



23 September 2013

Anna Peacey
fyi-request-1051-9910498e@requests.fyi.org.nz

Dear Ms Peacey

REQUEST FOR INFORMATION - People Trafficking and Migrant Smuggling

I refer to your email request to New Zealand Police dated 5 August 2013, in which you requested the following information:

1. The number of prosecutions for each offence;
2. The number of investigations that have not led to a prosecution for each offence;
3. The number of complaints made for each offence;
4. Any information about Police policy on victims of trafficking and exploitation for Immigration purposes. Specifically, the number of visas granted to victims or witnesses of the above offences, and the procedures followed for recognising victims in these circumstances."

In answer to your questions 1, 2 and 3 please refer to the table below:

	Calendar Year	2002	03	04	05	06	07	08	09	10	11	2012
Migrant Smuggling (7341)	# cases	-	-	1	-	-	2	-	-	-	1	1
	# persons prosecuted	-	-	1	-	-	-	-	-	-	1	2
	# investigations unresolved or still open	-	-	-	-	-	2	-	-	-	-	-
People Trafficking (7342)	No cases or prosecutions recorded under offence code 7342 for years 2002 -2012											

With reference to the additional information requested regarding "...police policy on victims of trafficking..." please find enclosed a copy of pages 15 - 22 of the NZ Police Manual chapter "People trafficking and migrant smuggling." Also attached is a copy of the letter template mentioned on page 20 of that policy.

Some of the information on the bottom of page 21 and top of page 22 is withheld pursuant to Section 6(c) of the Official Information Act 1982 as release would be likely to prejudice maintenance of the law, including the prevention, investigation, and detection of offences.

You will notice that some of the text in the chapter is in [underlined blue type](#). This text either:

- a) Links to other information in the chapter;
- b) Links to other Police Manual chapters which may be related in some aspect;
- c) Links to other related agencies' websites; or
- d) Links to relevant legislation in Brookers Online.

I have not provided the linked information, except for that already within the chapter that falls on pages 15 - 22, as per point (a) above.

The information regarding visa numbers granted for victims and witnesses and the procedures followed for recognising victims in those circumstances, is not information held by the police and accordingly that part of your request has been transferred to Immigration NZ

If you are not satisfied with my response to your request you have the right to complain to the Office of the Ombudsmen and seek an investigation and review of my decision.

Yours faithfully



P Berry
Detective Inspector
Acting National Manager
National Criminal Investigations Group
POLICE NATIONAL HEADQUARTERS



Victims

It would be difficult to overstate the critical role of victim liaison in the successful investigation of people trafficking. International experience has shown that securing successful prosecutions against traffickers relies heavily on victim / witness statements. It is therefore essential victims feel empowered to participate in the criminal justice process.

Victim profiles

People traffickers exploit the vulnerabilities of their victims, those who are vulnerable to human trafficking because:

- they started out believing they were to be smuggled as illegal migrants
- they are stateless persons having had all proof of their country of origin deliberately destroyed or taken from them
- they lack financial support
- they may lack the ability to speak in anything other than their native language, increasing their vulnerability and deterring them from considering escape
- 80 % of victims are female
- 50 % of victims are minors.

Note: Adult victims who have been exploited for sexual servitude should be dealt with in accordance with the established principles of [Adult sexual assault investigation policy](#).

Child victims who have been exploited must be treated in accordance with the principles of the [Child protection policy and investigation guidelines](#) Police Manual chapter.

Victims' needs

Victims of trafficking (both adults and children) are often traumatised by the exploitation and abuse, and have unique humanitarian needs for immediate support, assistance and rehabilitation. Their primary focus will be their own safety, possibly their families' safety as well as their own needs (food, housing, medication etc). These issues should be addressed so the victim reaches a position where they feel able to assist the Police investigation, and therefore prosecution of the offender(s).

Trafficked victims can have no possessions other than the clothes they are wearing. Police, together with other government departments; are responsible for ensuring victims of people trafficking are provided with adequate assistance. This includes providing for their immediate as well as longer term welfare needs, such as:

- protecting the victims' personal safety
- supporting them through the criminal prosecution process
- addressing their humanitarian needs in a timely fashion, such as:
 - accommodation
 - immigration status (refer '[Immigration issues](#)' and '[Police certification](#)')
 - health services such as medication, assessment and treatment
 - social service and financial assistance
 - assistance with repatriation
 - interpreting services
 - advising next of kin who are situated overseas.

Note: Where a child is identified as a victim of people trafficking, immediate and close liaison with [Child, Youth & Family \(CYF\)](#) will be required.

The victim will require ongoing support and rehabilitation from initial contact, formal interview, court proceedings, final or further action and immigration review through to possible resettlement.



In line with the requirements of the Trafficking Protocol, the Ministry of Social Development's operational arm, Work and Income New Zealand, will offer tailored financial assistance to suit the needs of victims of trafficking. Relevant government agencies will also provide publicly-funded programmes and services on a par with New Zealand residents including housing, health, disability and employment.

The level of care provided to victims by Police must be appropriate and adequate to meet the needs of the victim. Make sure the level of assistance provided is not excessive, and does not create a perception that assistance is provided as an inducement to support the Police investigation or to support prosecution of the offender(s). Any such perception could adversely affect prosecution outcomes.

Victim reluctance

Overseas intervention and research has indicated a number of factors which influence victims to become reluctant to seek help. This table shows some of the key factors.

Reason	Consequence
Debt bondage	Traffickers often impose a debt and interest charges on victims for transportation costs etc. The victim may receive payment for their services such as sexual exploitation, but can often never earn enough to achieve repayment of the debt. Debts are either imposed on the victim, or their family and friends in their country of origin.
Isolation	Traffickers employ various techniques to psychologically and physically isolate victims, including: <ul style="list-style-type: none">• retention or destruction of victims' passport or identity papers• threats made to inform authorities (a trafficked person may have begun as a smuggled migrant)• language barriers• physical imprisonment.
Drug dependency	Traffickers who coerce people into prostitution may force or encourage victims to use unlawful drugs as a means of sedation and control.
Shame and stigma	Victims of trafficking for sexual servitude and people from some cultures may be particularly reluctant to engage with the criminal justice system. This may be due to their knowledge or perceptions of corruption in their own country.
Threats of violence and intimidation	Traffickers may use deception or coercion to transport victims abroad. Even where victims are deceived and initially agree to be transported, traffickers often use to violence and intimidation to control victims, once the victim becomes aware of the exploitative purpose of their journey.
Reprisals to friends & family	See ' risks to victim ' section below.
Mistrust of authorities	Victims of trafficking often come from countries with corrupt public officials including law enforcement officers. Overseas law enforcement officers are complicit in some cases of trafficking. For such reasons, victims may be reluctant to cooperate with Police.

Risks to victims

People trafficking offences are predominantly committed by organised criminal enterprises. By assisting Police, victims of people trafficking may be placing themselves in danger from the trafficker(s) or their associates within New Zealand. This danger may extend to the trafficked person in their country of origin should they return there, and to their friends and family.



Responsibilities of respective Government agencies

The respective responsibilities of Government agencies involved are summarised in this table.

Agency	Action
Police	Identify/certify the victim.
Police	Address the victim's immediate needs.
DOL	Establish whether the victim wishes to return to their country of origin.

Where the victim wishes to return to their country of origin	
Police/ DOL/ MFAT	Police will assess any associated risks to the safety of the victim and their family, in consultation with DOL and MFAT.
Police	Determine whether any risks associated with the victim and their family returning to their country of origin, are considered acceptable, and inform the Department of Labour.
DOL	Make travel arrangements, where the victim wishes to return to their country of origin and any risks are considered acceptable.
MFAT	Notify the country of origin.
DOL	Where risks are considered unacceptable, refer to asylum procedures and/or other protective provisions.

Where the victim does not wish to return to their country of origin (or does not continue to meet immigration policy requirements).	
DOL	Regularise the victim's immigration status.
MSD	Case-manage the victim's access to social services, in conjunction with Ministry of Health, NGO's and service providers.
DOL	Determine whether the victim continues to meet requirements of the immigration policy.
If the victim continues to meet immigration policy requirements.	
Police	Provide ongoing protection for the victim, if required.
DOL	Coordinate reintegration, and settlement support
MSD	Continue case-management to meet the victim's long term needs.

Where the victim does not continue to meet immigration policy requirements	
Police	Determine whether any risks associated with the victim and their family returning to their country of origin, are considered acceptable, and inform the Department of Labour.
DOL	Make travel arrangements, where risks are considered acceptable and the victim wishes to their country of origin.
MFAT	Notify the country of origin.
DOL	Where risks are considered unacceptable, refer asylum procedures and/or other protective provisions.

Victim interviews

In cases where the trafficked person has been located, has escaped or been liberated and they are no longer at risk, a thorough interview of the victim is vitally important for evidential purposes.

The interview of victims should be carried out as soon as possible, subject to their well-being and level of trauma experienced. The interview process will inevitably require an

This is an uncontrolled document printed for reference only.

The controlled document can be found in the Police Instructions site which is accessible via the New Zealand Police Intranet.



extended and detailed interview and should not be rushed. People trafficking victims should be treated as key witnesses.

Victims may not disclose their full story in the first interview but may open up during subsequent interviews, as they gain confidence, trust and security. Victim interviews should be staggered and planned.

The interview of the victim should be:

- conducted by an experienced investigator, preferably a [National Standard Level 3 trained Investigative Interviewer](#) (or a specialist child evidential interviewer, in the case of a child victim)
- recorded on video as per the Video Recorded Interview procedure
- conducted in accordance with the principles of the [Investigative Interviewing Witness Guide](#).
- conducted as a cognitive interview to establish what the victim recalls in terms of what they heard, smelt, felt and touched throughout their captivity. The victim may have been bound, gagged, blindfolded or drugged during their period of captivity.

Police should consider making an application for the victim to give evidence in alternative ways as provided for under section [103](#) of the Evidence Act 2006. Criteria for such applications include the trauma suffered by the victim, the victims' fear of intimidation and the nature of the evidence the victim is expected to provide.

Child victims

International data indicates 50% of all people trafficking victims are under 18 years of age, the age of a "child" as specified by New Zealand legislation.

Child victims who have been exploited must be treated in accordance with the principles of the [Child protection policy and investigation guidelines](#) Police Manual chapter and interviews of child victims should be conducted by a specialist child evidential interviewer.

Any unaccompanied child victim of trafficking falls under the care of the Ministry of Social Development (MSD); specifically under its operational arm, [Child, Youth & Family \(CYF\)](#). A legal guardian or representative will be appointed for any unaccompanied child, to support a repatriation or residence decision.

If a child is trafficked with their parent, immigration decision-makers will work to ensure that the family remains together, where that is in the best interest of the child.

Children under 18 years who are trafficked to New Zealand are able to apply for residence in their own right immediately, whether or not they have obstructed the Police investigation. This recognises the special circumstances of children who may be at greater risk of being re-trafficked if returned to their home country. Child victims are also able to access publicly-funded education while on their temporary visa. For further details, see the section ['Immigration issues - Child victims'](#) below.

People trafficking victims of any age are encompassed in offences under section [98D](#) of the Crimes Act 1961.

Offence of dealing in children under 18 years

Section [98AA](#) of the Crimes Act 1961 relates to dealing in people aged under 18 for prohibited purposes including sexual exploitation, removal of body parts and forced labour. Although primarily designed to address offences committed within New Zealand, one prohibited act (under section [98AA\(1\)\(e\)](#)) is importing persons under 18 for one of



Version : 1.0

the specified exploitative purposes (sexual exploitation, removal of body parts or forced labour).

When dealing with importing of victims aged less than 18 years for exploitation, offences under section [98AA](#) are complete without any requirement to prove any coercion; deception; fraud or abduction etc, unlike offences of people trafficking offences under section [98D](#).



Immigration issues

Victims of people trafficking are often stateless persons as their proof of their country of origin and identification documents are deliberately destroyed.

Department of Labour - Victims of Trafficking policy

Under the policy, adult victims of trafficking will be issued a 12 month temporary resident visa and thereby remain lawfully in New Zealand. This entitlement is conditional on the victim meeting the ['Eligibility for a temporary residence visa'](#) which includes Police having certified that the person is believed to be a victim of trafficking. In cases where Police confirm the victim has obstructed the Police investigation, the person would not be eligible for an extension of the temporary visa under the policy.

Eligibility for a temporary residence visa

Under the Victims of Trafficking Policy, adult trafficking victims must meet the following criteria to be eligible to apply for a temporary residence visa. They **must**:

- have been certified by Police that they are believed to be a victim of people trafficking, **and**
- not have obstructed the Police investigation of their people trafficking case during the temporary visa period (as confirmed by Police), **and**
- satisfy usual health and character criteria (or be granted a health and/or character waiver), **and**
- be considered to be either:
 - to be endangered in their country of origin as a consequence of being trafficked, **or**
 - at risk of being re-victimised or suffering significant social and financial hardship as a result of the stigma of being trafficked, if they were to return to their country of origin.

Victims who require ongoing protection may also be eligible for a longer term immigration resolution provided they meet the criteria of the immigration policy.

Certification of victims

Under the agreed policy, Police are responsible for certifying a person as being a victim of people trafficking. Certification will be based on an assessment of available evidence.

Police certifications can be issued at the time when a case of trafficking is identified, but can also be later withdrawn. This is to mitigate the risk of immigration fraud if further investigation reveals the trafficking claims are not genuine (covered further under ['Immigration issues'](#)).

This Police certification will be endorsed and signed by the relevant District Manager Criminal Investigations, or their authorised deputy. Police certification of a victim will be based on an assessment of available evidence and witness statements.

Police certification will be issued when there is a reasonable suspicion the person in question has been trafficked to New Zealand pursuant to section [98D](#) of the Crimes Act 1961 (amended in 2002), provided the victim meets the criteria required for certification.

Police certification will take the form of a letter confirming a Police investigation is being conducted into an offence of people trafficking as defined by section [98D](#) of the Crimes Act 1961, that the person named in the letter is suspected of being a victim of that offence and that they have not obstructed the Police investigation of their people trafficking case. Refer [Template Letter](#).



Police certification will trigger a victims' eligibility to a range of social support services which a person on a temporary immigration permit would otherwise not have access to.

During the 12 month temporary visa period, victims will be able to:

- access financial assistance provided under the Special Needs Grants Ministerial Welfare Programme
- access publicly-funded health services, subject to a provision to this effect in a new Eligibility Direction issued by the Minister of Health
- co-operate, if willing, with the Police investigation into their trafficking case
- receive information about the court process from Court Victims Advisors
- access interpreting services as arranged by each agency providing the particular service. For example, Immigration New Zealand arranges interpreters to assist with communicating immigration advice as required
- work legally, and
- organise their personal affairs so that they may return to their country of origin voluntarily, if that is feasible.

Trafficking victims who do not meet the criteria for residence under the policy may seek residence through other avenues. They may make refugee and/or protection claims under United Nations conventions and where they are liable for deportation, appeal rights are available.

Child victims

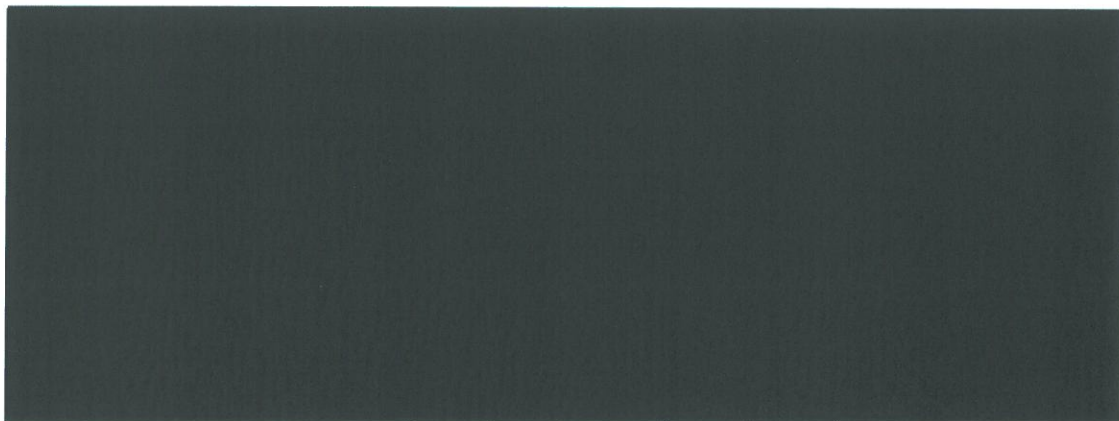
Under the Victims of Trafficking Policy, victims are considered a 'child' for immigration purposes when they are under the age of 18 years at the time they are identified. An application for residence can be made immediately in respect of child victims.

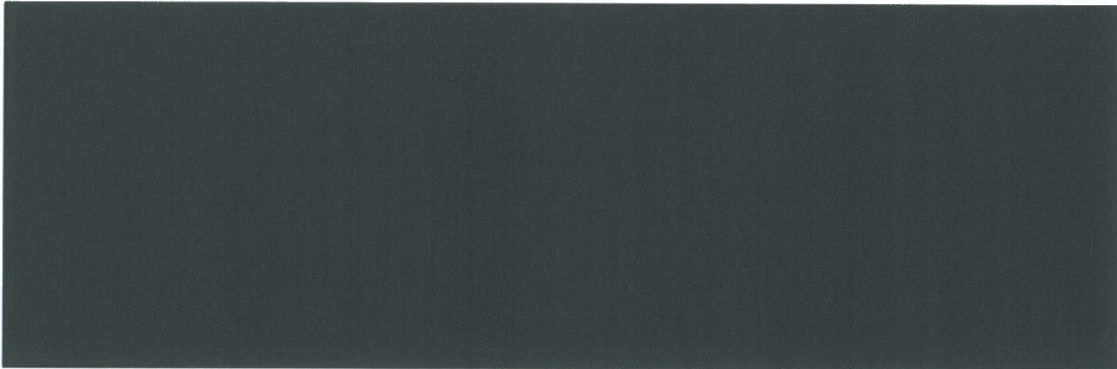
Child trafficking victims will be issued a 12-month temporary visa, while decisions about repatriation or residence are taken. Child victims on a temporary visa will be eligible to access publicly-funded education as well as social assistance.

The eligibility criteria for child trafficking victims differ from those of adults. Child victims are immediately eligible for residence, regardless of whether or not the child obstructs the Police investigation. Any obstruction by the child will not be a factor in the decision regarding their residence.

Instead, decisions of a child victims' residence or repatriation will be based on the 'best interest of the child' considerations.

Risks





Immigration fraud

Potential exists for people (particularly migrants who are smuggled voluntarily) to fraudulently claim to be a victim of trafficking, in order to access legal immigration status. This possibility must not be permitted to undermine the professional service Police provide to genuine victims of people trafficking.

These risks are mitigated by the requirement for victims to hold Police-certification in order to be eligible for the temporary visa (and therefore access social assistance). Police certification must also be maintained in order to apply for residence. Police may revoke certification at any time if a victim's claims of trafficking are discovered on further investigation, to be false. A visa holder is liable for deportation if the visa was obtained through fraud, forgery, false or misleading representation or concealment of relevant information.



Police Station

Police District

Address:

PO Box:

City:

Tel:

Date:

Department of Labour
P.O. Box 3705
Wellington, New Zealand
Telephone +64 4 915 4400
Fax +64 4 915 4015

To whom it may concern,

I am writing to inform you that on behalf of New Zealand Police, I have formally certified the person specified below as a victim of people trafficking.

This police certification is made in accordance with the Department of Labour Plan of Action to Prevent People Trafficking, which identifies Police as being responsible for certifying persons who are suspected of being the victim of a people trafficking offence.

First name: _____
Middle name(s): _____
Last name: _____
Date of Birth/Age: _____ / _____
Nationality: _____
Immigration status: _____
Current location: _____

A police investigation is currently being conducted into an offence of People Trafficking as defined by Section 98D of the Crimes Act 1961. Based on an assessment of the available evidence and information, I am satisfied that there are reasonable grounds to suspect that the above named person is a victim of that offence, having been trafficked to New Zealand. I can also confirm the above named person has not obstructed the Police in their investigation of the people trafficking case.

The above named person fulfils the criteria required for certification by Police. Under the Department of Labour Plan of Action to Prevent People Trafficking this certification will initiate their eligibility to the benefits for victims of people trafficking. I understand these benefits include a range of financial and social support services.

Police may subsequently withdraw certification if further investigation into the case proves that the person has not in fact, been trafficked. You will be notified immediately if this occurs.

Certification of victim endorsed by:

Name: _____

Signature: _____

Position: District Manager Criminal Investigations / authorised deputy