read, to your audience
 - f. Voice level, tone, pace
 - g. DO NOT:
 - i. Place fact finder in litigant's shoes
 - ii. Argue without strong conviction or connection
 - iii. Attack opposing counsel or ridicule witnesses
 - iv. Argue outside the record
 - v. Incorrectly state the facts or the law
 - vi. Vouch for a witness personally or note your personal belief in the merits of the case
5. Start and end strong

Remember, closing arguments are a prosecutor's last chance to convince the judge, magistrate, or jury that the defendant should be found guilty.

Exercise 4.4.1: Open and Closed Questions

Objective:

- To practice asking open-ended and closed questions in order to improve questioning styles for direct examination and cross-examination, respectively.

Time:

 30 Minutes

Materials and preparation:

- Choose a topic for discussion — the topic can be an animal, a food, a famous person, a country or city, etc.

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Tell the participants the topic for discussion (example: football).
- Starting at one side of the room, each participant must ask one open-ended question about the subject as if they are conducting a direct examination. For example:
 - How many players are on the field at a time?
 - Can you explain how teams score a point in a football match?
 - What is the role of the keeper?
- If a participant asks a question that is not open-ended, other participants should make “buzz” sound. The facilitator can then ask one of the other participants to explain why the question was not open-ended. The original participant should then try again to ask a new question.
- Weave around the room until every participant has asked a question.
 - 10 minutes
- Starting at the other end of the room, each participant must next ask one closed question about the subject as if they are conducting a cross examination. For example:
 - There are 11 players per team on the field at a time?
 - Teams score points by getting the ball into the opposing team’s net?
 - The role of the goalie is to stop balls from getting into their team’s net?
- If a participant asks a question that is not closed, other participants should make “buzz” sound. The facilitator can then ask one of the other participants to explain why the question was not a closed question. The original participant should then try again to ask a new question.
- Weave around the room until every participant has asked a question.
 - 10 minutes
- Close the activity by discussing with participants what they have learned about asking open-ended and closed questions.
 - 5 minutes

Key messages:

- The purpose of direct examination is to get the witnesses to tell the story of the case. Thus, the prosecutor should use open-ended questions during direct examination.
- During cross-examination, the lawyer should be the storyteller. To maintain control of the story, the prosecutor should use closed questions during cross-examination.

Exercise 4.4.2: Opening Statements

Objective:

- To familiarize participants with opening statements and how to present them in court.

Time:

 1 hour and 20 minutes

Materials and preparation:

- Handout 4.1.2
- Handout 4.4.2A: *Prosecution Witnesses*
- Handout 4.4.2B: *Defense Witnesses*
- Flipchart and markers
- If this is a 6-day training:
 - At the end of the Opening Statements presentation on Day 5, have the presenter give a demonstration of two opening statements, one for a prosecutor and one for a defense attorney
 - Instruct participants on Day 5 (after the Opening Statements presentation) that they will be responsible for presenting an Opening Statement to their small group on Day 6. Assign participants to one of 4 groups. The groups should have a mix of people from the prosecution and defense attorney groups of the Case Evaluation Activity. Each participant will play the role of prosecution or defense they had during the Case Evaluation Activity to ensure that participants are familiar with the theory of the case and each group has a mix of prosecution and defense representatives.

Steps:

- Ask the participants to select an order to present and review key tips for opening statements:
 - Start strong and end strong
 - Know your audience
 - Use simple language
 - Be concise
 - Avoid repetition and rhetorical questions
 - Be professional and courteous
 - Use visual aids
 - Talk, do not read, to your audience
 - Practice voice level, tone, and pace
 - 5 minutes
- Read witness statements of assigned witnesses
 - 10 minutes
- Write opening statement
 - 15 minutes

- Have each group member give his or her presentation. Presentations should be approximately 5 minutes each. After each presentation, the small group facilitator should identify something that the participant did well as well as an area for improvement.
 - 20 minutes
- Each group should nominate a representative. One at a time, each representative should come to the front of the room to present their opening statements.
 - 25 minutes
- Wrap up by reviewing the key messages.
 - 5 minutes

Key messages:

- When giving an opening statement:
 - Start strong and end strong
 - Know your audience
 - Use simple language
 - Be concise
 - Avoid repetition and rhetorical questions
 - Be professional and courteous
 - Use visual aids
 - Talk, do not read, to your audience
 - Practice voice level, tone, and pace

Exercise 4.4.3: Direct Examination

Objective:

- To practice direct examination of each side's witnesses: prosecution witnesses and defense witnesses.

Time:



1 hour and 5 minutes

Materials and preparation:

- Make copies of witness statements listed below from Handout 4.4.2A: *Prosecution Witnesses* and Handout 4.4.2B: *Defense Witnesses*
- Handout 4.4.2A: *Prosecution Witnesses*
 1. Edward Lee
 2. Maria Lee
 3. Daniel Lee
 4. Ana Lee
 5. Joseph Torr
 6. Annie Green
 7. Rebecca Johnson
 8. Esther Kim
- Handout 4.4.2B: *Defense Witnesses*
 1. Ray Sims
 2. Antonio Soto
 3. Miranda Soto
 4. Michael Kabba
 5. Charles Murray
 6. Sébastien Sucre

Steps:

Explain to the participants the objective of the exercise.

- Split participants into four different groups with a facilitator for each group. Two groups will present for the prosecution while the other two groups present for the defense. These groups can be numbered as:
 - Prosecution Group 1
 - Prosecution Group 2
 - Defense Group 1
 - Defense Group 2
- Assign four prosecution witnesses to each prosecution group.
- Assign three defense witnesses to each defense group.
 - 5 minutes

- Ask participants in each group to:
- Review the witness statements assigned to them;
- Decide which one witness they will direct exam; and
- Write down the questions they plan to ask.
 - 30 minutes
- Each participant in each group should then practice their direct examination within the group.
- The small group facilitator should play the role of the witness while participants conduct their direct examinations.
- Each participant will have 5-10 minutes to examine their witness and receive feedback from the facilitator.
 - 25 minutes
- Close the activity by discussing with participants what they have learned about the direct examination of witnesses.
 - 5 minutes

Key messages:

- The purpose of direct examination is to get the witnesses to tell the story of the case. Because of this, you should use open-ended questions during direct examination.
- You may want to anticipate cross examination by bringing out critical weaknesses of your case during the direct examination and weaving responses to the weaknesses into your presentation.

HANDOUT 4.4.2A: PROSECUTION WITNESSES

Statement of Edward Lee

National Police — Country A

Case No.: 453 of 2022

Statement of	Edward Lee
Occupation	Garment factory worker
Nationality	Country B
Age	15
Address	Mamba Road, Smallville, Country B
Telephone	88 777 2233

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	National Police HQ, Capitalford, Country A
Date	1 March 2022
Time	11:30 AM

My name is Edward Lee. I am 15 years old, and I used to live in Smallville, Country B. My mother is Ana Lee and my father is Daniel Lee. I have one younger sister, Maria, who is 13. My parents used to work seasonally on a farm in the area. Our family was fairly normal in our village. We were neither poor nor rich, but my parents would try to satisfy Maria's and my needs to the best they could. They would take us into the larger nearby towns (including Midtown) regularly and once, even the capital city of our country! It was the highlight of my life. We had so much fun seeing all the people bustling about and we tried out many new foods. I said to my parents that one day I would go to university and get a well-paying job, so one day my whole family and I could live in a city every day.

But then COVID-19 broke out. I would hear my parents whispering about it with our neighbours. It seemed like a lot of the villagers were losing their jobs. I also heard the disease was killing a lot of people in other countries and I wondered if our village would be hit too. What if my family caught the disease? It was very scary for me at the time. Our food was also getting worse and worse — after a year of the pandemic, our family would only eat meat or fish once a month or so, and we had not left the village in more than a year. From time to time, I would hear from my parents about which neighbours had lost their jobs and what actions they were resorting to in order to survive. My best friend, James, lives in the same village. His family is even poorer than ours but he would talk about his cousin who moved to Capitalford in Country A from our country and who became so rich he was even wearing clothing and shoes that looked like the kind we would see on TV! I mentioned this to my mother and maybe one day I could also work in a big city like that, and my mother scolded me for having my head in the clouds when I should be focusing on school and helping her around the family.

Then one day, in the summer of 2021, my mother returned home excited, which I hadn't seen her be since the start of the pandemic. She mentioned that the Sotos, who are very influential in our town, may have a job opportunity in Capitalford in Country A available for me. The Sotos are extremely wealthy and I remember passing by their house with James sometimes on our way to play football. James and I had always joked about how one day we would live in houses just like theirs. A few days later, my mother returned home and told us she had good news! The Sotos had a family friend

in Capitalford in Country A who ran an export business and needed some workers. They were willing to take me on and even teach me how to use computers and manage a business! The Soto's family friend also ran a small store affiliated with the export business that could hire Maria! I don't think my parents wanted Maria to also leave with me, but Maria and I had wanted to visit the city and make new friends and support our family. After Maria pleaded to my parents non-stop — which she is very good at! — my parents finally agreed. They also let me promise I would take good care of her, and I agreed. Maria and I are very close, which is rare for siblings of our age, and I was excited to have someone to go with to Capitalford in Country A. However, I was concerned about my parents. They love having us around, so I wasn't sure if they would be very sad with both Maria and me gone.

A few weeks later, Maria and I were going to leave for Capitalford in Country A! James was very jealous, and he said that he'd join me a few months later so we can both become successful businessmen together. Maria and I were both over the moon, and our parents were fussing over what we should bring and how we needed to have better manners because people there were more sophisticated than people in our small village and they told us we had to listen to the Soto's family friend. On the day we left, Mr. Sims, the Soto's family friend came to our town in his Toyota. I knew that the Soto's friend would be just like them, and I couldn't wait to one day own a car just like that too! My parents were both very sad. My mother was crying a bit from happiness, and my father had a very somber face, but I could tell he was secretly very proud of Maria and me. The Soto's were also there. Mrs. Soto seemed very nice and she told us to behave and that we would have a lot of fun, just like her sons did, living by ourselves and we would grow up in no time. Mr. Soto was also there and he exchanged a few greetings with Mr. Sims. Both of them seemed a bit stiff despite being friends. Maria and I then got into the car and waved at our parents and the Soto's until we saw them no more.

During the car ride, we passed by a few more towns and then a long river. We were finally going to Capitalford! We heard the ride was going to be a long one, so we were not too concerned when we passed by a lot of rural villages. Mr. Sims looked very intimidating, so we did not dare ask him any questions on our ride. Our car stopped just after a few hours. Instead of seeing the export business that I will work at and the affiliated small shop for Maria to work at, we arrived outside a factory.

When we arrived there, Maria and I were brought to a small building without any windows. Mariama was sent to the girls' dorm and I was sent to the boys' dorm. My dorm only had two other boys, who were 19 and 21. Mr. Sims ran a garment factory, and Mariama and I were to work as factory workers. We wanted to ask Mr. Sims about the export business and small shop, but we didn't want to anger Mr. Sims when he had just done such a favour of driving us all the way here and we did not want to upset our parents.

The next day, Mr. Sims gave us duties in the factory. I was in charge of sewing buttons and embroidering in a stuffy room full of freshly-dyed fabrics and unfinished clothes. Maria was folding and packing finished clothing. Every day, I would wake up at 6 a.m. to get ready and then start my day at the factory. I would work until the sunset, after which the I would go to eat dinner. The food was good, much better than what my parents could afford at home, and consisted mostly of vegetables, fruits and rice, with even meat sometimes. There were around 40-50 other workers in the factory, but many of them were from the Capitalford area and did not live in the dorms with us. I would see Maria usually once a day, but sometimes even less because she was working in a different section of the factory and we weren't allowed to visit each other's dorm. We tried to call our parents, but the cell phone my parents gave Maria and me had already run out of battery on our second day at Mr. Sims's factory. Even if we had battery, it would not be of much use, because the signal on the factory was very poor and we did not want to ask Mr. Sims to use his cell phone.

A few months after we had started working at the factory, Mr. Sims told me and Maria to stay inside our rooms and not leave until we were given instructions by him to go back into the factory. We were very happy to hear this, since Mr. Sims had never allowed us to take a break before. We heard the reason we had to stay inside was that a tall man from abroad was visiting the factory. A few hours later, Mr. Sims came over to our room and told us we could join the others and go back to work. I had never seen a foreigner before, so I was very curious to hear more about who this man was and why he was visiting. The older factory workers were able to see the man, and I eavesdropped on their conversations after. They were also very excited about the foreigner's visit and I overheard them saying this foreigner was a European buyer who wanted to expand sales by partnering with a trendy fashion brand.

We were excited that our clothing was going to be sold abroad! Maybe with more money, Mr. Sims could even afford better living conditions for us. But after the foreigner’s visit, it seemed like our lives became even worse. Mr. Sims’s factory was very old and he had to upgrade the sewing machines to satisfy the foreign buyer. We started working even more. We were also being paid even less and at a lower frequency. Even after working for 2 months, we had only received around \$50 each and a portion of our wages were apparently held back to cover our transportation costs. We barely had anything left over by the end of it. Mr. Sims was also increasingly antsy from all the upgrades, and he would watch us more closely and sometimes even yell when he thought we were being lazy.

The lack of sleep and the increasing workload — for a few days a week I had to work until midnight to meet my quotas and fell asleep among the large piles of half-finished clothes near my work station — made it very hard for me to concentrate, and there was one day when I was feeling dizzy and my left hand slipped as I was using the sewing machine, and I got my fingers and hand stuck in it! I was howling with pain and thought I was dying. There was blood everywhere — on my clothes, on my body, on the floor. I just remember people screaming all around me and then after a while, I regained consciousness and remember Mr. Sims carrying me to a man, who washed the cut and applied some form of medication to my wound. The injury was very painful, but Mr. Sims allowed me to take a few days off and fold clothes with Maria. It was around this time when Maria and I were speaking more of leaving the factory. She said that she tried to check in on me multiple times after she learned I was injured. She even wanted to tell our parents, but Mr. Sims would brush her off each time saying that they wanted us to learn more about the garment industry and they were very proud of us. She didn’t think he was being honest, though, because Maria always had very good intuition. She also mentioned that she heard Mr. Sims talking to someone on the phone before. He asked the other person on the line for “younger workers” from our village, telling the other person that he could not afford to hire local adults. Maria did not catch who Mr. Sims was talking to, but she thinks he was speaking to Mr. Soto because Mr. Sims kept referring to “Antonio” on the call and we think that’s Mr. Soto’s first name.

We tried to find a way to escape from the factory, but the factory doors and windows are always locked. Apart from the time we arrived at the factory and when Mr. Sims took me to the local man to heal my hand (of which I was semi-conscious for most of it), I was not sure what would the point be if we made it out of the factory. We also did not have our ID cards with us — our parents usually kept them — so how would we even be able to go back home even if we could find our way outside of the city?

We felt very hopeless. We missed our parents, our friends, and our village. We also missed going to school and learning. Would we ever be able to leave the factory or would we work here until we died? Were our parents worried sick? Would we ever see them again?

A few weeks later, just when we thought we were going to live on Mr. Sims’s factory forever, we heard some loud yelling one day. There were a lot of strangers at the factory and they were wearing formal clothing. Mr. Sims seemed very flustered and angry at them, and he kept waving his hands. Then one of those strangers saw me — I was hiding under a table trying to listen and poked my head out. That stranger saw me and started pointing at me and running towards me. I was very scared and started running away, but because of my injury I was still weak and didn’t get very far. That stranger finally came up and instead of hitting me or yelling at me, he was very nice and I stopped struggling. It turned out he was part of the team to rescue me! Maria and I were saved! Since then, Maria and I, along with a few other girls, were taken into custody and eventually handed over to the Ministry of Health and Social Welfare in Country A.

Recording officer’s signature James Mulbah

Complainant’s/Witness’ signature Edward Lee

I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Edward Lee. Signed by me James Mulbah on 1 March 2022 at about 2:30 PM.

Statement of Maria Lee

National Police — Country A

Case No.: 453 of 2022

Statement of	Maria Lee
Occupation	Garment factory worker
Nationality	Country B
Age	13
Address	Mamba Road, Smallville, Country B
Telephone	99 888 1111

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	National Police HQ, Capitalford, Country A
Date	1 March 2022
Time	3:30 PM

My name is Maria Lee. I am 13 years old and I used to live in Smallville, Country B. My mother is Ana Lee and my father is Daniel Lee. I have one older brother, Edward, who is 15 years old. Our parents have always not been very well off, and since the pandemic things became even worse. Sometimes my mother would bring me into nearby Midtown to run errands with her. My mother is very warm and friendly, and she would always chat with the local vendors or friends of hers whom she would run into. I remember hearing about how poor people were becoming because of a disease that was spreading across the globe, a lot of people were dying, and we were very fortunate to just be alive. I also remember hearing my parents talking to each other about how they weren't sure whether we would survive another year like this. I even heard mother crying to father once late at night, when they both thought we were asleep. I wish I could do something to help out! Edward was turning 15 soon and he was talking about going off to a big town to work, just like what his best friend's cousin was doing. I also wish that I could help out, but I was only 13. What could I do? I felt very bad for my parents, who had to take care of me for so much longer.

Then around a year later, my mother returned home excited and she mentioned that the Sotos may have a job opportunity in the big city available for Edward. The Sotos are very well off. Mrs. Soto was always wearing very beautiful clothing and she always looked very elegant. I remember seeing how mother would look at Mrs. Soto's clothing very admiringly, and I wish that mother could one day own something as nice as Mrs. Soto's. A few days later, my mother returned home and told us the Sotos had a family friend in Capitalford in Country A who ran an export business and needed some workers. The best part of it was they were not only willing to take Edward on, but the family friend also ran a small store that could hire me. My parents were very excited for Edward, but they did not want me to go. They said I was too young, that it would be safer for me to stay at home and that I could go in the future. But this was a once-in-a-lifetime chance! Who else would be willing to give a chance to someone as young as me and with no work experience? The other people working at the store were probably much older and mature, and I was so fortunate that the Sotos' family friend would even consider me! I begged my parents non-stop and even became on the verge of tears! I wanted to help my family and be useful, and I wanted to become an adult just like Edward was. Eventually, my parents agreed. This was truly the best news ever! I was so excited that I hugged both my parents and my brother very tightly. The only

potential problem was that I wouldn't be able to go to school anymore, but I was sure I could learn on the side in my free time!

Edward and I were so overjoyed. I had so many things to do before leaving! What should I pack, who should I say bye to, and how to prepare for life in the big city. One of the neighbours' daughters, who's a few years older than me, told me that I needed to act more like a grown-up because people in the city are very mature and they would tease me if I didn't act like them. My parents were both very happy but also very sad; I could tell they didn't want us to leave but this was the best decision for our family and our futures. On the day we left, the Sotos' family friend came to our village in his car to pick us up. His name was Mr. Sims and he was a stern-looking man. He gave my parents, Edward, and me a brief smile, and assured my parents we would be in good hands. My mother kept on telling me things I had to remember to do (or not do) in the city, and I had to assure her again and again that I knew. Father gave me a tight hug and told me he believed in me. The Sotos were also there, but I didn't pay attention to them much because I was so sad about saying bye to my parents. Edward and I then got into the car and waved at our parents and the Sotos for as long as we could.

We were on our way to Capitalford in Country A! We passed by a lot of rural villages and small towns until we finally arrived in front of a factory and Mr. Sims told Edward and me to get out of the car. The place we were getting off at didn't look anything like an export business or small shop.

When we got out, Edward and I were brought to a small building without any windows. Edward went to the second floor, where the boys' dorm was, and I was sent to the girls' dorm on the third floor. My dorm room had four other girls. Two were around 15 and the other two were around my age. There were a few other local workers who did not live in the dorms because their homes were nearby. From them, I learned that Mr. Sims ran a garment factory. This was his family business.

The next day, Mr. Sims gave us duties at the factory. My task was to fold and pack clothing. It was hard work having to stand all day, but it was much better than Edward's. He had to use a sewing machine to sew buttons and embroider. I was very worried for Edward and every day I would pray that he would be okay because the machine he uses often shakes like a popcorn machine we saw on the streets of Midtown and makes scary, lousy noises that even I can hear from a different room when folding clothes. My parents would be heartbroken if they knew he was actually using old, scary sewing machine and working long hours instead of learning new computer skills. I rarely saw Edward, once a day at most. I cried a lot because it was very scary, and I am very grateful for the other girls in my dorm. They had gone through something similar to what I did and they gave me a lot of good advice while I was there. We became good friends as we spent all our time together. We couldn't use our cell phone because the battery had run out, and the other girls told me they also had not contacted their families in months.

A few months later a tall foreigner visited the factory. Mr. Sims told Edward and I that we couldn't leave our dorm until he said so. I was barely awake at the time and didn't really comprehend what Mr. Sims was saying, so the other women told me this foreigner was a European buyer who wanted to source clothing from our factory.

After the foreigner's visit, it seemed like our lives became even worse because Mr. Sims had to upgrade the factory to meet the foreign buyer's high requirements. We started working even more and our pay seemed to become less and less. It was like we were basically working for free. Mr. Sims was also getting angry often and he often made the girls in my dorm cry.

One day, as I was folding pants, one of the women ran over to me. She looked very worried and I knew immediately she was bringing bad news. She told me my brother was severely injured when he was using his sewing machine! Was he alive? Was he going to be okay? I tried to press for answers from her, but she did not know as well. She just told me that Edward and Mr. Sims were visiting a local man and we should know in a few days. I was worried sick those few days and barely ate or slept. I tried to see Edward a few times to find out if he was okay, but Mr. Sims rejected my pleas each time. How could he be so mean? Edward was my brother! If Mr. Sims wouldn't allow Edward and me to see each other, at least he should let me tell my parents about it! But Mr. Sims also rejected these requests and he told me my parents were very happy that we were here and we were really helping our family and learning so much about the garment trade, all of which were very important to them. There was once when I went to find Mr. Sims to ask him to let me see my brother,

that I overheard him talking to someone on the phone. He was asking the other person on the line for “younger workers” from the villages because he could not afford to hire local adults. He kept on calling the other person “Antonio”, which sounded familiar at the time, and afterwards I realized that was Mr. Soto’s first name. After my insistent pleading, Mr. Sims eventually let me see Edward. When I saw Edward a few days later, Edward looked very frail and weak, but at least he was alive. Mr. Sims also was allowing Edward to fold the clothing with us! Edward and I started speaking more about leaving the factory.

Sadly, Edward and I had to give up on our dream of escaping the factory since we neither had our ID cards nor did we know how to get out, even if we could escape. But a few weeks later, a group of people dressed in uniforms came to the farm and told us that we were being rescued! Edward, the other girls in my dorm, and I were all rescued and taken into custody by the government here.

Recording officer’s signature James Mulbah

Complainant’s/Witness’ signature Maria Lee

I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Maria Lee. Signed by me James Mulbah on 1 March 2022 at about 5:00 PM.

Statement of Daniel Lee

National Police — Country A

Case No.: 453 of 2022

Statement of	Daniel Lee
Occupation	Agricultural worker
Nationality	Country B
Age	38
Address	Mamba Road, Smallville, Country B
Telephone	44 222 4555

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	National Police HQ, Capitalford, Country A
Date	23 March 2022
Time	4:30 PM

My name is Daniel Lee. I am 38 years old and I live in a small village called Smallville in Country B. My wife is Ana and our children are Edward (15 years old) and Maria (13). My wife and I are both agricultural workers.

When my wife told me the Sotos had an opportunity for Edward and Maria, I was so happy. This was a rare opportunity here in our village. We were excited that our children could live the lives they had dreamt of. I had a lot of confidence in Edward. He is a very talented boy and I am sure that he would be successful in Capitalford in Country A. I was much more hesitant for Maria. She is our only daughter and very young, and we were hesitant to let her go to the city. But after Maria asked us again and again, we could not say no. This was the very least we could do, but I was still a bit worried that Maria would be delaying her education. My wife and I had hoped that she would be able to graduate from high school at least. Miranda asked my wife and me to share our children's passports with her. Miranda reassured us that Maria would be able to go to school for at least a few hours a day. Miranda mentioned how important she knew education was in this day and age and how she wished that she had tried harder at school back when she was younger. This reassured my wife and me about Maria's schooling, but we were worried about whether we'd be able to obtain passports for the children in time. After all, there were only a few weeks till the Sotos' family friend was going to pick up our children, so we did not want to delay any paperwork.

We went to the closest office of the Ministry of Internal Affairs Immigration and Passports division to apply for a passport. The office was operating on reduced hours due to the pandemic, so we lined up at dawn to make sure we could get a same-day appointment. We brought along the required documents and while we were waiting in line at the office, Ana noticed Edward's birth date was off by a few months in the birth certificate. We actually didn't apply for Edward's birth certificate immediately after he was born. It's pretty common around here for children to not have a birth certificate. We only applied for one when he was about to go to school and a birth certificate was required to enroll. A government official must've made a clerical error back when we applied for Edward's birth certificate. My wife and I briefly discussed whether it would make sense to correct Edward's birth date but it was such a hassle to get a birth certificate for Edward last time — getting an affidavit and telling the government why we were requesting a birth certificate, and then going through an interview process for it — that we didn't want to go through it again, especially when our timing was already

so tight. Edward's birth date was only off by a few months anyway, so we didn't think it'd be a big deal. The passport application fees cost us a fortune, but we didn't want to miss out on this opportunity for the kids! We were worried we wouldn't receive the passports in time, since there are administrative delays all the time, but gladly we received the passports around two weeks later. Once we received the children's passports, we rushed over to the Sotos' house and handed them off to the Sotos.

I still remember the day we sent our children off to Capitalford in Country A very clearly. The Sotos' family friend came to pick our children up. I did not exchange many words with him, but he seemed like a respectable man and we were sure that the Sotos would only do business with people equally well respected as they are. I was very proud of our children for pursuing their dreams and beginning a better future and for being so hard working. That evening, we received a text from Edward to say that they had arrived. He said he was too excited and busy exploring his new home to call us, but that everything was fine. We decided to stop bothering him and Maria for the night so that they would have time to explore.

A day later, we reached out to Edward again, but our WhatsApp message to Edward stopped delivering. We were concerned because the cell phone we bought them was used and we did not know if it would work well. We asked Miranda to check on our children as well and she said that the charger was broken and the children would not be able to find a charger for the phone we gave them. We hoped that the children would be able to buy a new phone with their earnings soon. Miranda told us that Ray was very busy and could not give us updates on how the children were doing. We missed our children terribly, but did not want to bother the Sotos and Ray further since we had already asked them for such a big favour.

The weeks went by and we heard nothing. At first my wife would ask Miranda for updates, but I heard from my wife that Miranda was becoming very annoyed at our questions. I also had not seen Antonio much lately. We used to see each other on the streets often, but lately it seemed like he had disappeared. When my wife saw Antonio and tried asking him about our children, I heard he was equally hostile. The Sotos were anything but hostile to us before, and I told my wife that we should wait a bit to appear calm. I was actually also very worried, but did not want to agitate the Sotos or Ray anymore and potentially further worsen our relationship. I was not sure if we had done something to upset the Sotos or if our children had offended Ray and Ray had informed the Sotos about this.

Recording officer's signature James Mulbah

Complainant's/Witness' signature Daniel Lee

I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Daniel Lee. Signed by me James Mulbah on 23 March 2022 at about 6:00 PM.

Statement of Ana Lee

National Police — Country A

Case No.: 453 of 2022

Statement of	Ana Lee
Occupation	Agricultural worker
Nationality	Country B
Age	36
Address	Mamba Road, Smallville, Country B
Telephone	22 888 1111

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	National Police HQ, Capitalford, Country A
Date	23 March 2022
Time	2:30 PM

My name is Ana Lee. I am 36 years old, and I live in a small village, just outside of Midtown, Country B. My husband is Daniel Lee. My children are Edward (15 years old) and Maria (13). My husband and I are both agricultural workers. We hoped to find an apprenticeship for our son Edward during the pandemic as we were struggling to make our ends meet, and we wanted Edward to learn new skills so that he could have a better life.

I asked my neighbour, Miranda Soto, for help, because her husband is known to be a very wealthy man in our area, and I thought that I could trust her. Miranda said that she would ask her husband if he knew anybody who could give Edward a job. Miranda has always presented herself as an upstanding woman in our community — someone who other people look up to. Miranda is a mother herself — I never thought that my son would come to any harm if she helped him. A few days after I spoke to Miranda, she told me that her husband, Antonio, had found work for both Edward and Maria with their friends in Capitalford in Country A. Edward was to work in an export business and learn how to use computers, and Maria was to work in a small shop. The offer for Maria was unexpected as, at first, we were only looking for work for Edward. However, the opportunity sounded exciting and Maria begged my husband and me to go. How could I refuse my child the chance for a better life? With the promise from Edward that he would look after his sister, and the assurance from Miranda that all would be well, my husband and I relented. Both children were so excited to start their big adventure. After so long struggling to get by during the Covid-19 pandemic, we finally had hope that better times were coming.

Miranda reassured me repeatedly that the children would be fine. Shortly after she told us about the jobs, we went over to the Sotos' house for tea to talk about the logistics of getting the children to Capitalford of Country A, and Miranda told wonderful stories about the kindness of the couple that would be caring for Edward and Maria. She said that they lived in a mansion, with six children of their own who were all grown up. She said the wife was longing to care for children again, and the husband was excited to have an apprentice to train. It sounded idyllic. My husband and I had also hoped that Maria would be able to graduate from high school at least. My husband asked the Sotos about that, and they reassured us that Maria would be able to go to school for at least a few hours a day. I was very relieved to hear that at the time. However, the Sotos also asked us for the children's passports and we were not sure if we'd be able to obtain

passports for the children in time. A few days after that, my husband and I went to the closest office of the government passports division to apply for passports for Edward and Maria. We went as early as possible to make sure we'd get be able to apply for the passports that same day. I was going through the documents required for the passport applications and I noticed Edward's birth date was earlier by a few months than Edward's actual birthday in his birth certificate. The passport showed that he was 15 when there were actually still a few months left till he would be turning 15. I wasn't sure if this was going to be a problem so I told my husband about it, and we discussed for a bit while waiting in line. My husband and I decided that it already took us so long to get us the birth certificates last time and we didn't want to go through it again. The children and the Sotos would be so angry at us if this opportunity fell through because of a small administrative mistake made many years ago! Gladly, the passport application process went smoothly after that and we received the passports around two weeks later. We handed the passports over to the Sotos, who took care of everything after that and we couldn't believe our luck. We did not ask the Sotos when they would return the children's passports to us or to the children directly, but we were not concerned and did not want to risk seeming impolite.

A few weeks later, when we waved the children off in the car with Ray Sims, who had come to collect them, we felt certain that they were headed off to find success and prosperity. That evening, we received a text from Edward to say that they had arrived. He said he was too excited and busy exploring the mansion to call us, but that everything was fine.

A day later, my WhatsApp messages to Edward stopped delivering, so I could tell that he hadn't charged the phone we had given him. Concerned, I texted Miranda, but she said that the charger was broken. This reassured me: the children were earning plenty of money — they would be able to buy a new one soon. However, Miranda then told me that the children would not be able to find a charger for the phone we gave them. I had no reason to doubt Miranda — she is very well respected, and had always been kind to me and my family. I just hoped that the children would be able to buy a new phone with their earnings soon. Miranda told me that Ray was very busy and could not give us updates on how the children were doing. I didn't want to bother him — I was so grateful to him for giving my children this opportunity — so I accepted Miranda's suggestion that 'no news is good news', although I missed my children terribly.

The weeks went by, and we heard nothing. At first, I would run to see Miranda if I passed her in the village, asking for any news of the children. However, as time went by, she seemed increasingly annoyed by my questions. I asked her in the street when we could expect to receive money from the children, and she raised her voice at me, telling me that I was money-grabbing and needed to be patient. I was mortified, as some of our other neighbours overheard. I decided not to ask anything further. When I saw Antonio, I tried to ask again more discreetly, but he was equally hostile. It was very strange — they had never treated me like this before. There was nothing I could do but wait, but I was devastated — something felt very wrong. My husband said I was being too anxious — after all, the Sotos were the most well-respected people we knew. He told me not to worry too much, so I bit my tongue.

Recording officer's signature James Mulbah

Complainant's/Witness' signature Ana Lee

I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Ana Lee. Signed by me James Mulbah on 23 March 2022 at about 3:30PM.

Statement of Joseph Torr

National Police — Country A

Case No.: 453 of 2022

Statement of	Joseph Torr
Occupation	Retired
Nationality	Country A
Age	51
Address	Duogomai Street, Capitlford, Country A
Telephone	66 444 1111

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	National Police HQ, Capitalford, Country A
Date	7 March 2022
Times	10:30 AM

My name is Joseph Torr and I am 51 years old. I live in a small apartment on the outskirts of Capitalford, Country A. I am too old to work now, but for many years I lived in the city center and worked at a hospital there. I am not medically trained, but I used to support the doctors and nurses so learnt how to provide basic medical care. We don't have a doctor in my part of the city, so I am usually the go-to person for any minor injuries.

I have been asked to give a statement about the visit I received from Ray Sims. About two months ago, on a Friday if I recall correctly, Mr. Sims, a local man, arrived at my door accompanied by a boy, who couldn't have been much older than 14. He looked visibly shaken and my eyes immediately went to his left hand that was wrapped with a blood-stained cloth. Mr. Sims explained that the boy was the son of a family friend, and that he had cut his hand while playing at Mr. Sims's house.

I ushered the boy inside while Mr. Sims waited outside. I unwrapped his hand to find some deep slices on his left fingers and hand. I asked the boy what had happened, and before he had a chance to respond, Ray entered the doorway. I assumed he heard my question and did not want the boy to answer. I realised that something strange was going on, but it was none of my business. We stayed in silence for the remainder of their visit. I cleaned up the boy's cut and applied an anti-infection solution I keep with me for emergencies like this. I dressed his wound with some clean cloth, and he was ready to go.

Mr. Sims thanked me and gave me 100 dollars in cash. I was left feeling uncomfortable about this interaction. The boy didn't say a word during the whole visit, so I was unable to tell where he was from. He definitely did not get that cut by accident: it looked like he had been cut by some sort of machine. Aside from the slash on his hand, he didn't look to be in a good way. He was very thin and looked exhausted. As I said, it is really none of my business and Ray was always standing over my shoulder so there was nothing I could really do. But I would be very surprised if the boy got an injury like that from just playing games.

Recording officer's signature	Nathaniel Kollie
Complainant's/Witness' signature	Joseph Torr

I, Nathaniel Kollie, hereby declare that I have faithfully and accurately recorded the statement of the above-named Joseph Torr. Signed by me Nathaniel Kollie on 7 March 2022 at about 11:30 AM.

Statement of Rebecca Johnson

National Police — Country A

Case No.: 453 of 2022

Statement of	Rebecca Johnson
Occupation	Government officer
Nationality	Country A
Age	30
Address	Mills Place, Capitalford, Country A
Telephone	55 444 5555

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	National Police HQ, Capitalford, Country A
Date	30 March 2022
Time	1:30 PM

My name is Rebecca Johnson and I am a citizen of Country A. I have been working at the Ministry of Labor for the last eight years. I was recently part of the team that conducted a raid on a garment factory on the outskirts of Capitalford owned by a businessman named Ray Sims. Prior to the raid, we received a tip-off from villagers in a nearby town reporting that children (some of them look like foreigners) were seen being driven into the factory unaccompanied by their parents. City goers also reported hearing young voices echoing from a small building within the factory well into the night. Upon receiving this tip-off, our team did a cross-check against local schools and vocational training centers and no new enrolment records were revealed. In addition, rumors had apparently spread over town that Ray had boasted to his relatives that he was recently able to purchase a number of large-ticket items due to his business acumen and ingenious cost-saving idea of “simply hiring younger workers from villages in remote areas, including neighboring countries to cut down on operating expenses.” The raid consisted of a team of twelve of us, and we arrived in three cars. Our team was cautious to remain quiet, and we split ourselves into three teams of four members each spread over discreet parts of the factory. We agreed to conduct the raid in the evening right before sunset. During the day, we were able to observe workers using different types of sewing machines or dyeing fabrics. These actions seemed dangerous as some of the workers seemed quite young. The factory looked crowded with young workers performing arduous tasks without enough space to sit and rest. My team was the closest to the small building. When we raided the building, I observed that the building was quite old, and that it had no windows. Apart from a few personal items and wooden planks for beds, the building was pretty bare. There were no electrical outlets, and the only adjoining bathroom did not appear to be sanitary.

I came into contact with Maria in the building. Another team entered into a confrontation with Ray Sims and it was during that encounter when they found Edward. They were taken aback by our presence, and seemed tired and afraid. Edward told me that he is 15 and Maria is 13. According to Edward, they are siblings from a village in Country B and that they had little money. Edward has a visible cut on his left hand and fingers, and he asked me if him and his sister were being arrested for doing something illegal. Edward also asked if they would be given the opportunity to speak with their parents if they came along with us. They were taken into custody by our team and eventually handed over to the local social welfare office.

Recording officer's signature	James Mulbah
Complainant's/Witness' signature	Rebecca Johnson

I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Rebecca Johnson. Signed by me James Mulbah on 30 March 2022 at about 2:30 PM.

Statement of Annie Green

National Police — Country A

Case No.: 453 of 2022

Statement of	Annie Green
Occupation	Garment factory worker
Nationality	Country A
Age	30
Address	Foothill Road, Capitalford, Country A
Telephone	66 111 3333

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	National Police HQ, Capitalford, Country A
Date	29 March 2022
Time	2:30 PM

My name is Annie Green. I am 30 years old. I live in Capitalford and I have been working at an old garment factory in the area owned by a man named Ray Sims for six years.

There are around 50 workers at the factory, most of us aged between 20 and 35 years old. It has a big workload and we do not have enough workers. Our work at the factory is very demanding and labor intensive, and could be dangerous because we work with so many outdated machines which haven't been appropriately maintained and repaired. Both male and female workers having similar tasks of using the sewing machines, dyeing the fabrics, and folding and packing the finished clothes. Ray Sims is a strong and stern person who is very serious about his business. He is always at the factory monitoring our work.

A few months ago, Ray Sims brought two new young workers, Edward and Maria to the factory. I remember them particularly because they looked really young, and they looked confused and frightened when Ray Sims was showing them around the factory and explaining to them their general daily tasks. Ray Sims arranged for Edward and Maria to live in the small, windowless building with wooden planks for beds within the factory.

Edward and Maria started working at the factory soon after they arrived under Ray Sims's supervision. Edward used the sewing machines, while Maria worked with me to fold and pack clothing. I learnt from Maria that she was only 13 years old and Edward is her brother who was 14 years old back then. I was surprised when I knew they were that young because I was not aware that Ray Sims employed children of that age to work at the factory. Particularly, the work that Edward was tasked to perform with the old machines that need repairs were dangerous and definitely not appropriate for a 14-year-old boy. Maria told me that Ray Sims is a friend of her parents' good friends who ran an export business in the city, and that Ray promised to bring her and Edward to work for his export business. Maria said she had no idea that she would end up working in a garment factory with her brother. Maria also mentioned that she was not able to contact her parents and she did not know how she could leave the factory with her brother although she really wanted to go home.

Around a few months ago, Ray Sims brought a European buyer to visit the factory. The European walked around the factory with Ray Sims, observed our work and examined the clothing. Soon after the European buyer's visit, our work in the factory became significantly more demanding and intensive. Ray Sims told us that a lot of work needed to be done

to upgrade the factory in a short period of time to meet the European buyer's demands. Our working hours increased from around 10 hours a day to 14 to 17 hours a day and Ray Sims supervised our work even more closely. As a result of longer working hours, many of our workers did not have enough rest and injured themselves during their work. A few male workers, including Edward, sliced their hands with the sewing machines. However, despite the deep wounds, Ray Sims only arranged for the injured workers to a local man to help wash the cut and apply medication to the wound, without providing appropriate medical care to treat the wounds.

A few days ago, the local authorities conducted a raid on our factory. At the end of the raid, I heard that Edward and Maria were taken away from the plant by the local authorities.

Recording officer's signature James Mulbah

Complainant's/Witness' signature Annie Green

I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Annie Green. Signed by me James Mulbah on 29 March 2022 at about 3:30 PM.

Statement of Esther Kim

National Police — Country A

Case No.: 453 of 2022

Statement of	Esther Kim
Occupation	Family business
Nationality	Country A
Age	28
Address	Cheeseman Blvd, Capitalford, Country A
Telephone	77 222 9999

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	National Police HQ, Capitalford, Country A
Date	26 March 2022
Time	9:00 AM

My name is Esther Kim. I am 28 years old and live in Capitalford. Since the age of 17, I have worked for my family business. I help with the accounts and the general running of the business. We own a local convenience store. The plan is that my husband and I will take over the family business when my parents get too old.

I have been asked to give a statement about my neighbor, Mr. Sims. My husband and I have lived in our current house for almost six years. Mr. Sims was already living in the neighboring home when we moved in. He runs a garment factory, which is very common in this area. My husband and I are both usually out at work during the day, but I am currently pregnant with our first child so have been home most of the time in the past two months.

Mr. Sims used to be well known in the area for running a very profitable garment business, and he employed a number of local men and women, including my older sister before she got married. Things changed very abruptly, I am not sure whether he had cash flow issues, or what exactly the problem was, but he suddenly stopped paying the 20 or so laborers he had working at the factory. Naturally, they all gave him the benefit of the doubt for a few weeks and then stopped turning up to work. You can't expect people to work for free.

Since then, it has been much quieter over at the factory. I definitely haven't heard of him hiring anyone else in the community, and there aren't people coming and going to work at the factory in the morning and evening. At least, in the past two months while I have been at home I haven't seen anyone. I'm guessing he now has lodgers that live at the factory and work for him. He does have a very small outhouse that could probably house a few people.

Other than the fact that Mr. Sims still owes my older sister for the few weeks of labor that he didn't pay her for, we haven't had any issues with him.

Recording officer's signature	James Mulbah
Complainant's/Witness' signature	Esther Kim

I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Esther Kim. Signed by me James Mulbah on 26 March 2022 at about 10:00 AM.

HANDOUT 4.4.2B: DEFENSE WITNESSES

Statement of Ray Sims

National Police — Country A

Case No.: 453 of 2022

Statement of	Ray Sims
Occupation	Garment factory owner
Nationality	Country A
Age	52
Address	Sims Quality Clothing, Capitalford, Country A
Telephone	66 111 1111

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	National Police HQ, Capitalford, Country A
Date	6 March 2022
Times	9:30 AM

My name is Ray Sims. I am 52 years old and have lived all my life in Capitalford. I grew up working at my family's garment factory, Sims Quality Clothing, and have done every type of job at the factory at one point in time or another. The work is hard, but I worked this hard to learn the family business, improve myself, and eventually I took over from my father when he fell ill several years ago. Under my hands, the business had grown so much that I could afford to buy a house, expand into other businesses, and even contribute to my local community.

A week ago, the government raided my factory and arrested me under allegations that simply are not true. I would like to take this opportunity to provide my statement of the true facts and set the record straight.

I have been told that I am being prosecuted for employing Edward and Maria Lee under false pretenses as child laborers and subjecting them to unsafe and unhealthy conditions. I was incredibly shocked by these allegations, and in fact quite disheartened as I believe I went out of my way to take a personal interest in the well-being and betterment of Edward and Maria, as a favor to the Sotos and as a kindness to the Lee family who I believed I was very much helping. We had only met recently and I had heard that Mr. Soto was incredibly influential in his village. To get on his good graces and to ensure that we would have good working relations going forward, I even generously invited him over so that we could have a meeting face to face. He even met my family, which I believe would help him understand what kind of person I am and the business I am trying to build.

When the Sotos approached me to ask, as a favor on behalf of a struggling family in their village, whether I knew of any employment opportunities for the two oldest children of their family friends, who they told me were 18 and 15 years old, I was eager to help and suggested I might be able to take them on as apprentices at my factory, and show them the ropes, as I had learned myself from the ground up.

A few days later I was told by the Sotos that the family was very grateful for this opportunity and would like to send their son Edward and daughter Maria to come work for me. Because they were friends of the Sotos and it was Edward's and

Maria's first time leaving their village by themselves to a foreign country, I offered to come personally to pick up Edward and Maria, introduce myself to the family, and provide the parents with my contact information and to make sure Edward and Maria were able to travel safely. When I arrived, everyone seemed very grateful and excited about the opportunity. No one asked me any questions or raised any concerns to me at that time about the nature of their employment, nor did Edward or Maria say anything to me once we reached the factory or at any point thereafter to indicate this was not exactly as had been agreed to. When we left the village in Country B, the Lees gave their children cell phones to stay in contact and the Sotos handed me an envelope with various documents including the ID cards for Edward and Maria which indicated their ages as above the working age here as I was informed.

When we arrived at the factory, as I do with most new workers, I was fairly lenient with Edward and Maria during their first few weeks, to give them time to adjust to the job. Normally I would gradually increase their duties and my expectations over time, but unfortunately, very shortly after they arrived, I was offered a very important and potentially lucrative opportunity with a foreign buyer. This opportunity would be very good for the factory and consequently for all my workers who would benefit as well. However, in order to meet the demands of this buyer, the factory would need to undergo some significant upgrades and this was going to require a lot of extra work and cost upfront, and I needed to ask for some extra commitment and sacrifices of my employees to get us through this period. And this included Edward and Maria.

I could see the extra workload was difficult for them, and again I took time out of my schedule to give them some extra personal attention to help them as much as I could. At one, Edward, unfortunately, injured himself — this happens occasionally at the factory as it can in all forms of manual labor. And again, I personally saw to Edward's care, taking him to the local doctor myself and making sure the doctor gave him proper care and attention. Seeing a doctor and having to take care of Edward was not cheap, on top of accounting for his lost productivity. I also provide Edward and Maria with lodging and food, and had to pick them up from their village far from Capitalford, all of which I need to deduct from the salary I give them each month. Edward and Maria were also more inexperienced than I expected and not as fast as the other workers. I initially told Antonio I would be paying them \$300 per month each, but adjusted that to \$200 per month each. There's no such thing as a free lunch, after all.

I believe my factory operates with higher safety and concern for its employees than most if not all of my competitors in the region. And ironically, many of the upgrades I was making to the factory included even further improvements in the safety conditions of the workers, and it is astonishing that I am now being charged with creating a hazardous work environment.

I also believe that it is some of my less scrupulous competitors who have levied these false accusations against me to the authorities, and that as this investigation uncovers the truth, I will be vindicated of all charges.

Recording officer's signature Nathaniel Kollie

Complainant's/Witness' signature Ray Sims

I, Nathaniel Kollie, hereby declare that I have faithfully and accurately recorded the statement of the above-named Ray Sims. Signed by me Nathaniel Kollie on 6 March 2022 at about 10:30 AM.

Statement of Antonio Soto

National Police — Country A

Case No.: 453 of 2022

Statement of	Antonio Soto
Occupation	Trader
Nationality	Country B
Age	51
Address	Robertsfield Road, Smallville, Country B
Telephone	11 222 7777

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Bordertown Police Station, Country A (near Country B)
Date	5 March 2022
Times	9:30 AM

My name is Antonio Soto. I am 51 years old and live in a village located outside of Midtown of Country B with my wife, Miranda Soto. I have two sons who are both living and studying in Capitalford of Country A.

Many years ago, I set up a business trading in local handicrafts and textiles, which became very profitable. Due to my success and good fortune over the years, my wife and I have earned the respect and admiration of the people of our village. They often approach us for advice on various matters, including requests to help them find work when they are unemployed. I have helped a few people in my village find work in larger cities in both Country A and B, through my contacts. However, the Covid-19 pandemic affected my business badly, and ever since, my finances have taken a turn for the worse.

About one year ago, a man named Charles Murray from Country A approached me at my home. He mentioned that he had heard about me through the others in the village and had a business prospect for me. He told me that a business associate of his, Ray Sims, was in the export business and needed young workers to help him. He did not elaborate on the exact nature of the business. He said Ray Sim's business was located near Capitalford, Country A, and therefore, the workers must be ready to travel and live there. He even offered to pay me a portion of the compensation he would get from Ray Sims! This was an exciting business prospect, especially since my business was making heavy losses at the time. Mr. Murray asked if I could meet with Ray Sims and take the matter further with him. I agreed to do so.

A few weeks later, I travelled to a place on the outskirts of Capitalford, Country A, to meet Ray Sims at his house. He introduced me to his wife and six children and showed us around his mansion. Soon after, he pulled me aside to talk business. He told me that the workers he needed for his export business must be young and able-bodied, and could be both boys and girls. He also told me that he would need to obtain and retain the workers' nationally issued ID cards as security. He also told me that he would pay me handsomely for every worker that I recruited. I wondered why he needed so many workers and why he wanted their ID cards as security. However, I did not ask further questions, as I was eager to stay in his good graces. After coming back to my village, I decided to keep an eye out for any people in our village who may be interested in working for him.

A week later, Miranda told me about a conversation she had with Ana Lee, whose family we knew well. She mentioned that Ana wanted her son Edward to start working to help supplement the family's income, and if I could give him a job as my apprentice. While I did not have any jobs available, I decided to check whether Ray Sims might be interested in hiring Edward. It also struck me at that time that Edward had a young sister, Maria, who could also be sent to Capitalford. I wasn't sure of their ages, but I had passed by them many times in the village and they looked to be at least working age around here from what I recall. I also asked Miranda if Ana's children were old enough to travel to Capitalford in Country A alone since I would certainly not want to send anyone too young over to Ray Sims and potentially harm our relationship, and Miranda told me not to worry and they were old enough. I asked Miranda to tell Ana Lee that we could help both Edward and Maria find work in Capitalford, Country A. I recognized that it would be harder for the Lees to agree to send their daughter to work with someone they didn't know. Therefore, I asked Miranda to refer to Ray Sims as our family friend. In any case, I had met him at his home and been introduced to his family.

I then spoke with Ray Sims to tell him that I had found a boy and a girl in my village who wanted to work, and asked him whether he is still looking to hire workers. Ray Sims confirmed he was still hiring and could hire both Edward and Maria. He told me that once I had secured their national IDs, he would pick them up and transport them to Capitalford, Country A himself. Ray Sims told me the children would each be compensated around 300 USD a month. This is a lot here and a lot more than what the children would be paid if they stayed in our village or even our country. I asked a bit more about the working conditions and Ray Sims assured me that he would treat Edward as his own apprentice, although he may need Edward to help him run some tasks here and there that may involve some labor. Ray Sims and I both agreed that was how we each started our businesses and working hard tasks is good for young people, if anything! Maria would also be working close to Edward and she would be doing more domestic work. She would need to help out with some urgent tasks if they came up, but nothing she couldn't handle. Ray Sims also promised that he would give me around 500 USD as a gift to show his appreciation, and he was looking forward to a long-lasting relationship between us. I was impressed by Ray Sims's generosity and happy about my good fortune to be able to connect with such an impressive man. What a nice outcome for just making an introduction! Miranda delivered the good news to the Lees. A couple of days later, Ana and Daniel Lee came to our house for tea and conveyed their acceptance of the job offer for both Edward and Maria. Miranda and I were both very happy! We were sure that we had facilitated a wonderful future for Edward and Maria. I asked the Lees to arrange for Edward's and Maria's national ID cards for the border crossing, which they readily handed over to us. I had an urgent business meeting to go to at the time, so I took a quick glance at the national ID cards and they looked fine to me at the time. I didn't pay too much attention since I was running late already and the business partner I was meeting was a very important trading partner of mine and he's known for having a bit of a temper.

Some weeks after Edward and Maria left with Ray Sims for Capitalford in Country A. Miranda told me that Ana had approached her saying that she was not able to get in touch with her children and asked if we had any news of them. Miranda asked if we should make any inquiries about Edward and Maria with Ray Sims. I was surprised to hear that Ana had not heard from her children for many weeks, but I was sure that they were well taken care of with Ray Sims. Besides, just a couple of days ago, I had received a call from Ray Sims who asked me to find more workers for him, even those that are younger than Edward. He insisted that he needed younger workers, as hiring local adults in Country A was too expensive. I was eager to receive more business from Ray Sims, and did not want to anger him by making inquiries about Edward and Maria. I told Miranda that we should not meddle in Ray Sims's business and asked her not to respond to Ana's questions. Soon after, Ana approached me asking if I had heard from Edward, Maria, or Ray Sims. I decided not to answer, since I was already recruiting more workers for Ray Sims and did not want to risk the good business relationship I had developed with him.

Recording officer's signature David Freeman

Complainant's/Witness' signature Antonio Soto

I, David Freeman, hereby declare that I have faithfully and accurately recorded the statement of the above-named Antonio Soto. Signed by me David Freeman on 5 March 2022 at about 10:30 AM.

Statement of Miranda Soto

National Police — Country A

Case No.: [453] of 2022

Statement of	Miranda Soto
Occupation	Housewife
Nationality	Country B
Age	40
Address	Robertsfield Road, Smallville, Country B
Telephone	11 999 7777

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Bordertown Police Station, Country A (near Country B)
Date	5 March 2022
Time	2:30 PM

My name is Miranda Soto. I am 40 years old, and I live in a village outside of Midtown, Country B. My husband's name is Antonio, and we have been married for almost 20 years. He is very kind to me and works very hard. When we were young, he started a small business trading local handicrafts and textiles. Due to his hard work, this small business grew, and now he trades across Country B and our neighbouring countries, including Country A.

We were blessed with two sons—the oldest is just starting college, and the younger is still in grade school. A few years ago, our oldest son expressed interest in studying in Capitalford, Country A. The city's education system was better than the schools around the area we live. We thought about this for a bit but ultimately, we decided that investing in our son's education was a worthy use of our money. We sent our sons together, and I visit often and cook and clean for them while I am visiting. The younger one struggled a bit at first, but now he has made friends and adjusted well. My older son also looks after his brother and they seem to be doing well.

We are grateful for our good fortune, and our ability to give our sons a better life than what we had. Many in our village gossiped about our decision, saying that we had so much money we did not know what to do with it, that we were wasting money paying for two homes just so our sons could get an education in a different country. Many do not understand why we are spending so much money supporting them from afar. It was not an easy decision for us, but we believed it was a worthwhile investment in their future.

My husband continued to work hard, since we had to support our sons. His business grew, and now he runs multiple businesses around the country and he has made a lot of money. We are thankful for the good fortune and understand that not everyone has it as easy as us. We remind our children that it is a blessing that they can study instead of work in the fields like many of their friends do.

Many in our village are secretly jealous of our good fortune. They gossip about our family and even create false rumours that we are involved in illegal businesses, and that there is no way that my husband could have earned this money through honest work.

I understand that they say these things because they are jealous. I try not to let it bother me too much.

One day I was out shopping for groceries when I ran into Ana Lee. Ana is around my age and lives in our neighbourhood. She also has two children. We are not too close but we say hi when we see each other in the market. I think Ana and her husband are farmers. I am not sure what they do.

On this day, I was shopping for some chicken. My sons were planning to visit that weekend and I was excited to cook them their favourite dish. She approached me and asked how I was affording chicken “in these times.” I responded that today was a special occasion as my sons were visiting. I showed her pictures of my sons.

She complained about COVID-19, and how it had made things very difficult for her family. They had lost their jobs and could not find new ones. They were now living off of gruel. She said she was very jealous of my life, of my sons studying in Capitalford, Country A and of my ability to afford chicken. Ana said that it was too late for herself and her husband, but she prayed that her son would become like my husband and live a successful life, so that his wife can buy chicken and her grandchildren can study abroad.

She looked distressed and I wanted to help. I suggested perhaps I could ask my husband if he needed help at his businesses, and if he would consider taking on Edward as an apprentice. I knew that this request would annoy my husband. He always received requests from people asking for money or jobs, and most of the time, they would take the money and never pay him back, or they would work at the job for a few days before complaining that it was too difficult for them to do their jobs. But I promised Ana I would at least raise the possibility for her to my husband.

Ana immediately brightened up and thanked me, and immediately asked me to also find a position for her daughter. I stated that I could not make any promises but I would try.

Over dinner, I raised the topic with my husband. He sighed and stated that he was not interested in hiring someone who did not have a proven track record of being a hard worker. I persisted. I asked him to consider teaching Edward as our neighbors were going through a hard time. I persuaded him to think of Edward as our son, and how we would feel if we were in that position.

My husband relented and explained that he did not have any open positions at his businesses, but that he would ask his business partners to see if anyone needed assistance. Antonio knows a lot of successful people in this region after doing business all these years, so I was sure that he’d find someone who would be willing to take on Edward as an apprentice. The next day, my husband spoke to some of his business partners. One of his friends in Capitalford, Country A who ran an export business said that he needed some workers, and he would take anyone that was available. I asked my husband questions about the work, and he told me that the job would mostly be assisting his friend with running the export business — a wonderful opportunity in Capitalford — and as part of the job, Antonio’s friend would also provide on-the-job vocational training related to computers and business management to Edward. The friend also ran a store that always needed a pair of extra hands, and he was willing to employ Ana’s daughter as well. It was wonderful news and I had helped change a family’s life for the better, and I went to share this news with Ana soonest I could.

After Ana heard the news, she was also very excited. I thought it was a good opportunity for her children too, so I was happy that we could help. We invited their family over for tea to celebrate the good news. When they came over, they asked many questions about the business partner. My husband and I answered their questions, explaining that we worked with this business for a few years and that they seemed like reasonable and nice people.

My husband then connected the partner to the family directly. Last I heard, the partner had sent a car to pick up the children. I did not hear about them after, and my husband also assured me that they would be fine.

One day Ana texted me and said she could not reach her children. I was not sure why she was reaching out to me about this, but I asked my husband to check with his business partner. His partner told my husband that the children had broken their phone charger but that they were fine. I relayed this message to Ana. She asked me many questions about how the children were doing and said that that business partner was not responding to her messages. I was not sure how her children were doing either, but I suggested that perhaps the business partner was too busy with work. I assured her that her children were likely doing well.

Ana continued to ask me about her children. She would come by almost everyday and would sit in my house, even though I had other plans and errands to run. She would come and just complain about how her children were not

responding to her messages. Whenever she saw me in the market, she would run up to me and ask me how her children were doing. I was frustrated because I also did not know. I was not the employer of her children. All we had done was provide the introduction. I did not want to be this involved after her children had already been hired. She started to be accusatory in her questions, as if I was the person who had sent her children off and cut them off from her family. She started to accuse us of not giving her children their phone, and not providing a charger. She accused us of not paying her children.

I explained to her many times that my husband and I were not employing her children. But she did not seem to accept that fact. She started spreading rumours about our family, that we had taken their children and isolated them. She spread rumours that we had tricked her into sending her children away. My husband became increasingly annoyed at the rumours because they were impacting his reputation in the village.

She then started asking us for money. She said we should give her and her husband money for her children's wages. I became even more frustrated. I was not employing her children. My husband was not employing her children. I asked her firmly to reach out to the business partner, and explained that we were not her children's employer. I asked her to please stop raising this with us as we did not have more information on this topic.

My husband told me that after this conversation, she started harassing my husband for news about her children and money. My husband also firmly asked her to reach out to the business partner directly. She has continued to spread rumours about our family. I finally understand why my husband tries not to help out people who are not interested in helping themselves.

Recording officer's signature David Freeman

Complainant's/Witness' signature Miranda Soto

I, David Freeman, hereby declare that I have faithfully and accurately recorded the statement of the above-named Miranda Soto. Signed by me David Freeman on 5 March 2022 at about 4:00PM.

Statement of Michael Kabba

National Police — Country A

Case No.: 453 of 2022

Statement of	Michael Kabba
Occupation	Carpenter
Nationality	Country B
Age	40
Address	Mamba Road, Smallville, Country B
Telephone	55 444 9988

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Bordertown Police Station, Country A (near Country B)
Date	6 April 2022
Times	9:30 AM

My name is Michael Kabba. I am 40 years old and live in the village of Smallville. I was born and raised here. My father taught me carpentry when I was 18. I have been working at the village carpenter workshop for more than twenty years. I do not earn a salary. Instead, I am paid for each piece of furniture that I make.

I have been asked to give a statement about the Sotos and Lees. I know of Mrs. Miranda Soto and Mr. Antonio Soto. It is fair to say that anyone who lives in our village would know of the Sotos as Mr. Soto is the richest man in the village. The Sotos live in a mansion at the outskirts of Midtown. They are very well dressed, Mrs. Soto, especially, who wears a lot of jewelry and silk. They have a driver who drives them to town. It is rare for anyone to own a car in our village, so the Sotos are highly recognizable. Mr. Soto became rich through his trading business, but I do not know the specifics of his business. I have heard from my customers that the Sotos are very generous when it comes to business opportunities. They are very willing to offer opportunities to children so that they can learn and develop business skills and knowledge. As a result, the Sotos are very respected in our community. It is important that the Sotos are helping the poor in the community. Although most of these job opportunities are abroad and involve hard labor, we are already very grateful. There is no future in our village. To travel abroad and receive education is something that we have never dreamt of, but Mr. Soto made this come true, we will always be grateful.

I recall that the Lees are one of the families who the Sotos helped to secure jobs. I am close with Daniel Lee and his wife, Ana. They are seasonal farmers and have two children, Edward and Maria. Both of them are in their teens. I recall visiting the Lees one evening for dinner and they told me the fantastic news that the Sotos have offered jobs to Edward and Maria in Capitalford, Country A, our better-off neighbors. They will be working in an export business with Mr. Soto's friend. Edward also mentioned that the Sotos promised to give vocational training in business management to both Edward and Maria. Ana told me that she was reluctant to let Maria go with Edward at first, especially when Capitalford is so far away in a different country, but Maria pleaded for days and she eventually gave in. I am very proud and excited for both Edward and Maria. I think this is such a good opportunity for them to grow and build a life and future outside of our village.

Edward and Maria left home a week later. It has been around 7 months since I last saw them. While I miss having them around, I am sure they are working hard and learning diligently in Capitalford. I ran into Daniel in town a few days ago

and asked him about Edward and Maria. He told me that they have not called home but Mr. Soto had reassured him that they are well.

Recording officer's signature David Freeman

Complainant's/Witness' signature Michael Kabba

I, David Freeman, hereby declare that I have faithfully and accurately recorded the statement of the above-named Michael Kabba. Signed by me David Freeman on 6 April 2022 at about 10:30 AM.

Statement of Charles Murray

National Police — Country A

Case No.: 453 of 2022

Statement of	Charles Murray
Occupation	Trader
Nationality	Country A
Age	47
Address	Tubman Blvd, Capitalford, Country A
Telephone	88 11 2211

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	National Police HQ, Capitalford, Country A
Date	4 March 2022
Times	11:30 AM

My name is Charles Murray. I am 47 years old and live here in Capitalford with my wife, Jennifer and our three children. I am a trader and I work closely with Mr. Antonio Soto and Ray Sims.

I have been asked to give a statement about Mr. Antonio Soto and Ray Sims, and my connection with them. Prior to my marriage, I had worked in a village outside of Capitalford. I acted as a middle man in the garment trading business. My role is to connect garment factory owners with potential clothing companies. When the garment industry slowed in the village, I moved back here where I met Ray Sims. Ray Sims is one of my most important clients, as he is a very influential man in Capitalford. He also paid me well. I earned Ray Sims's trust after introducing him to a European clothing company in 2015.

A few years ago, Ray Sims told me that he was looking for workers at his factory, and asked if I could help. He said that it became very difficult to find strong and young workers in the local area, and since he was aware of my previous experiences working abroad, he wanted me to find young and willing teenagers to work for him from the neighboring countries. His request was a pretty standard request to me. Working on a factory is labor intensive, it makes business sense to have young and strong workers working at the factory so that they can handle the heavy loads of clothing and operating the machinery. Ray Sims also told me not to mention this to others as he did not wish for his competitors to know about his business plans.

I travelled to some neighboring countries (including Country B) in search of workers for Ray Sims. When I arrived, I heard about Mr. Antonio Soto. The villagers told me that Mr. Soto is well-connected and a successful trader, so I decided to visit him. Through my conversation with Mr. Soto, I learnt that he has experience in finding jobs for local villagers abroad. I told Mr. Soto about Ray Sims's business and his need for young workers, but specified they would need to be at least over the legal age in order to travel to Capitalford, Country A, alone. I also offered to pay Mr. Soto a cut of what Ray Sims was paying me. Mr. Soto was very happy about the opportunity. I, therefore, set up a meeting between Mr. Soto and Ray Sims. I was not present in the meeting but was later told that Mr. Soto has since been sending workers from Country B to Ray Sims's factory. I was not involved in the arrangement between Mr. Soto and Ray Sims. They always communicate directly, so I do not know any details of their arrangement or the identities of the workers whom Mr. Soto

connected to Ray Sims. It was none of my business so I never asked. To express his gratitude, Ray Sims gifted me a large sum of money for connecting him with Mr. Soto.

Recording officer's signature Nathaniel Kollie

Complainant's/Witness' signature Charles Murray

I, Nathaniel Kollie, hereby declare that I have faithfully and accurately recorded the statement of the above-named Charles Murray. Signed by me Nathaniel Kollie on 4 March 2022 at about 12:30 PM.

Statement of Sébastien Suqué

National Police — Country A

Case No.: 453 of 2022

Statement of	Sébastien Suqué
Occupation	Business Executive
Nationality	Country E
Age	47
Address	Quai du Mont-Blanc 11, Busol, Country E
Telephone	22 111 3333

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	National Police HQ, Capitalford, Country A
Date	8 May 2022
Times	9:30 AM

My name is Sébastien Suqué and I am a citizen of Country E. I have worked for a multi-national fashion brand called Wonderful & Comfortable for nearly a decade. I am sent frequently to developing countries to search out opportunities for sourcing garment supply chains for final production or branding in Country E of various qualities and types of clothing products. We have had great success in the past finding affordable and reliable factories in the urban parts of developing countries and the people there have always been welcoming and kind to me when I visit.

It was a visit that I was invited to visit the factory on the outskirts of Capitalford in Country A. My friend, Francois Fève, had introduced me to an intermediary who knew the factories in and around the city intimately. He suggested that I contact a man by the name of Ray Sims and arrange a visit to the city. It is a busy but friendly city. However, I stopped only for a short while before a driver my friend had arranged picked me up and whisked me away to the factory.

When I arrived, I met Ray Sims. He is a strong man, physically imposing. I have always had warm receptions in Country A and friendly relations with local businessmen, but Ray came across to me very serious, very dry, and very direct. He took me on a quick tour of the factory and was eager for me to commit to buying. Of course, there are a number of things important in identifying a supply opportunity that I needed to confirm and obtain some assurances about: the quality of the fabrics, the size of the shipments they could provide, assurances on regularity and frequency, cost and risks of disruption, and assurances that the labor market nearby could ensure all of the production targets could be met. When Ray took me on a tour of the factory, I saw workers at work in what seemed to be a fairly customary and comfortable working environment. I did not see anything that looked unusual or particularly onerous, but I did notice a few people at the factory who seemed a bit younger than the others. I asked Ray if those were the workers at his factory, and he told me that they were the children of some of the garment workers. The children would come over to hang around the factory after school. Ray allowed this since it didn't seem to affect the workers' productivity and the workers were happier with their children close by. I had asked Ray if it might be possible to speak to some of the workers, but he informed me that it would not be practical given they were right in the middle of their work at the time and they were trying to meet a production target for another buyer.

Ray Sims and I discussed the commercial details that would be necessary to begin a business relationship. I informed him of what the production targets would be and he assured me that they could be met quite easily. I asked about the labor availability and he told me it would be very easy to find the required workers for any increase in production given the region has many experienced workers. This made sense to me as the area has many garment factories. We set out the initial scope of expectations and requirements and I informed Ray that I would need to speak with my employer before we finalized terms. If everything went well, I told him, we would expect to ramp up production as soon as possible. He assured me all would be well. We enjoyed some ginger beer and had some local snacks before my driver took me back. Ever since then, our production targets have been met with little problem and we believed we had formed a successful relationship.

Recording officer's signature Nathaniel Kollie

Complainant's/Witness' signature Sébastien Sucre

I, Nathaniel Kollie, hereby declare that I have faithfully and accurately recorded the statement of the above-named Sébastien Sucre. Signed by me Nathaniel Kollie on 8 May 2022 at about 10:30 AM.

Exercise 4.4.4: Cross Examination

Objective:

- To practice cross examination of a witness called by the other party.

Time:



1 hour and 10 minutes

Materials and preparation:

- Continue to use the copies of witness statements (Handout 4.4.2A: *Prosecution Witnesses* and Handout 4.4.2B: *Defense Witnesses*) used during the direct examination activity
- Handout 4.4.2A: *Prosecution Witnesses*
 1. Edward Lee
 2. Maria Lee
 3. Daniel Lee
 4. Ana Lee
 5. Joseph Torr
 6. Annie Green
 7. Rebecca Johnson
 8. Esther Kim
- Handout 4.4.2B: *Defense Witnesses*
 1. Ray Sims
 2. Antonio Soto
 3. Miranda Soto
 4. Michael Kabba
 5. Charles Murray
 6. Sébastien Sucre

Steps:

Explain to the participants the objective of the exercise.

- Split the participants back into the same four groups used during the direct examination activity with the same facilitator for each group:
 - Prosecution Group 1
 - Prosecution Group 2
 - Defense Group 1
 - Defense Group 2
- Pair Prosecution Group 1 with Defense Group 1.
- Pair Prosecution Group 2 with Defense Group 2.
 - 5 minutes

- Ask participants in each pair of groups to exchange the witness statements of the witnesses that they previously used during the direct examination exercise.
- Ask participants in each group to:
 - Review the witness statement they received from the opposing side;
 - Write down the questions they plan to ask during the cross examination of the opposing side's witness.
 - 15 minutes
- Each participant in each group should then practice their cross examination within the group.
- The small group facilitator should play the role of the witness while participants conduct their cross examinations.
- Each participant will have 5-10 minutes to cross examine their witness and receive feedback from the small group facilitator.
 - 45 minutes
- Close the activity by discussing with participants what they have learned about the cross examination of witnesses.
 - 5 minutes

Key messages:

- During cross examination, the lawyer should be the storyteller. To maintain control of the story, the lawyer should use closed questions during cross examination.
- The purpose of cross examination can be to:
 - Obtain favorable evidence
 - Discredit unfavorable evidence
 - Test the accuracy and completeness of a witness's story
 - Lawyers should only cross examine a witness if there is an advantage or effect to be gained.

Exercise 4.4.5: Closing Arguments

Objective:

- To familiarize participants with closing arguments and how to present them in court.

Time:

 1 hour and 25 minutes

Materials and preparation:

- Handout 4.1.2: *Case Evaluation Scenario*
- Handout 4.4.2A: *Prosecution Witnesses*
- Handout 4.4.2B: *Defense Witnesses*
- Flipchart and markers
- If this is a 6-day workshop, at the end of the closing arguments presentation on Day 5, have the presenter give a demonstration of two closing arguments
- Instruct participants on Day 5 (after the closing arguments presentation) that they will be responsible for presenting a closing argument to their small group on Day 6. Assign participants to one of the four groups, the same groups as for the Opening Statements Activity. The groups should have a mix of people from the prosecution and defense attorney groups of the Case Evaluation Activity. Each participant will play the role of prosecution or defense they had during the Case Evaluation Activity to ensure that participants are familiar with the theory of the case and each group has a mix of prosecution and defense representatives.

Steps:

- Divide participants into suitable groups
- Assign some prosecution witnesses (Handout 4.4.2A) and defense witnesses (Handout 4.4.2B) to each group
- Ask the participants to organize the body of the closing argument:
 - Chronologically by witness,
 - Chronologically by events,
 - By charge, or
 - By topic
 - 10 minutes
- Have each group member give his or her presentation. Presentations should be approximately 5 minutes each. After each presentation, the small group facilitator should identify something that the participant did well as well as an area for improvement.
 - 40 minutes
- Each group should nominate a representative. One at a time, each representative should come to the front of the room to present their closing argument.
 - 30 minutes
- Wrap up by reviewing the key messages.
 - 5 minutes

Key messages:

- Opening statements and closing arguments are key aspects of trial practice since they are the first and last things the fact finder will hear.
- Plan both the opening statement and closing argument before the trial even starts; this will ensure prosecutors are prepared and the prosecutor's opening and closing are strong and parallel with each other.
- Ensure that both opening and closing have a clear theme and are logically organized.
- Practice, practice, practice!

Lesson 4.5: Evidence

Objective:

- Learn the different types of evidence used in child labor, forced labor, and human trafficking cases and how to introduce such evidence at trial.

Time:



1 hour and 50 minutes

Steps:

- Exercise 4.5.1: Evidence Energizer
 - 25 minutes
- PowerPoint Presentation 4.5: Evidence
 - 45 minutes
- Exercise 4.5.2: Admitting Evidence Drill
 - 40 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.5: *Evidence*
- Projector
- Handout 4.5.2A: *Facilitator's Script*
- Handout 4.5.2B: *Pieces of Evidence*

Evidence is any information or object presented by either party in a lawsuit to support its case. Common types of evidence include:

- Forensic evidence (fingerprints, blood stains, fibers, DNA, etc.)
- Physical evidence (weapons, objects found at a crime scene, etc.)
- Testimonial evidence (depositions, lay or expert testimonies in court, any permissible hearsay evidence, etc.)
- Electronic evidence (text messages, social media posts, e-mails, etc.)
- Illustrative evidence (photos, videos, graphs, charts, maps, etc.)
- Documentary evidence (letters, invoices, records, etc.)

Not all evidence is admissible to a court proceeding. Some evidence may be irrelevant to the present case. Some evidence may be highly prejudicial to a party. Some evidence may be so speculative or highly tainted that it only has a very minimal probative value. All such evidence is likely inadmissible. Admissibility is a threshold quality control mechanism for evidence, and a court can only consider evidence that has been properly admitted.

This lesson will first discuss common types of evidence that prosecutors may use to demonstrate each element of child labor, forced labor, and human trafficking. This can help prosecutors better guide the police and other law enforcement officers to investigate the crimes. Then, the lesson will discuss how prosecutors can introduce such evidence during trials, so that the court will consider it as admissible evidence.

Types of Evidence Used in Child Labor, Forced Labor, and Human Trafficking Cases

TYPES OF EVIDENCE USED IN CHILD LABOR CASES:

As a reminder, the ILO defines child labor as “work that:

- (1) is mentally, physically, socially, or morally dangerous and harmful to children; OR
- (2) interferes with their schooling by:
 - (i) depriving them of the opportunity to attend school;
 - (ii) obliging them to leave school prematurely; or
 - (iii) requiring them to attempt to combine school attendance with excessively long and heavy work;”¹

Whether or not particular forms of “work” can be called “child labor” depends on the child’s age, the type and hours of work performed, the conditions under which it is performed, and the objectives pursued by individual countries. The answer varies from country to country, as well as among sectors within countries.²

Therefore, prosecutors should work with investigators trying to gather evidence in the following categories. The bullet points under each category show some examples of evidence in that category. The categories and examples are not exhaustive. Prosecutors can use their local knowledge to expand and modify the following list. Prosecutors can also be creative in gathering evidence based on their understanding of the ILO definition of child labor and their countries’ law regarding child labor and child protection in general.

I. Evidence of a Child’s Age

- Birth certificate, ID, or passport
- School certificate
- Certificate signed by a physician (such as medical evaluation of the child’s age)
- Sworn statement of the parents
- Dated pictures or other documents

II. Evidence of a Child’s Type and Hours of Work, and Conditions of Work

- Employment contract
- Paycheck
- Documents containing work schedules, time sheets, assigned tasks, or reprimands from employer
- Internet sites or recruiters used for recruiting children
- Witness statements (such as statements of police officers, co-workers, or friends)

III. Evidence of a Negative Impact on the Child’s Education

- Documents attesting absence from school
- Documents showing that the child is working during school hours (e.g. time cards or attendance sheets) or abnormally long working hours before or after school
- Witness statements (such as statements of teachers, classmates, or neighbors)

1 *What is Child Labour*, International Programme on the Elimination of Child Labour (IPEC), International Labour Organization (ILO). <https://www.ilo.org/ipec/facts/lang--en/index.htm>.

2 Ibid.

IV. Evidence of Hazardous Work

- The workplace is underground, under water, at dangerous heights, or in confined spaces
- Employment contracts, witness statements, emails, or other forms of communication and work schedules may demonstrate that:
 - The work involves handling dangerous machinery, equipment, and tools;
 - Involves the manual handling or transport of heavy loads;
 - The working environment exposes the child to hazardous substances, agents or processes, or too high temperatures, noise levels or vibrations;
 - The working conditions are particularly difficult (e.g. long hours, night shifts or unreasonable confinement to the premises of the employer)

TYPES OF EVIDENCE USED IN FORCED LABOR CASES:

Forced labor means “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”³ Forced labor does not include compulsory military service, normal civic obligations of the citizens, service exacted in cases of public emergency, and minor communal services.⁴

In order to prove forced labor occurred, prosecutors should work with investigators to collect evidence on the following elements:

1. “All work or service”- evidence that work or service is provided;⁵
2. “Menace of any penalty”- evidence of a threat such as criminal sanctions or various forms of coercion, such as violence, retention of identity documents, confinement or non-payment of wages;⁶ and
3. “Voluntarily”- evidence of valid consent (or lack thereof) by the person.⁷

These elements are intertwined. For example, an adult employee’s consent may be invalid because the consent is obtained by deception or coercion.

Examples of the types of evidence that can be used in forced labor cases are:

- Evidence of recruitment
 - Physical job posters, pamphlets, leaflets, etc.
 - Electronic advertisements, such as social media posts or messages, instant messages on mobile applications, etc.
 - Text messages of recruiting communications between the trafficker and the victim
- Evidence of lack of consent
 - Discrepancy between the initial recruiting materials or promises and the actual work conditions
 - Contract substitution or lack of employment contract
 - Withholding of wages or nonpayment of wages

3 *Convention concerning Forced or Compulsory Labour*, 1930 (No.29). (Entered into force 1 May 1932), Article 2(1). International Labour Organization (ILO). [hereinafter *Forced Labor Convention*] https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312174:NO

4 *Forced Labor Convention*, Article 2(2). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312174:NO

5 *Forced Labour and Human Trafficking: Handbook for Labour Inspectors*, International Labour Organization (ILO), 2008, p. 4. https://www.ilo.org/global/topics/forced-labour/publications/WCMS_097835/lang--en/index.htm

6 *Ibid.*

7 *Ibid.*

- Threat to lose a wage that is due to the worker or the right to be protected from violence
- Debt bondage (excessive fees paid by the worker for recruitment, transportation, food, accommodation, working tools, etc.)
- Retention of identity documents
- Evidence of different/poor working conditions
 - Wage slips and other documentation showing violation of minimum wage laws
 - Lack of health and safety equipment
- Evidence of people sleeping in what should be places of work exclusively
 - Lack of rest and vacations (long working hours every day, etc.)
 - Harsh penalties for non-conforming job performance
 - Retention of identity documents

TYPES OF EVIDENCE USED IN HUMAN TRAFFICKING CASES:

As previously discussed, the Palermo Protocol defines human trafficking as “the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” Thus, a prosecutor must generally prove three elements: (1) the act, (2) the means, and (3) the purpose. For the trafficking of children, prosecutors only need to prove act and purpose.

Accordingly, prosecutors should try to submit evidence in the following categories by working closely with investigators. The bullet points under each element show some examples of evidence in that category. Note that victim or witness testimony can be used as evidence to prove some or all of the elements of trafficking in persons. Some of the evidence listed may be used to prove multiple elements. Furthermore, the examples are not exhaustive. Prosecutors can use their local knowledge to expand and modify the following list.

I. Evidence of Act — evidence of:

- Recruitment,
 - Physical job posters, pamphlets, leaflets, etc.
 - Electronic advertisements, such as social media posts or messages, instant messages on mobile applications, etc.
 - Text messages of recruiting communications between the trafficker and the victim
- Transportation,
 - Travel itinerary
 - Flight tickets, boarding pass stubs, etc.
 - Payment of travel details, receipts, invoices, etc.
- Harboring, or
 - Food and lodging provided
 - One-way locks on doors
 - Video cameras or monitoring devices
 - Forfeiture of passports and other travel documents
 - Security guards closely monitoring the premise
 - Exclusive transportation vehicles (police report or statements by people who procure or operate such vehicles)

- Receipt.
 - Wire transfers, ledgers, or bank statements linking recruiters and traffickers
 - Legal documents showing change in guardianship
 - Evidence of trafficked persons working at the location

II. **Evidence of Means — evidence of:**

- The threat or use of force or other forms of coercion,
 - Injuries
 - Text messages, letters, etc. documenting threats
- Abduction,
 - Injuries or evidence of use of restraints
 - Weapons or restraints used to commit abduction
- Fraud,
 - Fake labor contract
 - False advertising
- Deception,
 - False promises
 - Documented lies
- The abuse of power or of a position of vulnerability, or
 - Documentation showing change in guardianship
- The giving or receiving of payments or benefits to achieve the consent of a person having control over another person.
 - Proof of a person's position of authority over another (such as being a child's teacher, community leader, etc.)
 - Bank statements, wire transfers, other financial documentation

OR

- Evidence of the victim/survivor's age to establish that the victim/survivor is a child so that there is no need to show further evidence of means.
 - Birth certificate
 - Passport or other ID card
 - School records

III. **Evidence of Purpose of Exploitation — evidence of:**

- The prostitution of others or other forms of sexual exploitation,
 - Evidence of sexual intercourse or contact (including traces of semen, hair, or blood on victims/survivors, and on bedding)
 - Unwanted/unplanned pregnancy
 - Evidence that identifies related injuries, illness, or disease
 - Evidence that establishes the age of a victim/survivor (many jurisdictions have harsher punishments if the victim/survivor is under a certain age)

- Documents or electronic records that show prices for sexual services
- Websites used for recruiting victims or selling sexual services
- Sex toys, sexual implements, lubricants, sex work clothing, etc.—these may be evidence themselves, but may also have traces of biological evidence that could link them to individuals
- Multiple keys or access instruments to hotels, brothers, or areas known for prostitution
- Photographs or videos
- Marks/tattoos on body
- Evidence of forced labor or services, slavery or practices similar to slavery, or servitude,
 - Evidence of violence (injuries) or restraint
 - Evidence that links a victim/survivor's injuries to a particular type of equipment
 - Evidence that links piece of equipment to an individual through fingerprints, hair, etc.
 - Employment Contracts (or lack thereof)
 - Evidence of people sleeping in what should be places of work exclusively
 - Wage slips and other documentation showing a violation of minimum wage laws
 - Lack of health and safety equipment
 - Hard labor, long hours
- Evidence of removal of human organs
 - Injuries and scars of the victim/survivor
 - Medication taken by the victim/survivor

How to Introduce Evidence at Trial

Relevant evidence that is not obtained through illegal procedures or means will be admissible unless any exclusionary evidentiary rule applies, such as rules that exclude certain types of out-of-court statements. Evidence is relevant when it tends to make a fact corresponding to an element of an offense more or less probable than what would be without the evidence.

In evaluating whether a piece of evidence is admissible, a judge generally will consider how the evidence is obtained, whether the evidence is relevant, reliable, and credible, and whether any exclusionary evidentiary rules will nonetheless exclude the evidence. To prove a fact with evidence, that evidence needs to be properly identified and traceable to the relevant fact. Evidence may face less or more scrutiny from the judge as to its integrity depending on the nature of the evidence. For example, electronic evidence must often be supported by authentication to support its reliability and credibility.

Evidence introduced at trial can be roughly divided into two types: (1) personal observation statements introduced through trial testimonies and (2) exhibits, such as documents, photographs, electronic, objects, substances, samples, etc. This section will discuss how to introduce evidence for admission at trial. The following paragraphs discuss some of the major issues that prosecutors will likely encounter in introducing evidence, such as how to lay the foundation for evidence, how to establish the chain of custody of evidence, how to deal with credibility issues of witness, how to introduce child witness, and how to introduce electronic evidence.

Laying the Foundation: When introducing an exhibit into evidence at trial, the prosecution must first properly “lay the foundation” for such evidence. Laying the foundation is the step in which the exhibit is identified, authenticated, and connected with an issue in the trial. Often, the foundation is established by a witness who can testify as to the identity and authenticity of the exhibit. Prosecutors can follow the eight steps below to lay the foundation for evidence at trial:

- (1) Ask introductory questions to orient the witness
- (2) Have the exhibit marked
 - o "May I have the letter dated 1 December 2021 marked as [Prosecution] Exhibit X?"
- (3) Show the exhibit to opposing counsel
 - o "Let the record reflect that I am showing Exhibit X to opposing counsel."
- (4) Ask to approach the witness
- (5) Show the exhibit to the witness
 - o "I am handing you what has been marked as Exhibit X for identification."
- (6) Ask if the witness recognizes the exhibit
 - o "Do you recognize Exhibit X?" OR "How do you recognize Exhibit X?"
- (7) Ask any other questions specific to this exhibit
- (8) Offer the exhibit into the evidence
 - o "I produce Exhibit X as evidence."

Once admitted, exhibits can be used in the courtroom and shown to any witness (your own witness and opposing parties' witnesses) to:

- Corroborate testimony
- Impeach testimony
- Assist the witness in explaining testimony
- Refresh memory

Chain of Custody: Chain of custody is the process used for collecting, documenting, and protecting evidence. See Module II for a more detailed discussion on maintaining a proper chain of custody, which is an important procedure that allows prosecutors to defend the reliability and credibility of the evidence. Common errors in maintaining a chain of custody include:

- Not labeling evidence or missing important information from labels
- Evidence being handled without gloves being worn
- Evidence not being bagged
- Evidence being mishandled, tampered, or damaged

During trial preparation, prosecutors should determine whether there is any defect in the chain of custody; whether there is still time to gather more evidence to overcome the defect; if some evidence cannot be used due to a defective chain of custody, whether other evidence still capable of proving all the elements of the offense, etc. Prosecutors should also be prepared to present a good chain of custody to the court and answer the judge's and opposing counsel's questions about it.

Credibility of the Witness: Witnesses must testify regarding the time, place, and circumstances of his or her personal observation. Speculation in the testimony is not acceptable. The testimony will be subjected to challenge for credibility. Witness credibility can be challenged on the following grounds:

- Competency (capacity to understand)
- Sensory limits (capacity to observe or hear)
- Memory (capacity to remember)
- Communication (capacity to respond to questions)
- Bias (capacity to be objective and free of conflicts of interest)

Prosecutors can use these grounds to assess the strength and weakness of a witness's testimony, to determine whether to let him or her testify at trial, to prepare the witness for trial testimony, and to anticipate and prepare an appropriate response to a likely attack of the witness's credibility by the opposing party. This process can not only enhance the prosecution's performance at trial, but also can help prosecutors weed out weak or unreliable testimonies, gather more evidence, and make informed prosecutorial decisions so that the limited governmental resources can be used in a way that will be more likely to result in successful prosecution.

Voir Dire of Child Witness and Corroboration of a Child Witness: Children might not understand the meaning of telling the truth in the court under oath. *Voir dire* is used in some jurisdictions to determine whether a child of a tender age (such as 14 years or younger): (1) understands the nature of an oath; (2) possesses sufficient intelligence; and (3) understands the duty to tell the truth. If a child passes this examination, the court will receive the child's testimony. If a child fails the *voir dire* examination or if a judge fails to conduct the examination properly, the court may still receive the child's testimony as unsworn testimony as long as it determines that the child has sufficient intelligence and understands the duty to tell the truth. In this case, additional evidence may be required to corroborate the child's testimony, such as another competent witness's testimony. If the child's testimony cannot be corroborated, the court may exclude the child's testimony.

There can be exceptions to the *voir dire* requirement. For example, in some jurisdictions, *voir dire* is not necessary in cases involving a sexual offense. *Voir dire* may also be unnecessary in cases where the only concrete evidence against the defendant is the testimony of a child of tender age. In such cases, the court may assess the credibility of the child's testimony without the use of *voir dire*, and if the court considers the testimony to be truthful, it may convict the accused.

Different countries can have very different rules on assessing the credibility of a child witness. Prosecutors shall make sure they are familiar with their countries' specific rules. If the prosecution's case somewhat heavily relies on a child's testimony, the prosecutor should be prepared (preferably with some credible corroborating evidence) to establish the credibility of the child's testimony in the court.

Admission of Electronic Evidence: Admitting electronic evidence is becoming increasingly important in child labor, forced labor, and human trafficking cases as more and more perpetrators now use online platforms to recruit and control their victims. Electronic evidence could include social media posts and messages, text messages, instant messages on mobile applications, web browsing and online searching histories, login histories and account information, etc.

In many jurisdictions, electronic evidence must be authenticated to be admissible. Depending on a country's specific laws, authentication can be done through a certificate signed by a responsible person, through a witness's personal knowledge of the electronic evidence, or through circumstantial evidence.

Electronic output may be considered a document for admissibility purposes. Generally, to be considered a document, the output must have been produced during regular use; it must be of a type expected in ordinary use; and the computer/other device generating the output must have been operating properly. For example, bank records are often admissible if they were made in the usual and ordinary course of business and the book is in the custody of the bank. The safest way to authenticate an electronic record for use in court is via a certificate. When using a certificate for authentication, the certificate should identify the electronic record and the manner of production; provide details on the device that produced the electronic record, such as make, brand, type, and/or serial number; and be signed by the responsible person.

A witness with personal knowledge of electronic evidence, such as an electronic message, can often be used to verify the authenticity of the evidence. For example, the person who wrote the message testifies to its authenticity, or a person who saw the message being authored or received can testify about the identity of the author or recipient of the message. Independent witnesses are often required to testify as to other matters, such as verifying that evidence was seized properly. Videotaping the seizure of electronic evidence is considered to be a best practice.

Circumstantial evidence can also be used to verify authenticity. This can be done by showing unique ties to the purported author such as a known email address or phone number; the use of an electronic signature, username, nickname, business logo, etc.; the name as stored on the recipient's phone; and the use of the same email address or phone number on prior occasions. Unique facts used in messages can also help verify the sender's identity, such as facts only a small number of people would know, or containing personal information or contact information of family members. Additionally, a witness could testify that the author told him or her to expect the message before it was sent, or that the sender acted in accordance with and responded to the message. Linking the activity to an IP address associated with the user can also help verify authenticity.

Even if admitted into evidence, the weight given to electronic evidence is guided by:

- The reliability of the manner in which the evidence was generated, stored, or communicated,
- The reliability of the manner in which the evidence was maintained,
- The manner in which the originator of the evidence was identified, and
- Any other relevant factor

Depending on the complexity of the electronic evidence, expert witnesses may be needed to testify about the workings or contents of a device, hard drive, cloud, etc. to explain what was found and how the device or account functions. Testimony by an expert witness would likely increase the reliability and weight of the electronic evidence in the eyes of the factfinder.

Admission of Forensic Evidence: Typically, forensic evidence has the same rules as physical evidence for use at trial. However, lawyers often use expert witnesses, rather than lay witnesses, to introduce forensic evidence at trial. Expert testimony about the forensics conducted can be provided by either the person who conducted the analysis or an expert with similar qualifications. If the expert is not sufficiently qualified, the evidence could be challenged in court (see more on examining an expert witness in Lesson 4.4). The evidence should have been analyzed by an expert following proper procedure, and the expert should be prepared to detail that procedure during their testimony. Like all physical evidence, the evidence must be related to a fact or issue in the case and must have been properly obtained to be admissible in court.

Exercise 4.5.1: Evidence Energizer

Objective:

- To start thinking about evidence in child labor, forced labor, and human trafficking cases and how it can be useful during a prosecution.

Time:

 25 Minutes

Materials and preparation:

- Flipchart
- Markers
- Notecards
- Pens/pencils
- Copies of one ETP Case Study (facilitator can select the case study that is most relevant for the training)

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Give each participant one notecard. Read one of the ETP Case Studies aloud, or have the participants read the case study independently if they have their own copies. Have each participant write down one piece of evidence they think would be useful at trial.
 - 5 minutes
- Have participants get out of their seats and group themselves with people who have the same answers, they will need to ask each other what their answers are. Once they are in groups, have each group determine why they think their evidence would be useful and what element it helps prove.
 - 5 minutes
- Have each group present what need they have identified, why they think it would be useful, and what element they think it helps prove. The facilitator should write down the evidence and the element that each piece is linked to on the flipchart. At the end, the facilitator should review the different elements of the crimes that the groups identified evidence for.
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key messages:

- Evidence can be used to prove different elements of a crime.
- Multiple pieces are needed to prove the different elements of crimes and different charges.

Exercise 4.5.2: Admitting Evidence Drill

Objective:

- To practice the process of laying the foundation for introducing an exhibit into evidence at trial.

Time:

 40 Minutes

Materials and preparation:

- Flipchart (can also use chalkboard or whiteboard)
- Handout 4.5.2A: *Facilitator Script*
- Identify and review local rules for admitting evidence
- Cut out pieces of evidence Handout 4.5.2B: *Pieces of Evidence* and place at the front of the room
- Write the following (or local rules for admitting evidence, should they differ) in large font so that it is easy for participants to see (if possible, on two separate sheets of flipchart paper):

Admitting Evidence Steps

- (1) "May I have the [description of item] marked as Prosecution Exhibit 1?"
- (2) "Let the record reflect that I am showing Exhibit 1 to opposing counsel."
- (3) "May I approach the witness?"
- (4) "I am handing you what has been marked as Exhibit 1 for identification."
- (5) "Do you recognize Exhibit 1?"
- (6) "How do you recognize Exhibit 1?"
- (7) *Magic words*
- (8) "Your Honor, I would like to produce Exhibit 1 as evidence."

Magic Words: Questions specific to the type of exhibit

Unique Objects — Weapon:

- (1) "How do you know this is the same gun that was found at the crime scene?"
- (2) "Does it look the same as it did at the time of the event?"

Photographs — Crime Scene Photo:

- (1) "Did you take this photo?"
- (2) "Does it fairly and accurately show what the scene looked like on the date and time in question?"

Business Records — Accounting Record:

- (1) "Was this made in the regular course of business?"
- (2) "Was it made around the time of the event?"
- (3) "Was it produced by someone who had knowledge of the event?"

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
 - Instruct participants to form a line in front of the facilitator.
 - Starting at the front of the line, each participant will attempt to admit evidence by following exactly the steps on the Admitting Evidence and Magic Words posters. The facilitator will act as the judge/witness, following along with the script.
 - If the participant misses a step, the facilitator shall buzz and the participant will move to the end of the line to try again. Participants proceed through the line until everyone has correctly admitted the required piece of evidence.
 - Repeat three times, each time for the introduction of a different kind of evidence: a weapon, a crime scene photo, and an accounting record.
 - 30 minutes
- [Note: If there is more than one trainer in the room, you can form multiple lines in order to give trainees more time and practice admitting exhibits.]
- Close the activity by discussing with participants the key messages, their new comfort level admitting evidence, and what they have learned.
 - 5 minutes

Key messages:

- Before a judge will admit evidence into the record, the lawyer must lay the foundation for that piece of evidence.
- “Laying the foundation” is the step in which the exhibit is identified, authenticated, and connected with an issue in the trial.
- While every piece of evidence is unique, most of the steps to admit evidence stay consistent. By participating in this drill, participants will be able to remember the key steps to admitting evidence.

HANDOUT 4.5.2A: FACILITATOR SCRIPT

Note: If there are two facilitators in the room, one facilitator should play the judge, and one facilitator should play the witness. If there is one facilitator, they can play both roles.

Participant	Facilitator (Judge/Witness)
"May I have the [description of item] marked as Prosecution Exhibit 1?"	"Let the [item] be marked as Prosecution Exhibit 1."
"Let the record reflect that I am showing Exhibit 1 to opposing counsel."	
"May I approach the witness?"	"You may approach the witness."
"I am handing you what has been marked as Exhibit 1 for identification."	
"Do you recognize Exhibit 1?"	"Yes."
"How do you recognize Exhibit 1?"	Weapon: "It is the gun found at the crime scene."
	Crime Scene Photo: "It is a photo of the crime scene."
	Accounting Record: "It is an accounting record for XYZ Corporation."
Magic words	
Weapon: (1) "How do you know this is the same gun that was found at the crime scene?" (2) "Does it look the same as it did at the time of the event?"	Weapon: (1) "I recognize it by the serial number." (2) "Yes."
Crime Scene Photo: (1) "Did you take this photo?" (2) "Does it fairly and accurately show what the scene looked like on the date and time in question?"	Crime Scene Photo: (1) "Yes." (2) "Yes."
Accounting Record: (1) "Was this made in the regular course of business?" (2) "Was it made around the time of the event?" (3) "Was it produced by someone who had knowledge of the event?"	Accounting Record: (1) "Yes." (2) "Yes, the record is dated on the day of the event." (3) "Yes, I created the record as part of my role as an accountant for XYZ Corporation."
"Your Honor, I would like to produce Exhibit 1 as evidence."	"Exhibit 1 is admitted into evidence."

HANDOUT 4.5.2B: PIECES OF EVIDENCE

Weapon:



Crime Scene Photograph:



Accounting Record:



Lesson 4.6 Mutual Legal Assistance (MLA)

Objective:

- Learn what MLA is and how to request MLA.

Time:

 55 minutes

Steps:

- PowerPoint Presentation 4.6: Mutual Legal Assistance (MLA)
 - 15 minutes
- Exercise 4.6.1: Mutual Legal Assistance Discussion
 - 40 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.6: *Mutual Legal Assistance*
- Projector

Child labor, forced labor, and human trafficking can be transnational crimes. If so, national borders will be additional hurdles for prosecutors to overcome to pursue evidence, suspects, and victims located in foreign states. In this case, prosecutors should consider using Mutual Legal Assistance (“MLA”) to gather the information they want and need from foreign states.

MLA is a process by which states seek and provide assistance to other states in servicing of judicial documents and in gathering evidence for use in criminal cases.⁸ MLA can be based upon bilateral or multilateral MLA treaties between or among the states. If no such treaties exist, the United Nations Convention Against Transnational Organized Crime and the Protocols Thereto (“Organized Crime Convention”) provides a framework for state parties to follow. Article 18 of the Organized Crime Convention provides some examples of the purposes that MLA can be requested for:

- Taking evidence or statements
- Effecting service of judicial documents
- Executing searches and seizures
- Examining objects and sites
- Providing information, evidence, expert evaluations, documents, and records
- Identifying or tracing proceeds of crime, property, or instrumentalities for evidentiary purposes and their seizure for the purpose of confiscation
- Facilitating the appearance of witnesses
- Any other type of assistance not barred by domestic law

8 *Mutual legal assistance (MLA)*, United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/e4j/en/organized-crime/module-11/key-issues/mutual-legal-assistance.html>

When considering MLA from a foreign state, prosecutors should first research whether there is an MLA treaty between their state and the foreign state. If such a treaty exists, the prosecutor should follow the procedures set out in the treaty to request the MLA. If there is no such a treaty, the prosecutor should generally follow the domestic law requirements regarding MLA. If the domestic law is unclear, the prosecutor can look up to the guidance of the Organized Crime Convention for guidance, because the Convention requires its States Parties to afford each other mutual legal assistance to the fullest extent possible.

Article 18 of the Organized Crime Convention prescribes that a request for MLA shall contain:

- a. The identity of the authority making the request;
- b. The subject matter and nature of the investigation, prosecution, or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution, or judicial proceeding;
- c. A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
- d. A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;
- e. Where possible, the identity, location, and nationality of any person concerned; and
- f. The purpose for which the evidence, information, or action is sought.

In addition to the above requirements, MLA treaties increasingly require that States Parties designate a central authority (usually the Ministry of Justice) to whom requests can be sent. Therefore, even if there is no MLA treaty, it is still recommended that prosecutors designate the central authority in their requests of MLA.

The United Nations Office of Drugs and Crime (“UNODC”) has developed computer software that can help prosecutors write MLA requests that conform with all of the requirements of the Organized Crime Convention. This MLA tool can be linked to the UNODC Directories of Competent National Authorities (“CNA”) to retrieve the CNA contact information for use in the preparation of MLA requests. Additionally, the International Criminal Police Organization (INTERPOL) is a good resource to facilitate MLA exchanges.

Exercise 4.6.1: Mutual Legal Assistance

Discussion

Objective:

- To discuss prosecutors' experience with mutual legal assistance (MLA).

Time:

 40 minutes

Materials and preparation:

- Flipchart and markers to take notes
- Handout 4.4.2B: *Prosecution Witnesses* (Statement of Sébastien Sucre)

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Ask for volunteers to answer the following questions:
 - Have you ever used mutual legal assistance?
 - What did you use MLA to request?
 - How did it work?
 - How long did it take?
 - Did you receive what you had requested?
 - Was there an MLA treaty in place with the state from which you were requesting assistance?
 - What were some challenges you faced?
 - If you received assistance, did it help your case? How?
 - How can mutual legal assistance be used for human trafficking, child labor, and forced labor prosecutions?
 - Referring to the case file, how can you use mutual legal assistance to charge against the European buyer?
- 35 minutes

Key Messages:

- Because the crimes of child labor, forced labor, and human trafficking can be transnational, national borders can be additional hurdles for prosecutors to overcome to pursue evidence, suspects, and victims located in foreign states.
- Prosecutors should consider using MLA to gather the information they want and need from foreign states.

List of Sources

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