



## BACKGROUND

On April 1, 2020, NHTTAC hosted a 90-minute [Emerging Issues Webinar on labor trafficking](#). Presenters discussed person-centered approaches to outreach among foreign national labor trafficking victims in the agriculture industry, new research and tools for identifying potential labor trafficking and risk reduction strategies and finding ways to collaborate with community agencies currently serving migrant populations. At the end of the presentation, a Q&A session was held. Due to time constraints, there were questions asked that the presenters were not able to address. Following the webinar, the presenters have gone back to answer those questions below.

## Q&A SESSION

**1. Q: How does "right of access" apply when a contractor does not allow contact with their workers?**

**A: Gonzalo Martinez de Vedia:** This issue area varies from state to state. The best resource to consult about farm labor housing access issues is the local legal aid organization and/or farmworker outreach program. Some programs, for example, rely on the opinions of state attorneys general on the matter.

Source: <https://casetext.com/case/opn-no-f91-7>

**2. Q: Where can I find information regarding the responsibility of the contractors/employers providing transportation and access to health facilities under H2A labor contracts?**

**A: Gonzalo Martinez de Vedia:** This link below, lists several factsheets about the H2A program, including rights-related information. Beyond the legal aid, migrant health and migrant education programs often also have protocols and guidance regarding these issues. <https://www.dol.gov/agencies/whd/agriculture/h2a>

**3. Q: Due to COVID-19, our organization is having to rethink our outreach strategy from scratch. What are some virtual outreach strategies that can be employed amid our new restrictions?**

**A: Gonzalo Martinez de Vedia:** In Texas, we have started virtual outreach by staying in contact with workers who have active cases by phone. We have also proactively reached out to other workers who don't have active cases with us, but have shared their contact information with the team at events and such. Since this is one of our few avenues of proactive outreach these days, we've also offered workers to help us do "phone tree" outreach, meaning, offer our number to other workers currently on Texas farms, especially anyone with questions about their rights.

It has been important for us to be adaptable in that task—not all workers prefer to use cell phones and SMS communication regularly. WhatsApp is very popular in the community we serve, as is Facebook Messenger. We make ourselves available by those means. In addition to that direct approach, we are also experimenting with a [Spanish and K'iche radio PSA campaign](#) radio PSA campaign to see if this can drive referrals. It is too early to say if it has been effective. Social media posts to groups and pages popular with the farmworker community are also on the menu of options, though we have not tested that enough to



say how effective it will be yet.

**A: Julissa Ponce:** Illinois residents are currently abiding by its “stay at home” order. Since migrant workers are still out there working, we should still be out there making sure they are aware of their rights. It is in times like when workers are most vulnerable to different types of exploitation. We hope that migrant workers are still getting safety onboarding, especially at this time.

One idea is to have virtual onboardings. While we as service providers may not be able to attend the safety meetings in person, we could ask the employers to host a Zoom-type meeting using a projector screen. Another thing I have done in the past was to create videos that we sent to some of the employers beforehand so they could show those as the safety meetings. I understand that social distancing is important right now and that neither of these ideas are optimal. They do get the message across to the employers and the migrant workers that we are still involved, even if a lot of us are working remotely. I would still go in person to assess any emergency situation.

4. **Q: In parts of Colorado, groups have pushed back against outreach, even to the point of threats against outreach workers. Are there any legal recommendations or strategies that can protect outreach workers in these situations? Have you experienced this type of pushback, and how have you mitigated it?**

**A: Julissa Ponce:** What types of groups would be my question? Are they the employers? Or private citizen organizations? I have come across both types of situations. There is a few ways to try to de-escalate these situations—one is to get to know your workforce lead. For me, it was the Iowa Workforce Development that had already established outreach groups that I was able to become a part of. In Colorado, you might want to start off with the Colorado Department of Labor and Employment and ask them who they have inspecting the migrant and H2A camps. They may already have those outreach groups, or you may be able to create those. Employers cannot say no to those inspection teams. I can only think of the Migrant Seasonal Worker Protection Act at the federal level. I know that each state may have a variation of this law. Legally, the employer doesn't have to let you as a service provider go into the migrant work camp; but, by creating a working relationship with your inspection team, you will be able to send information with them that will reach the migrant worker. Always put safety first. There is no reason to put individuals providing outreach or migrant workers at risk of harm.

Another way would be to reach out to any mobile medical clinics or their migrant council that has access to the migrant workers. You may be able to set up a booth or health fair-type of table that will give you access to the migrant workers. If you cannot get in-person access, then last but not least is printed material. Think of small items that you can give to these medical clinics or migrant council, for example, chap stick, calendars, sunblock, or water bottles—all with your organization's information printed on it with your crisis or hotline number. Small, pocket-size “know your worker rights” information or even calendars with the top 12 examples of migrant workers' rights violations. These ideas could be a starting point for you and your teams.



**5. Q: Can sexual exploitation fall under labor trafficking? For example, sex work in violation of OSHA, not receiving fair wage (i.e., paying to work, erroneous 1099 designation-control over work, hours, etc.)?**

**A: Julissa Ponce:** This is a “fine line” scenario that would require a legal expert who could explain better and give legal advice. However, even if there is no commercial element, if someone is being made to perform sexual services against their will and it meets the definition of labor trafficking as defined in the TVPA (action, means, purpose) there are instances where sexual exploitation can fall under the definition of labor trafficking.

**6. Q: Do you have any information to elaborate on the concept of "onboarding" groups?**

**A: Julissa Ponce:** I am in the process of creating one. Onboarding is basically the “safety orientation” training of any type of job, whether it be migrant safety training or McDonalds training.

**7. Q: How can migrant Head Start programs help in anti-trafficking efforts?**

**A: Julissa Ponce:** Secure daycare that you can afford helps relieve some of the vulnerability that migrant workers may face. Also, these head start programs usually, not always, host monthly family events where you have access to the migrant workers. At those meetings, you can give a migrant worker rights workshop and build rapport with the migrant workers so that when they are ready, they know who to reach out to. They may not have anything to discuss at that moment. But, as stated in the webinar, migrant workers usually follow the same paths every year. So, if they encounter any form of exploitation throughout the year, they know who they have built a trusting relationship with and who they would be willing to disclose to. Migrant Head Starts are a resource for not just the migrant worker but for service providers as well. They know these families and can see if there are any red flags that need to be revisited with migrant workers.