

## Jones Day's Anti-Trafficking Initiatives 2020–2021

Jones Day's distinctive approach of uniting its pro bono representations with its community service initiatives extends the scope and impact of our work far beyond the individual cases we handle. Our lawyers represent individual clients pro bono in important litigation, and our community initiatives bring all of the Firm's assets to the table, including our ability to convene industry and community leaders, non-governmental organizations ("NGOs"), the legal community, and government policymakers around solution-oriented rule of law initiatives. Our Anti-Human Trafficking Initiative is one example of this integrated approach.

Jones Day is dedicated to combatting human trafficking around the world, including both labor trafficking and sex trafficking. In 2016, Jones Day launched an Anti-Human Trafficking Task Force to focus on developing specific solutions to this global problem of the trafficking of both adults and children. The task force is responsible for guiding the Firm's 10 major Anti-Human Trafficking Initiatives, which are described below:

1. Litigation of Individual Cases
2. Preventing Labor Trafficking in Supply Chains and Business Operations
3. International Compendium of Trafficking and Modern Slavery Laws
4. Judicial Initiatives: Model Diversionary Courts
5. Post-Disaster and Pre-Event Community Outreach
6. Combating Online Sexual Exploitation of Children
7. Health Care Initiatives
8. Data Initiatives
9. Rule of Law Training and Research
10. United Nations University Centre for Policy Research ("UNU-CPR")

### 1 Litigation of Individual Cases

Jones Day lawyers have represented individual victims of trafficking by pursuing criminal and civil restitution and other remedies on their behalf. We were proud to be named the 2017 Litigation Firm of the Year by the Human Trafficking Legal Center ("HT Legal") for our work on behalf of victims. Our individual representations have included the following:

- Jones Day serves as pro bono counsel to a woman who was sexually assaulted by entertainer R. Kelly and who was named as a victim in the Cook County indictment filed against him. She is expected to testify in the federal cases pending against the defendant in the Northern District of Illinois and the Eastern District of New York in 2020.

- Jones Day is also serving as national counsel for a victim of online child sexual exploitation, who is seeking restitution in multiple courts across the country. We are responsible for briefing and expert case development, appearing in court, and handling matters related to the execution of judgments, so as to avoid those burdens causing further trauma to our client.
- In 2019, a Chicago team successfully recovered in excess of \$90,000 in criminal restitution on behalf of a child pornography victim from the defendant, Austin Jones, a singer who rose to fame online. The damages presentation by Jones Day was a significant factor in the award of criminal restitution totaling more than \$450,000 for five other victims in the same case.
- We are teaming up with Action Pour Les Enfants Cambodia ("APLE") to represent victims of sex tourism, sexual exploitation, and human trafficking in PROTECT Act claims.
- Beyond seeking monetary relief, Jones Day lawyers have also successfully represented victims in expungement matters, tax disputes, and other issues stemming from a victim's trafficking situation.
- In 2017, Jones Day tried a case to a jury in the E.D. of Virginia on behalf of a young Ethiopian woman trafficked by a U.S. State Department employee in Yemen. The jury awarded \$1 million in compensatory and \$2 million in punitive damages on four counts under the Trafficking Victims Protection Act ("TVPA"). The matter was one of the first civil TVPA cases to be tried to verdict in the United States. The case was appealed to the U.S. Court of Appeals for the Fourth Circuit and was affirmed by that court in February 2019.
- Also in 2017, Jones Day filed an amicus brief on behalf of HT Legal, urging the Ohio Supreme Court to vacate the convictions of a juvenile victim of human trafficking based on the failure of the lower court to consider the application of Ohio's Safe Harbor law, which provides specific, rehabilitative processes and protections for minor human trafficking victims.
- In 2016, Jones Day obtained a \$1.3 million default judgment on behalf of Fainess Lipenga, a Malawian woman who was trafficked as a domestic worker by a Malawian diplomat. We now are working to enforce the judgment, and the U.S. State Department Trafficking in Persons office has taken an interest in the case.

We have a team of experienced litigators, including former prosecutors from United States Attorney offices throughout the country, who are identifying cases through which we can address human trafficking and child sexual exploitation. This team also is training lawyers throughout the Firm on handling civil restitution cases and expungement cases on behalf of trafficking victims.

Finally, we are developing a comprehensive manual of the causes of action and damage theories that can generate restitution and financial recovery for victims of human trafficking. In 2020, we anticipate making the manual available as a resource for other organizations and legal service providers who work to fight human trafficking.

In addition to our work in the judicial system, we are working with international organizations like Rotary International, International Justice Mission, and Polaris to develop employment opportunities and restorative services for victims of human trafficking.

## **2 Preventing Labor Trafficking in Supply Chains and Business Operations**

Trafficked labor occurs in supply chains in myriad ways. For example, in many places in the world, there is still no “record evidence” of personhood (e.g., no birth certificates, no passports or nationality papers, and no effective national ID system). Corrupt labor recruiters, the traffickers, promise these vulnerable people good jobs. When the workers arrive at the worksite, however, often in another country, all of their possessions and papers are taken. They are kept in squalid, closely guarded locations, in countries where they know no one and do not speak the language, and their “wages” are confiscated by the traffickers to “compensate” them for the “passage” to the worksite or for the “room and board” of the wretched living conditions. The “contracts” the workers signed either misstate the terms of their employment or are written in a language the worker does not speak or understand. At the end of the job, the workers are often abandoned or returned to their place of embarkation, having essentially been a slave for the period of their trafficking.

Companies that buy the ultimate product of the labor, usually many steps along the supply chain, may never know of the trafficking. Yet they may still face reputational and litigation risk from the unintentional existence of slave labor somewhere in the supply chain of their products. Consequently, the avoidance of trafficked labor in the supply chain is of critical importance to both companies and victims of trafficking themselves.

Jones Day is working with multinational companies and organizations to help identify and develop technologies and procedures that will reduce the risk of trafficked labor in supply chains. For example, lawyers from Jones Day’s global blockchain team are exploring how blockchain technology might be used to combat human trafficking in supply chains.

The financial services industry is also keenly focused on human trafficking. Banks and other financial institutions throughout the world are identifying the internal red flags of both labor and sex trafficking, and financial investors are increasingly including the risks of human trafficking as a factor in their investment decisions. We have a dedicated team of lawyers focused on these specific financial services issues and how to integrate financial services providers with systemic anti-trafficking initiatives underway throughout the world.

## **3 International Compendium of Trafficking and Modern Slavery Laws**

Jones Day is leading the compilation of a global compendium of the key human trafficking and modern slavery laws from around the world. While there are diverse collections of research relating to specialized issues or jurisdictions, there is no single standardized compendium of the law in this critical field. A compendium of the relevant laws that is accurate, updated, consistent, and easily available will be an enormous asset in the fight against trafficking and modern slavery for policy makers, governments, companies involved in international supply chains, law enforcement, international and regional standard-setting organizations, and NGOs working on the ground. We have joined with clients, NGOs, the United Nations, and various policy and government organizations around the world to complete this massive undertaking. This project is underway, and several key regions already are complete. We are targeting Europe, Brazil, and much of Asia to be completed in 2020, with a final completion target date of year-end 2021.

## **4 Judicial Initiatives: Model Diversionary Courts**

Many victims of human trafficking come into the judicial system through a criminal charge, often prostitution, drug possession, or simple theft. Incarceration does nothing to address the core issues underlying trafficking. In fact, jails and prisons are prime targets for new traffickers to identify vulnerable victims. Specialized diversionary courts are able to identify victims of trafficking and to deliver alternate dispositions that provide the treatment and rehabilitation necessary to break the cycle of trafficking. The problem—and the need for a trauma-informed response—is particularly acute in our juvenile court system.

Jones Day has undertaken a survey of a number of courts across the United States that have created diversionary courts or alternate disposition programs for the victims of human trafficking. Based on that survey and supported by interviews of selected judges, lawyers, and administrative personnel from across the United States, we have created a best practices guide to facilitate the spread of such diversionary courts or programs. In 2020, we will be sharing our best practices guide with judges throughout the United States interested in learning about the possibility of instituting diversionary court approaches in their respective jurisdiction.

## **5 Post-Disaster and Pre-Event Community Outreach**

The risk of human trafficking can be particularly acute in post-disaster situations, such as in the aftermath of a major hurricane. The risk of sex trafficking increases because people who have lost their homes and all their material possessions may try to sell the only thing they have left: their own bodies. Labor trafficking can also arise where citizens and businesses are trying to rebuild very quickly in an emergency situation and may not be as vigilant as to the source of the labor being used on their projects.

In the aftermath of Hurricane Harvey, the Houston Mayor’s Office reached out to Jones Day for assistance in creating a community training program that would combat both labor trafficking and sex trafficking in the wake of the hurricane. With generous funding from the Jones Day Foundation, we worked with the Mayor’s Office

to develop a training program that would alert the public and the business community to the red flags of trafficking in a post-disaster setting.

The training developed for post-disaster situations is largely applicable to pre-global-event situations as well. It is well documented that sex trafficking increases around major global sporting events, such as the Super Bowl, the World Cup, or the Olympic Games. The risk of labor trafficking also increases as major construction projects, such as stadium or transportation construction, come under “emergency” timetables as the date of the global event approaches.

At present, with continued funding from the Jones Day Foundation, we are working with the Houston Mayor’s Office and the United States Conference of Mayors to extend this successful training program to other communities throughout the United States and internationally, including in the Americas and in Asia. The program was introduced at the PILnet Global Forum in Singapore in late 2019.

## 6 Combating Online Sexual Exploitation of Children

The sexual exploitation of children online is a growing international crisis. To combat this issue, we are collaborating with numerous NGOs including the National Center for Missing & Exploited Children (“NCMEC”), which is the congressionally designated clearinghouse and reporting center on issues relating to missing and exploited children. NCMEC is also the statutorily designated recipient of reports relating to child sexual exploitation, which includes child pornography, child sex trafficking, online enticement, and child sex tourism. In 2018, NCMEC received more than 10 million reports of online child sexual exploitation; in 2019, this number increased to more than 45 million and it is expected to go even higher in 2020.

Jones Day is working with NCMEC to develop systems and resources to provide and train advocates to represent the children and families who are victims of online child sexual exploitation. In addition, Jones Day teams led by former Assistant United States Attorneys are working with NCMEC and other NGOs across the country to identify civil restitution cases in which to provide representation for victims of online child sexual exploitation, and to explore innovative civil remedies for the most egregious cases.

We are also working to develop new resources, partnerships, and legal strategies to combat real-time online sexual exploitation of children, known as “livestreaming,” in which online viewers can “direct” the abuse perpetrated on the child in real time and pay with cryptocurrencies.

Jones Day is leading a global effort to bring together investigators, prosecutors, NGOs, financial institutions, communications providers, judges, law enforcement, and pro bono counsel to create the global web of coordinated action necessary to take down the global networks that facilitate livestreaming of child sexual exploitation. Livestreaming is a transnational problem and Jones Day’s worldwide reach provides a valuable asset in coordinating strategies to interdict this latest form of child sexual exploitation.

## 7 Health Care Initiatives

The health care sector is important to anti-human trafficking initiatives for two critical reasons beyond the actual health care treatment of trafficking victims. First, it has been estimated that more than 80% of trafficking victims will see a health care provider during the course of their trafficking, usually more than once. Second, recent reports suggest that more than 50% of the calls reported to the Polaris national hotline are from health care providers. Thus, health care providers are in an optimal position to identify and report trafficking. And they do.

Jones Day has developed a robust working partnership with our client the American Hospital Association (“AHA”) to help health care providers identify, treat, and refer trafficking victims. In March 2017, we hosted a Houston Roundtable that addressed, among other issues, the lack of diagnostic codes for human trafficking within the health care sector (so-called “ICD-10 codes”). Other health-related conditions, such as domestic or child abuse, have such specific codes, which are important both to identify incidence of the underlying condition and to ensure the appropriate referral and treatment of such patients. The roundtable recognized that new ICD-10 codes would help direct human trafficking victims more consistently to appropriate therapeutic treatment and also allow the development of data on the incidence and prevalence of human trafficking. As with any policy issue, data drives resources and supports research. Because trafficking happens in the shadows, the lack of data on the incidence of trafficking has been an impediment to the development of public health and other solutions.

Working with other key stakeholders, the AHA submitted proposed ICD-10 codes for trafficking victims to the Centers for Disease Control, which approved those codes on October 1, 2018. These ICD-10 codes should help close an important gap in the recognition and appropriate referral and treatment of victims of human trafficking.

In March 2018, Jones Day hosted a program in our Washington Office on the role of hospitals and other health care providers in combatting human trafficking, which we co-chaired with the AHA and Project HEAL. The then-pending ICD-10 codes for human trafficking were one of the several discussion topics related to the role that health care providers could play in addressing human trafficking. Based on that program, the AHA assembled a national team to act as an advisory board on issues related to health care and human trafficking. We have served as an active participant on that advisory board from its inception and will again host another AHA and Project HEAL meeting in our Washington Office in April 2020.

Finally, we are working with other parties in Australia and Canada to extend the use of anti-trafficking codes to those health care systems, and we have begun efforts to encourage the World Health Organization to include trafficking codes in the global standards when they are amended in the next few years.

## 8 Data Initiatives

Because human trafficking is conducted in the shadows, it is difficult to develop the kind of robust and reliable data that drives resources, public attention, and government action. The development of more effective and consistent data is therefore of paramount importance in assuring that legal and other anti-trafficking systems are appropriately designed and adequately funded.

In 2019, we were pleased to host the launch of the TA Hub, a data-sharing platform spearheaded by IBM, STOP THE TRAFFIK, Barclays, and Liberty Shared. We also worked with the National Cyber-Forensics and Training Alliance (“NCFTA”) and Experian in developing data-sharing opportunities for financial sector participants.

Finally, we provided advice and counsel to various NGOs who are collecting data and require advice on various privacy directives, cybersecurity, HIPPA, and related issues. We likewise have partnered NGOs with some of our global data management clients who are willing to provide pro bono data analysis services, which unlock the potential of the data gathered by these NGOs to date.

## 9 Rule of Law Training and Research

For more than a decade, Jones Day lawyers have participated in programs training judges and prosecutors around the world. For example, in Africa, our lawyers have been active in conducting training on human trafficking in several countries, including a weeklong training in Tanzania, with Lawyers Without Borders (“LWOB”). Attendees included Tanzanian magistrates, prosecutors, and law enforcement officers who attended lectures and participated in learning-by-doing sessions based on the National Institute for Trial Advocacy training model.

In Asia, a team of more than 20 Jones Day lawyers from the Tokyo, Perth, Singapore, and Hong Kong offices, with assistance from lawyers in the United States, partnered with several clients to assist LWOB with research into the streams of, and criminal laws around, human trafficking in and between six Asian countries.

In 2019, a team of Jones Day lawyers participated with Liberty Shared, a leading NGO in this space, on several initiatives, including a new civil litigation program around victims of sex tourism in Cambodia and a program to train judges handling trafficking cases in Thailand. We also participated in training in Nepal on trafficking issues.

## 10 United Nations University Centre for Policy Research (“UNU-CPR”)

We have provided research to the Financial Access Project being conducted by UNU-CPR’s Modern Slavery Programme. One of the drivers of modern slavery is the lack of access to the financial system. The Financial Access Project is hoping to develop a “Survivor Package” for survivors of modern slavery and human trafficking, which will provide a framework for financial institutions, support organizations, and other relevant actors to facilitate access to basic financial services. Jones Day provided a research paper on the global regulatory framework for financial services and antitrust regulatory review, as well as a global data privacy analysis and review, assessing how data relating to human trafficking victims could be collected, shared, and transferred across national borders under various data protection laws.

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Our Anti-Human Trafficking Initiatives are a good example of Jones Day’s solution-oriented approach of combining pro bono legal work, client relationships, and community initiatives to produce a meaningful impact on a global scale. Through this integrated approach, we have been able to translate our work on individual cases into collaborative solutions that affect the field far beyond our individual cases.

We welcome participation and collaboration in our Anti-Human Trafficking Initiatives or in any other aspect of our pro bono/ community initiative work around the globe. If you have an interest in participating, please contact any of the lawyers listed on the following page.

## CONTACTS

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For further information regarding our Anti-Human Trafficking Initiatives, please contact one of the lawyers listed below. General email messages may be sent using our "Contact Us" form, which can be found at [www.jonesday.com/contactus](http://www.jonesday.com/contactus).



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