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Hotels and Motels Can Be Liable for Human Trafficking



Human trafficking affects businesses and consumers in communities and cities around the globe. It's a massive illegal industry that's estimated to bring in around \$150 billion annually. Victims of trafficking cut across business sectors and involve all genders, races, ages, socioeconomic groups and nationalities.

Most people are justifiably horrified by the whole idea of human trafficking and would prefer not to think about it or get involved. But this can lead to a code of silence and a stigma around open conversations – which is exactly what the traffickers are counting on.

Human trafficking often takes place at hotels and motels, and an unwillingness to confront the issue head-on can perpetuate the cycle of abuse and violence, as well as lead to legal liability exposure risks.

Exclusions in commercial general liability policies (such as physical-sexual abuse, criminal acts or negligence in prevention efforts) often call insurance coverage into question.

Since human trafficking is a crime – and injuries are sustained as part of a criminal act – some insurance companies have denied claims under the criminal acts exclusion. Hotels that sue their insurance companies for breach of contract

(failure to indemnify) often lose in court.

Failure to report and intervene exposes hotels to liability risk

Victims of human trafficking have named hotels in personal injury cases because the assault and victimization took place on their premises. Even if a hotel wasn't directly part of the trafficking ring, a failure to report or act can lead to legal liability.

The language of exclusions in your liability policy

Whether you have separate commercial general liability or a bundled business owners policy (BOP), the exclusions are probably similar. Language differs in each policy, especially coverage B and exclusions related to criminal acts, such as:

- "Any actual, threatened or alleged assault or battery"
- "The failure of any insured or anyone else for whom any insured is or could be held legally liable to prevent or suppress any assault or battery"

Ignorance is not an adequate defense

"I didn't know" is not a winning defense in a lawsuit.

In two recent cases, the courts decided that hotels were responsible for sex trafficking activities that took place at their establishments. (One of the hotels allegedly ignored blatant red flags, including large amounts of cash.) You may not be able to control every guest at your hotel, but you can take steps toward prevention.

Train your employees on recognizing human trafficking situations. Create a safe path for them to report issues as they arise.

Offset your liability risk by creating employee training programs

Good-faith prevention efforts can go a long way toward showing that your hotel is proactively working to fight human trafficking:

- Make and follow a no-tolerance policy.
- Encourage employees to speak up if they witness any red flag behaviors.
- Keep records of your employee training programs (attendance and materials).
- Retrain employees annually or as seasonal staff changes.
- Create a non-punitive procedure for reporting suspected trafficking.

- Follow up on reports and establish a process for communicating with management and law enforcement.
- Post anti-trafficking signage in employee breakrooms.
- Consider posting helpline information in guest rooms, next to courtesy phones and vending areas.
- Stay vigilant and watch for the signs.
- Work with law enforcement and professionals to improve training programs for your hotel employees.
- Take all allegations seriously.
- Report suspected trafficking.

Red flags to watch for

Employees learn to recognize normal guest behaviors and are often skilled at identifying untoward or peculiar behavior.

- Laundry and housekeeping, for example, may encounter red flags while doing their jobs, such as an excess of condoms in a particular room.
- The front desk and concierge staff may observe increased foot traffic, lack of luggage for specific visitors or all-cash payments for rooms and services.
- Specific individuals may seem confined to their hotel room; they rarely leave. They may also refuse housekeeping services or entry for other reasons.
- Someone may appear to be drugged.
- Someone may seem to want to speak to staff but cannot verbalize, or is afraid.

Train employees that traffickers may be skilled at covering up activities and may even seem reasonable when confronted. Also, let your staff know that victims might defend their captors (trauma bonding) or blame themselves. Captors depend on this intentional manipulation to keep victims enslaved and outsiders confused (and reluctant to report).

Human trafficking is a form of abuse. Do not shame or blame a victim of trafficking. It is never their fault.

Human trafficking is not human smuggling

Trafficking can continue for years without the victim being transported across state lines or even far from home. Human trafficking is not the same as human smuggling, but the two can go together.

- **Smuggling** involves transporting people across state or country lines.
- **Trafficking** is when people are held against their will using threats of violence and intimidation to coerce them to stay silent and comply with outrageous demands and working conditions.

Hotels are an easy place to traffic individuals because the perpetrators don't take on the liability of permanent residence. Your hotel may end up owning that liability risk unless you take action to prevent and report traffickers.

Make it clear that your hotel doesn't tolerate trafficking

Forced labor and sex trafficking occur in every area (rural, city or suburb), demographic, nationality and socioeconomic class.

Make your hotel or motel a place where employees feel empowered to speak out, and make it clear to traffickers that your hotel is off limits. You can help stop the cycle and remove the stigma.

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