ONLINE PROSTITUTION AND TRAFFICKING

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You are not safer because you work indoors. Craigslist is just the “internet streets,” where the same predators and hustlers are meeting you with the same intentions except they look like straight people who go to medical school and have Blackberrys.

I consider myself in the same risk and danger zones as a street worker. I am an upper working class anonymous client worker.1

I. INTRODUCTION

The use of Internet technologies to traffic women and children to prostitution will be described in this article. We will summarize the history of online trafficking and the remarkably effective use of the Internet for advertising prostitution locally, regionally, and internationally beginning with the development of social networking sites, discussion forums, message boards and online chats. Examples of sex buyers’, pimps’, and traffickers’ use of the Internet and online classified advertising sites will be provided.

We will also summarize the empirical evidence for the psychological and physical harms of trafficking for prostitution and will discuss the risks of compartmentalizing arms of the sex trafficking industry that are in fact elements of multinational, constantly expanding, businesses. False distinctions have been

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erected between online and offline prostitution, child and adult prostitution, indoor and outdoor prostitution, pornography and prostitution, legal and illegal prostitution, and prostitution and trafficking.

We will discuss what is known about the involvement of organized crime in online trafficking, and summarize several successful cases brought against online traffickers. We describe public campaigns and educational boycotts against online traffickers and the development of online alternatives to the sex trafficking industry. There has been a range of legal responses to the crimes of prostitution and trafficking. Prosecutorial challenges in this newly developing field include the anonymity of the Internet, blurred jurisdictional boundaries, reluctance to prosecute prostitution cases where there is no evidence of physical coercion, and a very slowly increasing number of cases brought using existing legislation, in part because of the need for special training of criminal justice personnel. Nonetheless, there are tools available that provide both criminal and civil remedies.

Compartmentalization of the various arms of the sex industry, regardless of their location or legal status, has confused and sometimes derailed policymakers, the public, and law enforcement and has resulted in a failure to understand prostitution and trafficking as crimes against vulnerable women and children. Prostitution is the sale of a sex act. Payment for sexual use is usually made in cash but can also be made in housing, food, drugs, clothes, gas, or other basic needs. For young women with few alternatives, Internet prostitution is a portal into the sex trafficking industry. Prostitution is glamorized and mainstreamed for women who believe the recruitment messaging, “prostitution is fun!” “sexy!” and “you make tons of money!”

Online classified websites

\[\text{\textsuperscript{2}}\] Slight variations on that definition occur by state. For example, Nevada defines prostitution as follows: “Prostitution’ means engaging in sexual conduct with another person in return for a fee, monetary consideration or other thing of value.” NEV. REV. STAT. ANN. § 201.295(5) (Lexis-Nexis 2014).


\[\text{\textsuperscript{4}}\] See Bill McAllister, From Streetwalking to the Information Superhighway: The New Method in Prostitution, POLICE PROSTITUTION & POL. (July 30, 2011, 2:17 PM), http://goo.gl/KoussU.

Backpage, myredbook, escortpost, theeroticreview and others have sections advertising prostitution—thus functioning as online brothels. Craigslist was described as “training wheels” for selling sex. In third world or recessionary economies, prostitution is a last-ditch survival option for poor young women or for women who are marginalized because of racism. Korean women, for example, are recruited by traffickers for prostitution in the United States via Internet advertising. An advertisement aimed at financially vulnerable women on the cafedaum.net website read: “We know that in Korea these days, unemployment, the recession and the Special Law on Prostitution make it hard to earn even half of what you made before.” Enticing the women into prostitution, the traffickers then specify how much money can be made in a bar or massage parlor, declaring: “Advances possible. We take care of visas and bad credit.”

Most contemporary legal definitions of trafficking do not require physical movement, but rather coercion, force, fraud, or abuse of power to trap a victim in an exploitive situation. In some international legal definitions, consent is irrelevant. For the purposes of this article, we will use a definition of trafficking like that used in the Trafficking Victims Protection Act: “[T]he recruitment, [enticement,] harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act.”

Prostitution often meets the legal definition of human trafficking in that pimping or third-party control of a prostituted person cannot be distinguished from the identical crimes perpetrated in trafficking. According to estimates from eighteen sources

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8 Id. at 21.
9 Id.
10 Id.
13 Noting the impossibility of separating prostitution from trafficking in the real world, a 2006 report by Sigma Huda, United Nations Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children noted that
including research studies, government reports, and nongovernmental agencies, on average 84% of women in prostitution are under third-party control or pimped or trafficked.\textsuperscript{14}


\textsuperscript{14} To calculate the number 84% as an estimate of those who were under third-party control, pimped, or trafficked we used either whole number estimates or whole numbers based on the midpoint of a given estimated range. In the United States, 80–90% of those in prostitution had pimps. See JACQUELINE B. HELPFOTT, CRIMINAL BEHAVIOR: THEORIES, TYPOLOGIES, AND CRIMINAL JUSTICE 301 (2008); Jean Faugier and Mary Sargeant, Boyfriends, 'Pimps' and Clients, in RETHINKING PROSTITUTION: PURCHASING SEX IN THE 1990S 119–94 (Graham Scambler & Annette Scambler eds., 1997). In New York City, a pimp estimated that “70% of women working in New York City as prostitutes are being compelled to do so by pimps who use beatings and drugs, and most importantly the threat of jail, to keep their girls in line.” Prostitution—Legalize or Decriminalize?, DAVIS2013.COM (July 30, 2012), http://davis2013.com/prostitution-legalize-or-decriminalize/. In Italy, the European Union estimated that 80% of those in prostitution were trafficked. SCELLES FOUNDATION, SEXUAL EXPLOITATION: PROSTITUTION AND ORGANIZED CRIME 173 (2012), http://www.fondationscelles.org/pdf/rapport_mondial/sexual_exploitation_prostitution_Fondation_Scelles.pdf. In Poland, 90% of prostitution along the roads was assumed to be controlled by organized criminal groups. Id. at 233. In Amsterdam 50 to 90% of women in prostitution in the red-light district were considered likely victims of Turkish, Hungarian, Romanian, and Bulgarian human trafficking networks, including those working in legal clubs and brothels, according to the Dutch national police Corps Landelijke Politiediensten (KLPD). Id. at 211. In Spain, more than 90% of women in prostitution were victims of human trafficking. Id. at 268. In Bulgaria, RiskMonitor Foundation estimated that more than 95% of those in prostitution have pimps linked to organized crime. Id. at 64. In Germany SOLWODI estimated that 80% of women in prostitution are placed “under strong pressure and have no alternatives. This pressure may come from a partner or even their family, who send them abroad to work and send money back.” Eur. Consult. Ass., Prostitution, Trafficking and Modern Slavery in Europe, Doc. No. 13446, at 12 (2014). In Germany, policy analyst Barbara Yondorf estimated that 80–95% of women in prostitution have pimps. KATHLEEN BARRY, FEMALE SEXUAL SLAVERY 130 (1979). In San Francisco, 80% of women in prostitution interviewed by Marilyn Neckes and Theresa Lynch had pimps. Id. at 119. In Oregon, 84% of women who had escaped prostitution had previously been controlled by pimps. Susan Kay Hunter, Prostitution is Cruelty and Abuse to Women and Children, 1 MICH. J. GENDER & L. 91, 101 (1993). In Ireland, Ruhama estimated that 80% of women in prostitution were under third-party control. E-mail from Sarah Benson, CEO of Ruhama, to Melissa Farley (April 10, 2014) (on file with the Albany Law Review). In the United States, a study of women prostituted in hotels estimated that more than 80% were controlled by pimps. ROBERT FRUS & STYLIANOSS IRINI, HOEKERS, ROUNDERS, AND DESK CLERKS 11 (1980). Kathleen Barry noted that 80 to 95% of all prostitution is pimp-controlled. KATHLEEN BARRY, THE PROSTITUTION OF SEXUALITY 198 (1995). Ninety-five to 99% of women in German prostitution were under the control of others. Manfred Paulus, Out of Control: On Liberties and Criminal Developments in the Redlight Districts of the Federal Republic of Germany, PROSTITUTION RESOURCES (May 6, 2014), http://ressourcesprostitution.wordpress.com/2014/05/06/m-paulus-out-of-control-on-liberties-and-criminal-developments-in-the-redlight-districts-of-the-federal-republic-of-germany/. Eighty-six percent of Nepali women delivered to brothels in India did not know they were going to be prostituted when they left home. LOUISE BROWN, Sex Slaves: The Trafficking
Fifty years ago pimps coerced women to solicit on the street where they were advertised to the relatively limited marketplace of sex buyers who evaluated the women’s physical appearances and made selections on the street corner. Prostitution is now a business that is advertised on the Internet, expanding the reach of pimps to a wider market of potential sex buyers. Women can be sold for 15 minutes or for a week for johns’ sexual use, selected and purchased online like a rental car. As the following evidence shows, the vast majority of prostitution today takes place online. Police in Syracuse, New York estimated that 90% of that city’s prostitution trade had gone online between 2009 and 2011. Eighty-eight percent of sex buyers in a 2011 research study had bought women and children for sexual use indoors via Internet-advertised escort agencies, strip clubs, gentlemen’s clubs, brothels, and massage parlors. In the early 2000s, about half of all searches on the Internet search engine AltaVista were related to the business of sexual exploitation.

The Internet and computer technology have been developed and exploited by sex businesses to offer prostitution to men across the globe. Internet websites provide contact information, specifics on sexual acts that will be performed, pornography of the woman to be sold for sex, coded prices, and reviews by sex buyers. Technology, smartphones and other digital devices make it possible to conduct business, advertise, and increase earnings from women who have for the most part been trafficked or coerced by a combination of

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OF WOMEN IN ASIA 66 (2000). Cambodian Women’s Crisis Centre found that 86% of women rescued from Phnom Penh brothels by police had been tricked or sold into prostitution. Id. at 89.


joblessness, poverty, racism, and sexism into sex businesses.\textsuperscript{20} Bitcoin,\textsuperscript{21} an unregulated online currency that unlike credit cards provides the anonymity of cash, is being used to pay for web access to sites containing extremely violent or illegal images of real women and children, including online auctions of them.\textsuperscript{22} Adapted by traffickers, pimps, and pornographers, the global reach of the Internet has facilitated sex buyers’ access to prostituted women and children, thereby increasing sex trafficking.\textsuperscript{23} The Internet has facilitated prostitution’s shift from the street to indoor locations: to massage parlors, residential brothels, hotels,\textsuperscript{24} call girl or escort prostitution (more accurately described as cell phone prostitution), and strip club or gentlemen’s club prostitution.\textsuperscript{25} Although there is a myth that indoor prostitution is safer than street prostitution, little evidence for this exists. Instead, the evidence of physical and emotional harm caused by prostitution holds constant wherever it happens.\textsuperscript{26}

The development of the Internet requires new prosecutorial strategies for arresting pimps, traffickers, and sex buyers—a challenge that requires law enforcement officials and prosecutors to keep up with traffickers’ familiarity with, and skills in, web technologies. Online prostitution provides greater anonymity for


\textsuperscript{22} See Boyd et al., supra note 20, at 6.

\textsuperscript{23} See Brief of Coalition Against Trafficking in Women as Amicus Curiae Supporting Plaintiff at 4–5, Dart v. Craigslist, Inc., 665 F. Supp. 2d 961 (N.D. Ill. 2009) (No. 09 CV 1385). A study conducted by the Sex Trafficking Intervention Research Office of Arizona State University’s School of Social Work estimated that an average of 5% of men in fifteen cities used online prostitution ads, ranging from 0.6% in San Francisco to 21.4% in Houston. Dominique Roe-Sepowitz et al., Ariz. State Univ. Sch. of Soc. Work, Invisible Offenders: A Study Estimating Online Sex Customers 8–9 (2013).


\textsuperscript{25} See Melissa Farley, Prostitution Harms Women Even if Indoors, 11 Violence Against Women 950, 952 (2005).

\textsuperscript{26} See id. at 955–62; Melissa Farley, “Bad for the Body, Bad for the Heart”: Prostitution Harms Women Even if Legalized or Decriminalized, 10 Violence Against Women 1087, 1099–1117 (2004).
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johns and pimps and it blurs jurisdictional boundaries since Internet content can be accessed and published anywhere. Social networking media such as Facebook, classified advertising websites such as Backpage, message boards, and dating sites all provide platforms for prostitution marketing with relative anonymity and impunity. Sex buyers and traffickers benefit from the relative lack of accountability of Internet service providers for their websites’ content, despite token gestures described below. At the same time, online prostitution results in an online record that can be used as evidence in prosecutions.

II. MARKETING PROSTITUTION: ORGANIZED CRIMINALS’ USE OF WEB TECHNOLOGY FOR THE PURPOSE OF TRAFFICKING WOMEN

Advertising women for johns’ sexual use is essential to pimps and traffickers.

The truth is that a lot of deep marketing-thought goes into the sex industry, whether the entity being sold is an independent escort’s companionship or couples’ porn. . . . Mainstream ad agencies deal with versions of this problem all the time as they market brands and lifestyles, but sex workers tangle with it in a different way, because the thing on the market block is them.27

[I]nternet access has proved to be far more about men’s access to the bodies of women and girls, than about women’s and girls’ access to resources, education, employment, empowerment. . . . The vulgarisation of privilege that Engels foresaw has taken strange new directions; every man wealthy enough to own a computer and pay an ISP can enjoy an infinite virtual harem in the seclusion of his home.28

“Advertisement is the most important part of the business,” said a member of the Mafia crime family, referring to Internet advertising in a case involving organized criminals’ use of the Internet to traffic women.29 Escort agencies, brothels, and strip clubs are advertised

on websites and chat rooms, enabling pimps and traffickers to sell women for sex. Furthermore, the Mafia understood that pimps need a flexible business model and that advertising online attracts sex buyers who may be seeking one type of sex business but who can be enticed via the web into buying prostitution in some other form. For example, a sex buyer may first look at free pornography downloads, then be offered hardcore pornography for sale, and then he might see a pop-up advertisement for prostitution in his zip code. Web-based advertising happens daily in all areas of business enterprise on the World Wide Web. While traffickers use the same online sales model as other businesses, they also use Internet technologies usually not accessed by other businesses such as online forums, Skype, and gaming technology such as “Xbox Live, Sony Online Entertainment, or [real-time games such as] World of Warcraft.” Gaming technologies are used to facilitate trafficking since they permit midgame user-to-user communication.

Organized crime is an essential element in the sex trafficking industry. Profits from the business of selling sex “contribute to the expansion of organized crime in the United States and worldwide.” “Trafficking in persons is often [facilitated] by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.” Russian and Balkan organized criminals’ trafficking of women on the Internet was noted in 2000 when gangs placed ads in an Internet magazine Streetwalking the World which was aimed at sex buyer markets in Europe, the United States, and Australia. “The fact that they can put these human beings out for viewing not only shows how they regard the women, but also underlines how strong the market is,” said a UK police

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30 BOYD ET AL., supra note 21, at 7.
31 Id.
33 22 U.S.C. § 7101(b)(8).
34 Id.
35 Stuart Millar, Sex Gangs Sell Prostitutes over the Internet, OBSERVER (July 15, 2000), http://www.guardian.co.uk/technology/2000/jul/16/internetnews.theobserver1.
The trade is fuelled by the insatiable appetite of punters for “new” girls and by the need for pimps to cater for more extreme sexual demands, such as torture, as well as unprotected sex. The trade in imported women is slowly spreading across the UK, centering on cities where there is a major off-street sex industry, such as Glasgow. According to sources in the trade, one flat in the city connected to a sauna offers eastern European women for clients with “exotic” tastes.

In Edinburgh, three Lithuanian women were deported after police discovered they had been put to work in the city’s sex trade by a Russian gang. Two worked in a sauna and the other in a lap-dancing bar, but information that they were working against their will soon went round the city’s small but highly competitive industry and police were called in.37

Organized crime operates in similar ways regardless of the criminals’ national or ethnic origins. Criminal gangs in Taipei used hundreds of websites to advertise the sale of young women to sex buyers and used online chat rooms to lure teenagers into prostitution with bribes of money and free drugs.38 Four United States criminal cases from 2011 illustrate organized criminals’ commitment to the use of online technologies for trafficking. Nine men from the Gambino organized crime family in New York were convicted and sentenced for sex trafficking, murder, racketeering, extortion, and wire fraud.39 The men trafficked young women for sexual use by advertising their prostitution on Craigslist.40 The trafficked women were offered to gamblers in the Mafia’s high-stakes poker businesses.41 A second case from Atlanta included indictments for kidnapping, sex trafficking, and transporting women across state lines for prostitution.42 The male and female

36 Id.
37 Id.
39 Id.
40 Id.
41 Id.
42 Press Release, U.S. Attorney, N. Dist. of Ga., Pair Charged in Sex Trafficking Ring (May
defendants recruited young women into prostitution on Internet sites Craigslist and Backpage, then terrorized them (for example binding them with duct tape and imprisoning them in a closet; forcibly addicting them to cocaine, and handcuffing them to beds) and sold them in various cities to sex buyers.43 A multistate sex trafficking gang’s use of the Internet triggered a third 2011 organized crime case.44 The Internet was the prostitution ring’s primary marketing tool with online ads for prostitution in Tennessee, North Carolina, New Mexico, and Ohio.45 One of the traffickers took photos of the women and posted them to Backpage, USAsexguide, Preferred 411, Date Check and other websites offering “adult services” or “escort” services that included pornography of the prostituting women.46 In a fourth case, police discovered an online prostitution ring, Escorts.com, in Pennsylvania.47 Evidence used against the companies was based on fees and payments from website users including money orders, checks and credit cards, and numerous accounts at various financial institutions, funds, and financial services.48 In 2011, the companies who controlled the prostitution ring pled guilty to money laundering and agreed to pay $6.4 million for developing and operating Escorts.com, which was subsequently shut down.49 The organized crime groups kept numerous accounts at various financial institutions, funds, and financial services.50 After the link to the online prostitution ring was uncovered, the FBI, State Police, IRS and city police raided the corporate offices and found eighty boxes of evidence.51

43 Id.
48 Id.
49 Id.
50 Id.
51 Id. According to The Vienna Forum to Fight Human Trafficking, E-business including electronic banking, benefits organized criminals: it provides “virtual identities” on the internet, disguises financial activities and allows the exchange of money and services with
Alternatives to classified advertising sites such as Craigslist and Backpage have begun to appear. Geebo.com is a website aimed at providing safe and socially responsible classified advertising. During the period of time that consciousness about online trafficking was increasing, from January 2009 to June 2010, Geebo’s revenue increased 300%. Despite this innovative trend, sex industry businessmen continue to use online technologies for the purpose of paid sexual exploitation and abuse.

III. THE HARMS OF PROSTITUTION AND TRAFFICKING

For most of the world’s prostituted women, prostitution is the experience of being hunted, dominated, harassed, assaulted, and battered. Prostitution is a gendered survival strategy that requires the person in it to assume unreasonable risks. Most people would not be willing to assume these risks. Prostitution formalizes women’s subordination by sex, race, and class and thus poverty, racism, and sexism are inextricably connected in prostitution. Women are prostituted because they are vulnerable as a result of poverty, a lack of educational options, lack of employment opportunities, and as a result of previous physical and emotional harm. They are purchased on the basis of race as well as sex stereotypes.

Childhood abuse is such a common precursor to prostitution that it is nearly universal among those in prostitution. Survivors link

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53 E-mail from Greg Collier, Chief Executive Officer, Geebo, to Melissa Farley (Aug. 13, 2011) (on file with author).
54 ANDREA DWORKIN, Prostitution and Male Supremacy, in LIFE AND DEATH 139, 139, 141 (1997).
55 Id. at 141.
physical, sexual, and emotional abuse as children to later prostitution.\textsuperscript{56} Seventy percent of the adult women in prostitution in one study stated that childhood sexual assault was responsible for their entry into prostitution.\textsuperscript{57} Family abuse and neglect not only caused direct physical and emotional harm, but also created a cycle of victimization that affected their futures.\textsuperscript{58} Familial sexual abuse functions as a training ground for prostitution.\textsuperscript{59} One young woman said, “I started turning tricks to show my father what he made me.”\textsuperscript{60} Dworkin described sexual abuse of children as “boot camp” for prostitution.\textsuperscript{61} These histories make girls and young women particularly susceptible to the manipulations of traffickers who often lure their victims by initially providing a supportive family-like environment, housing and food, protection from others who have exploited them and special gifts like clothing and jewelry. Adolescence is the most frequently reported age of entry into any type of prostitution. Boyer and colleagues interviewed sixty women prostituting in escort, street, strip club, phone sex, and massage parlors (brothels) in Seattle, Washington.\textsuperscript{62} All of them began prostituting between the ages of twelve and fourteen.\textsuperscript{63}

Childhood abuse has been shown to increase the likelihood of online sexual victimization.\textsuperscript{64} Adolescents who have been victims of childhood physical or sexual abuse and/or neglect are at risk because they are more likely to visit chat rooms,\textsuperscript{65} be solicited sexually online and offline,\textsuperscript{66} and receive aggressive sexual solicitations\textsuperscript{67} than their nonabused peers. Moreover, childhood abuse

\begin{itemize}
  \item Id.
  \item Id.
  \item Id.
  \item Dworkin, \textit{supra} note 54, at 143
  \item Dworkin, \textit{supra} note 54, at 143.
  \item Debra Boyer, \textit{et al.}, \textit{Survival Sex in King County: Helping Women Out} (1993).
  \item Id.
  \item Melissa Wells & Kimberly J. Mitchell, \textit{How Do High-Risk Youth Use the Internet?}
\end{itemize}
abuse victims are likely to experience physical and sexual revictimization and exploitation.68

A number of authors have described and summarized the sexual and physical violence that is the norm for women in prostitution.69

Characteristics and Implications for Prevention, 13 CHILD MALTREATMENT 227, 231–32 (2008).


Silbert and Pines reported that 70% of women suffered rape in prostitution with 65% having been physically assaulted by customers and 66% assaulted by pimps.70 The Council for Prostitution Alternatives in Portland reported that prostituted women were raped an average of once a week.71 In the Netherlands, 60% of prostituted women suffered physical assaults; 70% experienced verbal threats of physical assault; 40% experienced sexual violence; and 40% had been forced into prostitution and/or sexual abuse by acquaintances.72 Most young women in prostitution were abused or beaten by pimps as well as johns.73 Eighty-five percent of prostituting women in Minnesota had been raped in prostitution.74 Of 854 people in prostitution in nine countries (Canada, Colombia, Germany, Mexico, South Africa, Thailand, Turkey, United States, and Zambia), 71% had experienced physical assaults in prostitution and 62% had been raped in prostitution.75 Eighty-nine percent of those people stated that they wished to leave prostitution but did not have other options.76 In another study 94% of those in street prostitution had experienced sexual assault and 75% had been raped by one or more johns.77

Prostitution can be lethal.78 A Canadian commission found that


71 See Hunter, supra note 69, at 92–93.

72 See Vanwesenbeeck, supra note 69, at 91.


74 Ruth Parriott, Health Experiences of Twin Cities Women Used in Prostitution (1994) (unpublished manuscript) (commissioned by Women Hurt in Systems of Prostitution Engaged in Revolt (WHISPER)).

75 See Farley, supra note 26, at 1095.

76 Id.

77 See Miller & Schwartz, supra note 69, at 7–8.

78 See Potterat et al., supra note 69, at 782; see also Nancy Erbe, Prostitutes: Victims of Men’s Exploitation and Abuse, 2 LAW & INEQ. 609, 618–19 (1984) (recounting a number of horrendous murders of women in prostitution).
the death rate of women in prostitution was forty times higher than
that of the general population. A study of Vancouver prostitution
reported a 36% incidence of attempted murder. An occupational
survey noted that 99% of women in prostitution were victims of
violence, with more frequent injuries “than workers in [those]
occupations considered . . . most dangerous, like mining, forestry
and fire fighting.” Two factors are associated with greater violence in prostitution. The greater the poverty, the greater the violence, and the longer one is in prostitution, the more likely one is to experience violence.

Posttraumatic stress disorder (PTSD) commonly occurs among
prostituted women and is indicative of their extreme emotional
distress. PTSD is characterized by anxiety, anhedonia, depression,
insomnia, irritability, flashbacks, emotional numbing, and
hypervigilance. In nine countries researchers found that 68% of
those in prostitution met criteria for a diagnosis of PTSD, a
prevalence that was comparable to battered women seeking
shelter, rape survivors seeking treatment, and survivors of state-sponsored torture. Across widely varying cultures on five

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82 See Vanweesnbeeck, supra note 69, at 95. A helpful paradigm for understanding the harm of prostitution is that of domestic violence. Prostitution is domestic violence. Giobbe compared pimps and batterers and found similarities in the ways they used extreme physical violence to control women, the ways they forced women into social isolation, used minimization and denial, threats, intimidation, verbal and sexual abuse, and had an attitude of ownership. Giobbe, Prostitution: Buying the Right to Rape, supra note 69, at 151. The techniques of physical violence used by pimps are often the same as those used by torturers. Harvey Schwartz et al., Pimp Subjugation of Women by Mind Control, in Prostitution and Trafficking in Nevada: Making the Connections 51–52 (Melissa Farley ed., 2007).
83 Am. Psychiatric Ass’n, Diagnostic and Statistical Manual of Mental Disorders § 309.81 (5th ed. 2013)
84 See Farley et al., Nine Countries, supra note 69, at 44.
86 See I.T. Bownes et al., Assault Characteristics and Posttraumatic Stress Disorder in Rape Victims, 83 Acta Psychiatrica Scandinavica 27, 28 (1991) (citing 70%).
continents, the traumatic consequences of prostitution were similar.\textsuperscript{88} Vanwesenbeeck found anxiety and hypervigilance among 90% of a sample of women in legal Dutch prostitution (brothels, windows, and clubs).\textsuperscript{89} Two studies of prostituted Korean women reflect the women’s intense psychological distress with PTSD prevalence rates of 78% and 80%.\textsuperscript{90} Web-based pornography of women trafficked in prostitution increases their vulnerability and increases their emotional distress and traumatic stress.\textsuperscript{91}

The assault on women’s sexuality in prostitution is overwhelming, yet invisible to most people. Survivors describe prostitution as a process whereby they are turned into objects into which men masturbate causing great psychological harm to the woman acting as receptacle.\textsuperscript{92} Dissociation is a response to overwhelming and uncontrollable traumatic events in which the mind detaches from one’s current emotional or physical state.\textsuperscript{93} Dissociation occurs during extreme stress among prisoners of war who are tortured, among children who are being sexually assaulted, and among women being battered, raped, or prostituted.\textsuperscript{94} Dissociative disorders, depression and other mood disorders are common among prostituted women in street, escort, and strip club prostitution.\textsuperscript{95} Dissociation in prostitution results from both childhood sexual violence and sexual violence in adult prostitution. The dissociation necessary to survive rape in prostitution is much like the dissociation that enables a victim to endure familial sexual assault.\textsuperscript{96} Vanwesenbeeck noted that a “dissociative proficiency”

\textsuperscript{88} See Farley et al., Nine Countries, supra note 69, at 55–56.
\textsuperscript{89} Vanwesenbeeck found that 90% of women who were prostituted primarily in clubs, brothels, and windows reported “extreme nervousness.” VANWESNENBEEK, supra note 69, at 82.
\textsuperscript{90} Melissa Farley & Sungjean Seo, Prostitution and Trafficking in Asia, 8 HARV. ASIA PAC. REV. 9, 10 (2006).
\textsuperscript{91} Melissa Farley, “Renting an Organ for 10 Minutes:” What Tricks Tell Us About Prostitution, Pornography, and Trafficking, in PORNOGRAPHY: DRIVING THE DEMAND FOR INTERNATIONAL SEX TRAFFICKING 148 (David E. Guinn & Julie DiCaro eds., 2007).
\textsuperscript{92} HØGÅRDN & FINSTAD, supra note 69, at 95–96.
\textsuperscript{93} JUDITH LEWIS HERMAN, TRAUMA AND RECOVERY 1–2 (1992).
\textsuperscript{94} Id. at 2–3; HARVEY L. SCHWARTZ, DIALOGUES WITH FORGOTTEN VOICES: RELATIONAL PERSPECTIVES ON CHILD ABUSE TRAUMA AND TREATMENT OF DISSOCIATIVE DISORDERS 5–6 (2000).
\textsuperscript{95} Melissa Farley, Prostitution and the Invisibility of Harm, in WOMEN WITH VISIBLE AND INVISIBLE DISABILITIES: MULTIPLE INTERSECTIONS, MULTIPLE ISSUES, MULTIPLE THERAPIES 265 (Martha E. Banks & Ellyn Kaschak eds., 2003); Colin A. Ross et al., Dissociation and Abuse Among Multiple-Personality Patients, Prostitutes, and Exotic Dancers, 41 HOSP. & COMMUNITY PSYCHIATRY 382, 328–330 (1990).
\textsuperscript{96} ELEANOR M. MILLER, STREET WOMAN 114–15 (1986); Giobbe, Prostitution: Buying the
contributed to the professional attitudes among women in prostitution in the Netherlands.” 97 A Thai woman said, “You make yourself empty inside.” 98

IV. COMPARTMENTALIZATION AND FALSE DISTINCTIONS

While theory about prostitution as a “choice” abounds, 99 it is impossible to distinguish prostitution from trafficking in most cases. 100 Thus conceptual walls between prostitution and trafficking limit enforcement and prosecutorial options that are available. Noting the impossibility of separating prostitution from trafficking in the real world, a 2006 report by Sigma Huda, United Nations Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children noted that prostitution as it is practiced “usually does satisfy the elements of trafficking” 101 and therefore, legalization of prostitution is “to be discouraged.” 102 The Special Rapporteur observed that “[t]he issue of demand is of crucial importance in addressing trafficking,” 103 noting that, “[b]y engaging in the act of commercial sex, the prostitute-user is . . . directly inflicting an additional and substantial harm upon the trafficking victim, tantamount to rape, above and beyond the harmful means used by others to achieve her entry or maintenance in prostitution.” 104

Pimp-controlled
prostitution is indistinguishable from trafficking. Seeking to be qualified as an expert witness, a New York pimp argued that beatings of prostituted women are simply “part of the pimp-prostitute relationship.”

Compartmentalization of what is actually a global trafficking industry is both a factual and a strategic error that functions as a barrier to the prosecution of pimps, traffickers, and sex buyers. There are no boundaries in the sex trafficking industry that distinguish physically coerced from psychologically coerced victims. Confusion reigns regarding techniques of mental control used by pimps and traffickers whereby victims appear to collude happily in their own victimization. There is also a failure by many—the public, law enforcement, NGOs, health care personnel—to recognize the coercive force of a history of abuse, neglect, racism, sexism, and poverty in channeling women into prostitution. False distinctions create legal and conceptual confusion about the nature of the sex trafficking industry. The following conceptual distinctions are based on myths rather than empirical data: trafficking versus prostitution, adult versus child prostitution, domestic versus international prostitution, legal versus illegal prostitution, indoor versus outdoor prostitution, street versus escort prostitution, and voluntary versus involuntary prostitution. The United States Department of Health and Human Services acknowledged that trafficking victims are located not only in street and brothel prostitution but also in pornography, strip clubs, massage parlors, spas, live video-cam sex shows, mail-order bride or servile marriage services, military prostitution, and sex tourism or prostitution tourism.

Compartmentalization of the sex industry into illegal versus

the category of trafficking.” Id. at 10.


Schwartz et al., supra note 82, at 51–59 (describing brainwashing and other techniques used by pimps and torturers to control and manipulate their victims).

See MacKinnon, supra note 100, at 272, Melissa Farley, Prostitution, Trafficking, and Cultural Amnesia: What We Must Not Know in Order To Keep the Business of Sexual Exploitation Running Smoothly, 18 YALE J.L. & FEMINISM 109, 111 (2006) [hereinafter Farley, What We Must Not Know], Melissa Farley, Theory Versus Reality: Commentary on Four Articles About Trafficking for Prostitution, 32 WOMEN’S STUD. INT’L FORUM, 311, 311 (2009), and Schwartz et al., supra note 106, at 52–59, for further discussions of conceptual confusions regarding trafficking.

quasi-legal prostitution benefits pimps and traffickers in that it frequently avoids accountability for criminal acts. The goal of pimps’ lawyers appears to be to legally blur any distinction between prostitution and not-prostitution. For example, an attorney for seekingarrangement.com argued that prostitution is simply the sale of sex with no emotional relationship. The lawyer failed to note that in today’s prostitution market GFE (girlfriend experience), which his client’s website advertised, is precisely that: purchased sex with the veneer of a “girlfriend experience.” His strategy was to carve out an area of the sex industry that would be difficult to prosecute as prostitution. The seekingarrangement website’s goal is to create what the site’s pimps describe as mutually beneficial relationships between two people, usually a man willing to pay for sex with a woman. The same strategy is used in online advertisements for escort prostitution. Payment is alleged to be for companionship. If sex occurs, it is alleged to be outside the scope of the financial agreement. Similarly, in strip clubs, pimps allege that the $500 payment for private time in a back room is for the bottle of champagne not for the woman’s performance of a sex act on a john.

Some assume that men in strip clubs watch women dance on a stage and chat with them afterward. Today, strip clubs are where prostitution happens. As a Gambino organized crime family member said, “If I’m gonna build a fucking hooker business, I’m gonna hang out in strip clubs.” Today “sex shows” and “strip shows” are forms of online pornography (private strip prostitution) as well as a means of trafficking women. Strip clubs are advertised online. A lap dance, available in all strip clubs, is a
form of prostitution in which a man is masturbated by a woman’s body to ejaculation even though it may not be named as prostitution by men who purchase those sex acts or by the club’s attorneys. A recent case against a pimp demonstrates the lack of difference between prostitution in strip clubs and prostitution elsewhere. Corey Davis was “charged in a fifteen-count Superseding Indictment with charges including sex trafficking, forced labor, kidnapping, and violations of the Mann Act,” to which he later “pled guilty to a single count of sex trafficking.” The Grand Jury Superseding Indictment detailed how he pimped minor girls and adult women between a Queens, NY home (where he kept them locked up) and Connecticut strip clubs. Davis used physical violence and psychological coercion to force his victims to engage in prostitution at the strip clubs and collected their earnings. A 2011 police undercover operation in North Carolina investigated prostitution on backpage.com, which published a job advertisement that was a virtual shout-out to Eastern European and United States pimps. The South 13 Gentlemen’s Club posted “Currently hiring entertainers... Must... have... a willing and motivated work ethic... [S]eeking select Eastern European ladies and Southern Cuties that may be willing to relocate...”

Like other multinational businesses, the sex trafficking industry has many interconnections. Local businesses are connected with national and international distributors of women and children in prostitution. One arm of the sex trafficking business fosters and expands another and can eventually morph into a new enterprise. Online pornography encourages viewers to take the additional step of searching for women in prostitution after seeing their photos. For example, a sex buyer who was arrested for attempting to buy a

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118 United States v. Davis, Case No. 3:07cr11, Grand Jury B-06-1, at 1–23 (D. CT), available at http://www.scribd.com/doc/48989066/Corey-Davis-Indictment (last visited June 14, 2014) [hereinafter Davis Indictment]. The strip clubs were named Pleasant Moments and Bishop’s Corner Cafe. Id. at 5, 7.
119 See id. at 4.
122 Id.
woman in prostitution said, “I’m watching a little porn at home, so I get a little horny and decide I want a blow job . . . . I head to the Tenderloin [district] . . . and bang! The bitch is a cop.” Prostitution is advertised online, where it is indistinguishable from pornography. Pornography is one specific means of trafficking women for the purpose of selling women into prostitution. On pornography/prostitution websites, women are for rent and sale. One of the world’s largest pornography sites with 10 million users worldwide, located in China and the United States, was busted in 2011. The site used a typical online sex trafficking business model: in addition to selling pornography, the site also advertised prostitution. Visual pornography is a record of prostitution or trafficking. Pornography is a document of what men’s domination of women in prostitution looks like in all its sexist, racist, and classist specificity. Pornography is a documentary of specific women’s abuses in prostitution, and its consumers obtain pornography as a filmed document of a woman’s sexual humiliation. A Danish website advertised “real life amateur slaves,” encouraging men to “submit a slave to the picture farm.” Sex buyers use pornography to solicit children for prostitution. Both prostitution survivors and the men who buy them understand that pornography is prostitution with a camera. “Yes, the woman in pornography is a prostitute,” said a sex buyer, “They’re prostituting before the cameras.” A number of courts have understood that making pornography is an act of prostitution.

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126 Id.
127 CLARKE, supra note 28, at 151–54.
130 Farley, What We Must Not Know, supra note 106, at 127.
131 Id. at 127–28 (quoting Farley, supra note 91, at 147).
“escorts.” Exploiting women’s poverty, pornographers use prostituted women from Eastern Europe, where “[t]hey cost less and do more,” said one German producer.

Pornographers are indistinguishable from other pimps. Both exploit women’s and girls’ economic and psychological vulnerabilities or coerce them to get into and stay in the sex industry. Pornographers and pimps both take pictures to advertise their “products,” suggest specific abuses for johns to perpetrate against women and minimize the resulting harms. Eliminating the imagined boundary between pornography and prostitution, a pornographer advertised that he was “in the business of degrading whores for your viewing pleasure.”

Web-based, video, and print pornography are inseparable from the rest of the sex industry, with crossovers from prostitution to pornography to sex trafficking. Nevada pimps declared their interest in “cross-fertiliz[ing]” legal brothels with other arms of the sex trafficking industry—strip clubs, escort prostitution, websites, and pornography. A strip club website telegraphed the intimate connection between stripping and pornography by advertising, “Breeding pornstars one showgirl at a time!!” New York Elites, an escort prostitution agency, was busted for numerous offenses including promoting prostitution by flying pornography stars to many locations in the United States for “dates.”

Police in Las Vegas located a multi-use sex industry operation that included online prostitution, illustrating the interconnectedness of different arms of the sex trafficking

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134 Giving the Customer What He Wants, ECONOMIST (Feb. 12, 1998), http://www.economist.com/node/113208 (reporting that pornographers and pimps pay women much less for excruciating and/or humiliating sex acts when economies are in dire straits).
Looking like a small office complex from the street, the business functioned simultaneously as Internet pornography production, cyber-peepshow or webcam prostitution, and a location out of which women in escort prostitution were pimped to Las Vegas hotels and to an illegal brothel.\textsuperscript{141}

Live video technology enables johns to obtain prostitution online that is indistinguishable from filmed sexual assaults of children and trafficking. Writing in 2004, Peter Landesman described the evolving sameness of Internet pornography, prostitution, trafficking, and slavery:

Immigration and Customs Enforcement agents at the Cyber Crimes Center in Fairfax, Va., are . . . tracking a clear spike in the demand for harder-core pornography on the Internet. . . . Cybernetworks like KaZaA and Morpheus through which you can download and trade images and videos—have become the Mexican border of virtual sexual exploitation. . . . [A website selling sex slaves showed] thumbnail images of young women of every ethnicity in obvious distress, bound, gagged, contorted. The agents in the room pointed out probable injuries from torture. Cyberauctions for some of the women were in progress; one had exceeded $300,000. “With new Internet technology,” [ICE Special Agent Perry] Woo said, “pornography is becoming more pervasive. With Web cams we’re seeing more live molestation of children.”\textsuperscript{142}

V. ORIGINS OF ONLINE PROSTITUTION

Beginning with websites\textsuperscript{143} and email, online technologies have enabled pimps to sell women in prostitution by using new forms of sexual exploitation. Bulletin boards were used to download pornography in the 1970s before the advent of the Internet. The use of credit card payments was pioneered by bulletin board

\textsuperscript{140} Conversation with Ttwo Las Vegas Police Department Vice Detectives, (June 29, 2005) (on file with the author).

\textsuperscript{141} Id.


\textsuperscript{143} “.xxx” domains went on sale in 2011, however, there were already numerous platforms where pimps could sell women in prostitution. See Website Names Ending in .xxx Go on Sale, CBCNEWS (Dec. 6, 2011, 12:55 PM), http://www.cbc.ca/news/canada/ottawa/story/2011/12/06/technology-xxx-domain-names.html?cmp=rss.
pornographers. Since 1990 pagers and cell phones have been used as the principal technology for escort or call girl prostitution. A pimp who advertised men and women for sale for sex explained that the online sex trafficking industry was constantly evolving and regrouping, “[b]efore Craigslist, there was Yahoo Groups; before Yahoo there was AOL.” Next came live video chat, web cam prostitution, and message boards.

With the development of Netscape’s Web browser in 1994, transmission of Web pages with text, images, sounds, and video made it possible to traffic women on the World Wide Web. “The first web-based prostitution business, A Personal Touch Services, from Seattle, WA, U.S.A., appeared in late September, 1994” and was described as the year’s “most significant Internet marketing innovation.” The Internet Business Journal’s endorsement of the sex industry’s marketing approach “was an early indication of the mutually beneficial relationship between” web technology businesses and sex trafficking industries.

Sex industry entrepreneurs developed the ability to “pagejack” web urls by 1999. In this process, when a web user enters a web address, a criminal has rewritten the html code (usually by one character) and inserted it into, for example, a skateboard video website. When the user attempts to go to the website a hardcore pornography site pops up instead. Often, it is impossible to backtrack and the browser must be shut down to exit the pornography site. While incurring the wrath of some, this method generates enough new customers that sex industry web developers continue to use it.

Today, cell phones permit web browsing of prostitution websites and applications bring the sex buyer in more contact with the pimp

148 Donna M. Hughes, Prostitution Online, in Prostitution, Trafficking, and Traumatic Stress, supra note 69, at 115, 117.
149 Perdue, supra note 17, at 97.
150 See id. at 99.
and the woman being sold. A 2011 iPhone application advertised “SugarSugar.com is for generous men looking to spoil, and dynamic women looking for financial support with bills, or who just need some excitement in life! . . . SugarSugar.com . . . provides a staff of sugar dating experts to help you find the perfect mutually beneficial arrangement.”

VI. SEX BUYERS’, TRAFFICKERS’, AND PIMPS’ USE OF THE INTERNET

A. Social Networking Sites

Social networking websites allow users to create a personal profile that they share with friends, other users, or the public at large. Social networking site users stay in touch with existing friends but also bring online acquaintances into the real world for in-person meetings, thereby providing an opportunity for traffickers to use the Internet for recruitment to prostitution. Pimps brag about using these sites to traffic women and children. “It’s Y2K pimpin’,” wrote a pimp in an online chat log seized by police. A pimp sentenced in 2010 for trafficking children into prostitution had initially contacted and then recruited them on MySpace. A U.K. pimp used MySpace to recruit women for an escort prostitution agency and created new profiles if the more blatant advertisements for prostitution were deleted. Pimps easily recruit via Facebook as well. For example, a woman was arrested in Jakarta on suspicion of running a prostitution business involving seven junior high school girls, who had been recruited and then sold on Facebook. Such comments serve as a document of

153 Kevin Poulsen, Pimps Go Online to Lure Kids into Prostitution, WIRED (Feb. 25, 2009, 8:30 PM), http://www.wired.com/threatlevel/2009/02/pimping/ (internal quotation marks omitted).
156 Woman Arrested for Running Prostitution Ring Through Facebook, JAKARTA POST (Jan.
illegal use of the Internet, enabling discovery of evidence for prosecution.

About half of all Internet users are estimated to be using social media sites. MySpace and Facebook, the two largest social networking Internet sites promote casual, anonymous social interactions. Facebook was developed in 2004 for college students but soon expanded to include high school students and the general public. In December 2010 MySpace had 50 million U.S. visitors and Facebook had 153.9 million U.S. visitors. Globally, Facebook had 500 million users by mid-2010—if it were a country, Facebook “would be the third most populous nation in the world after China and India.” Facebook easily accommodated advertisements for prostitution. In a 2011 survey, 83% of prostituted women in New York City had a Facebook page despite the Facebook advertising and safety policies prohibiting “[a]ds for adult friend finders or dating sites with a sexual emphasis.” When teen users of Facebook began to exit for Twitter, Facebook loosened restrictions to protect minors from advertiser—and pimp—manipulation, granting thirteen to seventeen year olds the ability to post not just to friends but to everyone, becoming “fresh meat for marketers” in the words of one analyst. In 2013, Twitter did not respond to complaints about increased prostitution advertising.

The number of users of MySpace dramatically increased after minors were permitted to join the site as members. Public concerns then grew about the site’s facilitation of adult/minor


158 Boyd & Ellison, supra note 152, at 218.

159 comSCORE, A Recap of the Year in Digital Media 11–12 (2011).


sexual interactions, leading to legal complaints about potential abuse.\textsuperscript{166} There have been both successes and setbacks in challenging trafficking of women and children via social networking sites. A victim from Texas sued MySpace after she was raped by a man she had met on the social networking site.\textsuperscript{167} A group of child victims who had been contacted by and engaged with predators online sued MySpace for not protecting underage members.\textsuperscript{168} Both cases were dismissed based on the Communications Decency Act (CDA) which protects Internet service providers from some forms of liability for third party actions.\textsuperscript{169} The CDA does not provide immunity from prosecution in all cases, for example where the website operator fails to act after being warned that illegal content is present\textsuperscript{170} or in cases where website operators contributed to the creation or development of injurious or tortious content.\textsuperscript{171}

\textsuperscript{166} See generally Joseph Menn & Jessica Guynn, \textit{Facebook Agrees to Shield Minors}, L.A. TIMES, Oct. 17, 2007, at C3 (describing an investigation conducted by New York Attorney General Cuomo to capture Facebook’s response to online harassment and abuse of children); Pierce, \textit{supra} note 165 (suggesting that social networking sites facilitate adult/minor sexualized interactions because they foster anonymity).

\textsuperscript{167} Eric Bangeman, \textit{MySpace Sued in Wake of Sexual Assault}, ARS TECHNICA (June 20, 2006, 4:58 PM), http://arstechnica.com/uncategorized/2006/06/7096-2/.


\textsuperscript{169} Communications Decency Act of 1996, 47 U.S.C. § 230(c)(1) (2012). The CDA has sometimes functioned as an obstacle to effective prosecution of website operators such as Craigslist, Backpage, and MySpace. First signed into law in 1996, the purpose of the CDA was to incentivize the development of blocking and filtering technologies. 47 U.S.C. § 230(b)(4). Section 230(c)(1) of the CDA asserts that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” 47 U.S.C. § 230 (c)(1). The CDA has sometimes been interpreted by the courts to provide broad immunity to website operators from defamation arising from third party content. See, e.g., Dart v. Craigslist, Inc., 665 F. Supp. 2d 961, 965–66 (N.D. Ill. 2009). Defining protected speech, as distinct from hate speech or speech advocating criminal activity, is a discussion with critical implications for the safety of women, generally. Websites and social media promoting prostitution are not the only source of likely harms to women. The stalking and predation that occur on sites like Reddit and CreepShots fetishize women’s inability to consent. Marinda Valenti, \textit{CreepShots: Are You Being Creeped On?}, MS. MAG. BLOG (June 12, 2013), http://msmagazine.com/blog/2013/06/12/creepshots-are-you-being-creeped-on/. Surreptitious photos of women are taken by using what the site advertises as “stealth, cunning and deviousness to capture the beauty of your unsuspecting, chosen target.” \textit{Id.} For another discussion of the tensions between men’s speech and women’s safety, see Jenna Wortham, \textit{When the Web’s Chaos Takes an Ugly Turn}, N.Y. TIMES, Oct. 21, 2012, at BU3.


\textsuperscript{171} Fair Hous. Council v. Roommates.com, LLC, 521 F.3d 1157, 1174 (9th Cir. 2008) (holding that CDA immunity does not protect website operators who “directly participate[] in developing” illegal content); Jones v. Dirty World Entm’t Recordings, LLC, 766 F. Supp. 2d
from states’ Attorneys General led to the removal by MySpace of 90,000 sex offenders from its site in 2009. MySpace pursued various approaches in 2008 meant to protect children, including enhanced parent controls, faster response time to complaints about inappropriate content, and increased privacy settings for users under age sixteen.

In 2009 Cooke County Sheriff Dart sued Craigslist alleging liability for the costs of law enforcement, providing substantial evidence that the site was being used to facilitate prostitution of child and adult victims and that it was a public nuisance. An Illinois court dismissed the case. Questions regarding website operators’ invocations of CDA immunity nonetheless remain. At what point does tolerance of criminally illegal activity, content or misuse of a website constitute “encouraging” that illegal conduct, as in the Jones and Roommates cases; and at what point do website operators become liable for violating state criminal laws that are not preempted by the CDA? While the prostitution and public nuisance laws in Dart may not have been sufficient in Illinois, other states’ laws may be broader and more effective. The equitable defenses against the CDA also remain untested but are applicable in cases of women trafficked for prostitution. The doctrine of “unclean hands” for the bad faith conduct of certain website operators would challenge CDA immunity from liability. CDA immunity should not benefit those who participate in or knowingly tolerate criminal attacks against persons trafficked for prostitution.

When do online advertisers become virtual

828, 836 (E.D. Ky. 2011) (“The immunity afforded by the CDA is not absolute and may be forfeited if the site owner invites the posting of illegal materials or makes actionable postings itself.”).


175 Id. at 970.

176 See generally Jones, 766 F. Supp. 2d at 830–31 (describing the defamatory posts made on the defendant’s website).

177 See generally Fair Hous. Council v. Roommates.com, LLC, 521 F.3d 1157, 1161–62 (9th Cir. 2008) (describing the creation of subscriber profiles on a website allegedly used to match compatible roommates).

178 Michael Dolce, Esq, who practices law in West Palm Beach, Florida provided this discussion of possible challenges to CDA immunity.
In other attempts to block Internet crimes against teens, the Japanese government experimented with blocking social networking sites for users under eighteen, but the results of this policy are unclear. Public pressure has been aimed at online classifieds, urging them to shut down their variously named prostitution advertising.

B. Message Boards

There is seamless communication between pimps and sex buyers, ensuring delivery of women to the men who want to buy them. Increasing numbers of online sex buyer communities support predatory behaviors and exchange information regarding where and how women can be bought. The Internet facilitates communication between sellers (pimps and traffickers) and sex buyers (johns), enabling pimps and traffickers to respond rapidly to men’s demand for purchased sex. By enabling men to evade arrest for soliciting prostitution since they can remain hidden, indoors, and anonymous, the Internet is sex buyer-friendly. Its anonymity has created a private environment in which it is possible to engage in prostitution with a lower risk of arrest, fewer legal penalties, and less public exposure.

With private messaging, warnings about police undercover agents and stings can be broadcast to brother johns. Atlanta sex buyers for example discussed their awareness of law enforcement’s infiltration of online conversations in their forum:

GreekFan: We have always known LE looks at this Board and others. But as indicated, talk is not illegal. Only

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183 Blevins & Holt, supra note 18, at 627.
trusted mongers and PM [private messaging] gets the job done. Watch your back people, always. There is no substitute for that.

Blazer: for all you newbies, elly\textsuperscript{184} monitors and POSTS to this board so watch yo’ six. They usually ask dumbass questions that make it obvious that they are elly in the first place, like, can you tell me where to go to monger in Cobb, I mean names and numbers please, or **** like that. The danger is ever present, however, and we must stay aware.\textsuperscript{185}

Sex trafficking industry businesses such as Room Service provide background checks that help sex buyers avoid arrest for prostitution.\textsuperscript{186} A customer can pay a fee to have a background check run.\textsuperscript{187} Then when the sex buyer contacts a prostituting woman, he can provide access to his background check that is now anonymous. This arrangement allows women in prostitution to screen out undercover police officers while enabling sex buyers to avoid blackmail that might be possible if a woman had his personal information.\textsuperscript{188}

Two cases illustrate sex buyers’ use of the Internet to locate women and evade arrest. Southwest Companions, a members-only website and chatboard, had 1400 members including many professors and a former University of New Mexico president who served as leader of the site’s “Hunt Club.”\textsuperscript{189} His job, in effect online pimping, was to recruit women in prostitution to travel to the Albuquerque/Santa Fe area.\textsuperscript{190} According to reports, the website featured the ability to share information with other johns about police stings, to provide “physical descriptions and cell phone numbers of undercover police to help members avoid arrest.”\textsuperscript{191} The

\textsuperscript{184} In this excerpt, “elly” refers to law enforcement.
\textsuperscript{185} Blevins & Holt, supra note 18, at 627 (alterations in original).
\textsuperscript{187} See id.
\textsuperscript{188} See id.
\textsuperscript{191} Jeri Clausing, Police: Prof Run Site for ‘Esteemed’ Men to Get Sex, NAPLESNEWS.COM (June 24, 2011, 9:21 PM), http://www.naplesnews.com/news/2011/jun/24/albuquerque-
Southwest Companions website provided training videos on what to do if arrested for prostitution and posted sex buyers’ evaluations of women’s prostitution performances, including prices and rankings of the women.\textsuperscript{192} Several of the arrested men were charged with promoting prostitution, conspiracy, and tampering with evidence.\textsuperscript{193} Charges against the men running the Southwest Companions online prostitution ring were dismissed by a judge who ruled that the website was not physically a brothel,\textsuperscript{194} illustrating the challenge of applying laws that were written before the Internet was invented. “Sometimes states’ laws are too specific and were written years ago, long before the Internet,” said Scott Cunningham, a Baylor University economics professor who has written about technology and prostitution. “That’s why we are seeing some successful challenges to laws when websites are involved.”\textsuperscript{195}

The Minnesota Nice Guys, a self-named sex buyer group, was organized by a pimp who was a former assistant county attorney.\textsuperscript{196} The pimp received high ratings on Theeroticreview (TER), a sex buyers’ message board, for providing attractive and compliant women to sex buyers, often trafficking undocumented immigrants.\textsuperscript{197} The attorney/pimp was charged with 6 felony counts of promoting prostitution.\textsuperscript{198} Although the pimp admitted weakness of character, the judge seemed to empathize with his “medical fragility” and sentenced him only to probation.\textsuperscript{199}

Global communications forums on the Internet provide an

\textsuperscript{192} Id.

\textsuperscript{193} Id.


\textsuperscript{195} Id.

\textsuperscript{196} David Chanen, Cops Bust “Nice Guys” Sex Ring, STAR TRIB. (Minneapolis), June 7, 2009, at 1A.

\textsuperscript{197} Id.

\textsuperscript{198} David Chanen, Charges Filed in “Nice Guys” Sex Ring, STAR TRIB. (Minneapolis), July 30, 2010, at 1A.

\textsuperscript{199} Debra Cassens Weiss, Ex-County Attorney Gets Probation for Role in “Nice Guy” Prostitution Ring, A.B.A. J. (Jan. 21, 2011, 10:23 AM), http://www.abajournal.com/news/article/ex-county_attorney_gets_probation_for_role_in_nice_guy_prostitution_ring. The lead pimp, John Paul St. Marie, who pled guilty to three felonies and was granted probation appears to be a white man. See Emily Gurnon, Former Assistant Hennepin County Attorney and “Nice-Guy” Prostitution Broker Re-Arrested, PIONEER PRESS (May 7, 2012, 11:01 PM), http://www.twincities.com/ci_20566169/former-assistant-hennepin-county-attorney-arrested-prostitution-charge. One wonders if a young black pimp who pled guilty to three felonies would be granted probation due to his medical problems as was Mr. St. Marie.
anonymous social support network for predatory men to share their experiences, legitimize their behaviors, and mentor inexperienced sex buyers. The Internet plays a crucial role in validating the norms, cultures, and beliefs of the sex buyers’ subculture. A language that normalizes sexual predation is developed in online chat rooms and bulletin boards. Because of the stigma of the words johns or tricks, online sex buyers refer to themselves as mongers, trollers, or hobbyists.  

While allegedly serving as community discussion forums, message boards aimed at sex buyers (“hobbyists”) and women in prostitution (“providers”) are in fact sites where reviews of women in prostitution occur and where prostitution is facilitated. Buyers post judgmental, often nasty reviews of women that pressure the women to act as if they enjoy the rape-like sex of prostitution. Consequences from negative message board reviews are rapid and usually result in decreased earnings. The message board rating system in effect coerces women to perform sex acts that they would prefer not to so that they can obtain good ratings and thereby maintain an income amount that is frequently set by pimps. The women who perform acts of prostitution in such a way that they convince sex buyers they truly enjoy the sex of prostitution, or who permit the buyer to rationalize his behavior, are praised as providing a “Girlfriend Experience.” Research findings suggest that a surprisingly high number of sex buyers actually believe that women enjoy the sex of prostitution. In a study of 110 Scottish

200 See Blevins & Holt, supra note 18, at 626.
201 See id. at 627, 630.
202 See generally Melissa Farley et al., Attitudes and Social Characteristics of Men Who Buy Sex in Scotland, 3 PSYCHOL. TRAUMA THEORY, RES., PRAC., & POLICY 369, 375 (2011) (explaining that some men who use women in prostitution want to control and dominate women, attitudes that are visible in reviews posted on many of the sites).
203 1 ENCYCLOPEDIA OF PROSTITUTION AND SEX WORK 228 (Melissa Hope Ditmore ed., 2006).
204 Telephone Interview with Lauren Hersh, New York Director of Equality Now (Dec. 10, 2013). Sex buyers posting ratings of women on punternet.com in UK and myredbook comment, “Couldn’t take a light spanking and complained about me pulling her hair. Told me I was rough. All I wanted to do was spread her legs in the missionary position and pound away. Kept pushing me back. I’ve had better and wouldn’t return.” Noting physical injuries as if he were grading meat, another noted, “Minor defects include: 5.0 cm X 1 cm. horizontal cafe au lait patch above the right buttock, two stellate scars left deltoid (smallpox vaccinations), and a small nevus left medial breast.” A third john observed, “Hurt face, but nice little body.” All examples from PUNTERNET, http://www.punternet.com/ (last visited June 14, 2014); MYREDBOOK, http://www.myredbook.com/ (last visited June 14, 2014).
205 See Blevins & Holt, supra note 18, at 635.
206 See Farley, supra note 202, at 376.
sex buyers, 49% believed that women in prostitution were sexually satisfied with sex with johns more than half of the time.\footnote{207}

Discussion forums such as theeroticreview (TER) and bigdoggie groom men to buy sex.\footnote{208} These misogynist sites help sex buyers locate women and teach them how to relentlessly bargain down prices when they buy sex.\footnote{209} Reflecting a mistrust of women in prostitution, the men who control TER describe its message board system as

the section where the guys get to review providers who advertise on the web. You can now know exactly what to expect before you make the call and spend your hard earned money. The bonus is that the opinions expressed are real and not sent in by the adult entertainers themselves. \textit{It's about time!}\footnote{210}

In August 2008 there were more than 500,000 reviews of 94,000 women in prostitution on TER.\footnote{211} Among other topics, TER offers discussion forums on how to buy sex from pornography actresses, legal concerns, and a special forum for sex buyers over age sixty.\footnote{212}

The message boards facilitate the racist and sexist objectification of women in prostitution. Women are referred to as SWs [sex workers] and are almost always defined by ethnicity.\footnote{213} For example, “a week & 1/2 ago I was driving by 111th & saw 5 SW’s. 3 BSW’s & 1 WSW & 1 LSW.” Men use the term “mileage” to refer to women whose appearances reflect the damage inflicted on them by men who use them for sex.\footnote{214} “High mileage” means that women are older or unattractive.\footnote{215} A woman spoke about sex buyers who

obsessively evaluate the sexual performance of every woman used in prostitution in special anticipation of writing about her for other men: “He’s the type of john I religiously steer away from, and that’s largely due to his immersion in review board ‘culture.’”

What is it about “message board culture” that women in prostitution dislike?

TER reviews are primarily based on [sexual] performance . . . and appearance . . . . You, as a provider, are dehumanized. TER hobbyists, feeding on these reviews, see you as less than human. They are looking for 5-star blowjobs and model looks, rather than a human being with a personality. Instead of respecting your limits and preferences, they expect you to give them what it says you provided someone else in your last review.

Described by another pimp as “the most influential man in the prostitution business in America,” CEO of TER Dave Elms and other sex buyers have been accused of using the threat of poor ratings to extort sex acts, perform unsafe sex, or decrease prices. Elms, who founded TER in 1999 with the goal of empowering sex buyers, has been accused of bribery and rape. TER was acquired in 2004 by Treehouse Park, a company that currently operates out of the Netherlands—reflecting the global nature of the sex trafficking industry.

219 Matt Richtel, Sex Trade Monitors a Key Figure’s Woes, N.Y. TIMES, June 17, 2008, at A12.
221 Id.
Elms has an extensive criminal history which is described here because he’s not unique among online pimps. In 2006 Elms raped a woman at gunpoint. Richtel, supra note 219. He was arrested in 2008 on weapons and narcotics violations. Id. The police investigation of Elms evidenced that he had extorted sex from women reviewed on TER website in exchange for removing damaging reviews about them. Id. In 2009, Elms missed a court date, with charges pending for “conspiracy to commit aggravated assault, [and] various [felony] drugs and weapons charges.” Ray Stern, “TheEroticReview.com” Founder, David Elms, on the Lam, PHOENIX NEW TIMES (Mar. 18, 2009, 12:01 PM), http://blogs.phoenixnewtimes.com/valleyfever/2009/03/thetheroticreviewcom_founder_day_1.php. The charges for conspiracy to commit aggravated assault stemmed from February 15, 2009 when Elms met with undercover officers to contract for murdering two people. Rhett Pardon, TheEroticReview
Sex buyers’ posts promote the prostitution of the women as they lobby for their favorites.\textsuperscript{223} Yet there has been resistance to the selling of women on message boards.\textsuperscript{224} A British member of Parliament asked California’s Governor in 2009 to shut down the US-owned punternet website that permits men to rate British women in prostitution.\textsuperscript{225} While message boards are used to thwart law enforcement efforts with posts about where police stings are occurring and suggestions about how to avoid law enforcement actions,\textsuperscript{226} at the same time, message boards can be used to monitor and prosecute criminal activity. The information on these sites can provide intelligence for police officers investigating prostitution and trafficking.\textsuperscript{227} Message boards and online classifieds have provided an opportunity for sting operations.\textsuperscript{228} Online john community sites such as TER can deter prostitution and trafficking when police monitoring of the site is publicized with posted messages such as


\textsuperscript{225} Id. Minister for women and equality Harriet Harman called the website a “sinister development” that promoted men’s demand for prostitution thereby fuelling trafficking. \textit{Id.} MP Harman said: “[s]urely it can’t be too difficult for The Terminator to terminate Punternet and that’s what I am demanding that he does.” \textit{Id.} (first internal quotation marks omitted).

\textsuperscript{226} See BESTGFE, supra note 223 (discussing ways to evade law enforcement).


“Police are present.” This would likely create fear among sex buyers and pimps who would flee the site. Public exposure has been documented as a deterrent to prostitution. The Chicago Police Department website posts photos, names, addresses, and other information about those arrested for soliciting prostitution. A similar website in Ohio which posted the photographs of men charged with soliciting prostitution was viewed more than 100,000 times in its first year.

C. Online Classified Advertising for Prostitution

Originally presenting itself as a community-oriented garage sale, Craigslist is an Internet site where people can post at no cost what they want to buy and sell. Because posting a personal ad was free and because posts can be anonymous, the website developed into a primary site for prostitution advertising. With no questions asked, Craigslist set aside a significant portion of its website for sex buyers’ and sex sellers’ advertising. This provided “an extraordinary opportunity for coordinating domestic and transnational sex trafficking.” The process of trafficking via online classifieds is stunningly simple: a cell phone and an ad on Craigslist (or other online prostitution sites) enables a pimp to set up a woman for sexual exploitation in exchange for cash.

After 2000, Craigslist and other online classifieds became virtual prostitution zones. In March 2005, Craigslist averaged 25,000 new ads in the United States every 10 days for “casual sex” and “erotic services” that were prostitution. A 2007 study of 12,444 Las Vegas online classified advertisements found that 90% advertised escort prostitution. Ethnicity was specified 92% of the time.

229 See Farley et al., supra note 16, at 5, 33, 37.
234 Id.
235 See Farley, What We Must Not Know, supra note 107.
236 M. Alexis Kennedy & Melanie A. Taylor, Prostitution on Craigslist 7–8 (2010) (unpublished manuscript) (on file with author). A random number generator was used to select 180 one-hour time frames from the “Women for Men” section of Craigslist. Id. at 7.
reflecting the importance to johns of choosing the race/ethnicity of the women to be used for sex. Photos were included in 96% of the posts. A phone number was included in the ad 83% of the time.

Prostitution advertising on Craigslist included code words that imply domestic trafficking (“here for a short stay,” “looking for an inexperienced girl”), or international trafficking (both Mexican and U.S. phone numbers given). Other classified advertising websites promoting prostitution include Backpage, Eros, CityVibe, MyRedbook, and AdultSearch. Spikes in online demand for purchased sex generally occur near or on military bases and at political conventions, electronics conventions, and sporting events. During the 2008 United States political conventions online advertisements for prostitution peaked in the host cities.

While Craigslist claimed to be a non-commercial site with a non-

Data from each post during that hour was collected. Id. A total of 12,444 advertisements were coded by research assistants in a university forensic psychology lab. Id.

See id. at 9.

See id. at 10.

Three ads from Craigslist (on file with author) that suggest trafficking include:

1) SF bay area craigslist > north bay > services offered > adult services
   Sweet Asian **********Apple ******. w4m (mill valley)
   Date: 2010-06-29, 9:00AM PDT
   Reply to: Sweet Asian ********* Apple ******** Here for short stay.
   Please Call: (415) 000-0000

2) sacramento craigslist > gigs > adult gigs
   Looking for an inexperienced girl (Sacramento)
   Date: 2010-06-21, 12:56PM PDT Reply to:
   Looking for a fun and friendly non pro girl for an adult gig in return for some $$$. Compensation. Would love to hear from any of you that may have an interest. Please send me a message, some pics, phone and lets have some fun. ***Please Be Serious***
   No phone means you're not serious. You must be at least 18 years old !!!

3) puerto vallarta craigslist > personals > erotic services
   12 hours for only $250 -- THE GIRLFRIEND EXPERIENCE!
   w4m - 18 (13 Girls to choose from!)
   Date: 2010-06-29, 1:38PM PDT
   Take as much time as you want—up to 12 hours with the girl of your choice! There are 13 of us. All of us will give you an unforgettable girlfriend experience! For only 3100 pesos ($250) we’ll come stay with you for 12 hours! This includes our undivided attention, cuddling and 2 complete services! For more information, see our web site at www.escort.com. Email us or call us now! From Mexico Cell 322-000-0000 From US 011-521-322-000-0000

See Mark Whittaker, Backpage Continues to Gain from Prostitution Advertising, AIM GROUP (Feb. 25, 2011), http://aimgroup.com/blog/2011/02/25/backpage-continues-to-gain-from-prostitution-advertising/. The AIM Group also summarizes prostitution advertising on three additional sites—NaughtyReviews.com, Eccie.com, and A1List.net. Id.

See Farley, What We Must Not Know, supra note 107, at 121.

Craigslist prostitution postings increased 41% during the Minneapolis convention and 74% in the during the Denver convention. Cunningham & Kendall, supra note 213, at 9.
corporate culture of public service, in fact, the business was extremely lucrative for its owners.\textsuperscript{244} In 2003, the site’s earnings were estimated at $7 million.\textsuperscript{245} By 2010, Craigslist’s earnings were estimated at $122 million with approximately one-third of its revenue coming from prostitution advertising.\textsuperscript{246} Backpage.com and five similar websites were estimated in February 2011 to generate annual revenue of $37.3 million from the sale of ads for prostitution.\textsuperscript{247} Village Voice Media, publisher of Backpage.com and 13 alternative weeklies in the United States, generated an estimated $17.5 million in ads for escorts and adult services in 2010.\textsuperscript{248} While smaller than Craigslist, Backpage has become the primary Internet prostitution advertiser since the closure of much of Craigslist’s prostitution advertising.\textsuperscript{249} A Seattle police officer estimated in 2011 that 80% of the young women his department investigated for prostitution were advertised on Backpage.\textsuperscript{250} In 2013, 82% of the nearly $45 million generated annually by online classifieds for prostitution (usually escort and bodyrub ads) was obtained by Backpage, the leading publisher of such ads.\textsuperscript{251} Backpage averaged $4.5 million a month in online classifieds, up 78% from the previous year, and 200% from two years previously.\textsuperscript{252} Several other websites tracked by AIM Group (Eros.com, CityVibe.com, MyRedbook.com and AdultSearch.com) “generated $5.3 million in May [2013], . . . up 67% from $3.2 million the same month in 2012.”\textsuperscript{253}


\textsuperscript{245} Id.

\textsuperscript{246} Id; \textit{Online Prostitution Ads Generated at Least $37.3 Million in Last Year}, AIM GROUP (Oct. 25, 2012), http://aimgroup.com/2012/10/25/online-prostitution-ads-generated-at-least-37-3-million-in-last-year/.

\textsuperscript{247} Whittaker, supra note 241.


\textsuperscript{249} Whittaker, supra note 241.


\textsuperscript{251} Online Prostitution-Ad Revenue Crosses Craigslist Benchmark, AIM GROUP (July 10, 2013), http://aimgroup.com/2013/07/10/online-prostitution-ad-revenue-crosses-craigslist-benchmark/.

\textsuperscript{252} Id.

\textsuperscript{253} Id. For documentation of the trajectory of backpage.com since Craigslist shuttered its prostitution advertising, see Kat Stoeffel, \textit{Village Voice Media Getting Down and Dirty with Escort Ads}, N.Y. OBSERVER (Apr. 26, 2011, 11:42 PM), http://observer.com/2011/04/village-
ErosGuide is a sex trafficking industry website offering a range of products using multiple web technologies.\textsuperscript{254} Women place advertisements for prostitution describing themselves as escorts, pimps place advertisements selling women for sex, pornography can be downloaded or videos purchased, sex and fetish toys are sold, strip clubs and massage parlors can be located by zip code, and webcam pimps offer “live girls on home webcams with amateurs and housewives.”\textsuperscript{255} ErosGuide provides a range of webcam pornography and chat options for johns who can choose breast and buttocks size, hair color, skin color, and other sexualized physical features of women they use for sex. These can be seen clearly in their website options.\textsuperscript{256} ErosGuide, Backpage and other sites with prostitution advertising usually offer forums where there is general social commentary by posters about romance, sex, and dating. The forums serve to legitimize both the website and the sex industry much as an article by Margaret Atwood or Ray Bradbury in Playboy legitimized the magazine pornography of the 1960-70’s era. Other sex trafficking industry sites such as Bootytag present themselves as adult community culture, and include pornography and prostitution but also sell products such as crotchless panties and sex toys.\textsuperscript{257} Similar online sales are found at adultsearch, CityVibe, eros.com, netchixx.com, titsandaass.com, eros.com, and rentboy.com.

Arrests for online prostitution-related crimes and trafficking have increased in the past decade.\textsuperscript{258} Violent crimes have been associated with Backpage just as they were with Craigslist. Using Backpage to locate young women in prostitution, a Seattle sex buyer impersonated a police officer and was subsequently charged with multiple counts of rape, kidnapping, extortion and criminal

\textsuperscript{254} EROS

\textsuperscript{255} See id. While Craigslist was originally a free site that evolved into a site requiring pay for prostitution advertising, erosguide charged for listings on the site.

\textsuperscript{256} Eros Cams: The Ultimate Guide to Webcams, BR.NAKED.COM, http://br.naked.com/ads/naked/pop/eroscams.php?cmp=popunder2&ad_id= (last visited June 14, 2014). Options for models to chat with or view include “live girls, 18+, small tits, big tits, White, Latin, Asian, Ebony, Big Black Women, Foot Show, Big Ass, Moms I’d Like to Fuck, and Squirters.” Id.


\textsuperscript{258} Green, supra note 250.
impersonation.\(^{259}\)

Craigslist’s and other online traffickers’ assertions that their advertising was for sex between consenting adults was countered by a 2010 study in which researchers placed ads on Craigslist and Backpage that were typical of prostitution advertising.\(^{260}\) Two hundred eighteen men telephoned in response to the ads.\(^{261}\) When the men inquired about details regarding the sale of sex, researchers who posed as escort agency pimps gave each of the men three escalating warnings that the girl they were about to buy was probably younger than eighteen.\(^{262}\) Researchers found that 47% of sex buyers in the Atlanta area were willing to proceed to buy sex even after being given three warnings that the girl they were about to buy was probably a minor.\(^{263}\)

In response to community and government criticism of prostitution posts that facilitated sex trafficking, Craigslist made token changes such as announcing that minors should not use its erotic services section, providing links to antitrafficking websites, and charging ten dollars for posts.\(^{264}\) Craigslist’s requirement that posts be verified with a phone number was relatively meaningless given pimps’ ability to purchase disposable cell phones.\(^{265}\) The requirement that implying an exchange of sex for money was not


\(^{261}\) Id. at 6.

\(^{262}\) Id. at 11 (The three warnings issued by the ”escort agency operator” who was actually the researcher are as follows: “1. We’re talking about the really young girl, right? 2. She doesn’t look like she’s 18. 3. I don’t believe this girl is actually 18, and I have no reason to believe she is.”).

\(^{263}\) Id. at 12. In response, Craigslist attempted to suppress this independently conducted research on use of minors in prostitution in the Atlanta area by sending a cease and desist letter both to the funder of the research study (Women’s Funding Network, San Francisco) and to the Governor of Georgia. See Press Release, Chris Grumm, Women’s Funding Network, Women’s Funding Network Releases Georgia Demand Study to Craigslist (June 17, 2010), available at http://www.womensfundingnetwork.org/about/news/press-releases/women%E2%80%99s-funding-network-releases-georgia-demand-study-to-craigslist.


\(^{265}\) Tracy Coenen, No More Free Advertising for Prostitutes on Craigslist, DAILYFINANCE (Nov. 7, 2008, 8:00 AM), http://www.dailyfinance.com/2008/11/07/no-more-free-advertising-for-prostitutes-on-craigslist/.
permitted was also easily circumvented by pimps’ code words well known to sex buyers (according to chat board jargon) such as “roses” or “hugs” for “dollars” and the phony disclaimer that all payment was for escort companionship and not for sex acts which were “voluntary” and “consenting.” Craigslist agreed to report suspected abuse or trafficking to the National Center for Missing and Exploited Children (NCMEC), a quasi-law enforcement agency, thereby manipulating public perception and avoiding direct contact with appropriate law enforcement, such as local police departments or federal agencies.

Like Craigslist, Backpage has been unwilling to screen advertisers, a process that would entail reviewing posts for sex solicitation or hate speech. If a screener were not employed, filters could block certain keywords, jargon or images from the ad posting process. Backpage has offered children for sale through thinly veiled prostitution advertising, with at least one lawsuit against Village Voice Media/Backpage for posting pornography of a child available for prostitution. Pornography of either adults or children used in this way functions as human trafficking.

D. Live and Streaming Video

As in any enterprise, novelty and spinoffs are typical of sex trafficking businesses. Videoconferencing technology (live video and audio connections between users) was immediately adapted for prostitution by pimps and traffickers. By 1995, the web technology of live video chat, such as Skype, AIM, and MSN Messenger,
permitted johns to obtain prostitution online.\textsuperscript{270} In addition to viewing photos or films of prostitution, johns could comment by voice or keyboard or they could direct the woman to perform specific sex acts in real time.\textsuperscript{271}

Using live video chat a U.S. pimp offered johns the choice to pay for and view women being tortured in Phnom Penh, Cambodia at rapecamp.com.\textsuperscript{272} Extreme violence and humiliation of impoverished women has continued with LiveJasmin advertising “sexy Eastern European girls” on one website, and iFriends, one of the largest prostituting/dating websites in the world on another, separately advertising Eastern European women and “some Asian babes.”\textsuperscript{273}

Livestreamed pornography of the women’s prostitution is used by pimps, traffickers, and sex buyers to control and humiliate women.\textsuperscript{274} The existence of a video or photograph that is on the web for the world to see is profoundly disturbing to most women.\textsuperscript{275} It removes their ability to control the image, removes their dignity and removes their ability to put prostitution out of their lives when they escape it.\textsuperscript{276}

Pornographers produce films or streaming video for sex trafficking industry websites. In this practice, a webcam company advertises via a network of affiliates who post ads on their websites.

\begin{thebibliography}{99}
\bibitem{Hughes2018} Hughes, \textit{supra} note 148, at 118.
\bibitem{Hughes2019} Id. at 118–19; MALAREK, \textit{supra} note 123, at 202. In order to assure themselves that they are really in direct contact, johns ask for the woman to make special signals or show today’s newspaper to indicate that the prostitution is live. Hughes, \textit{supra} note 148, at 119. Multiple viewers can be linked at one time or johns can pay extra for a private performance of prostitution. Id. On a web cam site the john pays to chat with live women who perform prostitution on live streaming video, performing what the johns pay them to do. Melissa Farley, \textit{Pornography, Prostitution, and Trafficking in Nevada, in Prostitution and Trafficking in Nevada: Making the Connections}, \textit{supra} note 82, at 153, 156. When johns are bored with online pornography, they can create their own pornography with webcam prostitution. See MALAREK, \textit{supra} note 123, at 201–02.
\bibitem{Hughes2020} Hughes, \textit{supra} note 148, at 119.
\bibitem{Malarek2021} MALAREK, \textit{supra} note 123, at 203.
\bibitem{Farley2022} Melissa Farley, \textit{Pornography, Prostitution, and Trafficking in Nevada, in Prostitution and Trafficking in Nevada: Making the Connections}, \textit{supra} note 82, at 157 n.470 (explaining how one pimp/pornographer would withhold payment to prostituting women who refused to be filmed).
\bibitem{Farley2023} Id. (“[Women in prostitution] resist being filmed because that would be a record of their prostitution, and often a part of their lives that they prefer to leave behind them, rather than have on view indefinitely into the future.”).
\bibitem{TelephoneInterview} Telephone Interview, \textit{supra} note 204; see also Farley, \textit{supra} note 91, at 146 (discussing how women in prostitution whose johns or pimps made pornography of them in prostitution had significantly more severe symptoms of PTSD than did women who did not have pornography made of their prostitution).
\end{thebibliography}
The affiliates earn a fee whenever someone signs up to purchase webcam pornography.\textsuperscript{277} San Francisco’s torture pornography site Kink.com offered sex buyers in 2011 the opportunity to chat with, interact with, and control Kink.com’s slaves and bondage porn stars in live streamed interactive bondage pornography cam shows.\textsuperscript{278} In addition to Kink.com’s live cam shows, the site features live streaming video, live bondage chats, live bondage sex parties, and other live streamed BDSM reality shows.\textsuperscript{279}

\textit{E. Dating and Sugar Daddy Websites}

Webcam video and escort prostitution sites have merged with some adult dating sites. Since 2000 prostitution advertising has increased on dating websites with many dating websites now largely consisting of locations where johns seek women who they presume are prostituting. Adultfriendfinder, for example, features gonzo pornography\textsuperscript{280} of women seeking dates for prostitution in dozens of countries and every state in the United States. The site is


\textsuperscript{280} Gonzo pornography is extremely violent pornography where women are violently raped, obviously injured, painfully tied up, often terrified and/or crying. See Martin Amis, \textit{A Rough Trade}, GUARDIAN (Mar. 16, 2001), http://www.theguardian.com/books/2001/mar/17/society.martinamis1.
available in German, Spanish, Japanese, French, Portuguese, Italian, Dutch, and Swedish. Some dating websites ask users to bid for a first date with a woman.281 “[C]reating a financial market for first dates,” women who are beautiful are asked to join the site and get paid for dates.282 Casual dating sites such as onlinebootycall are dominated by prostitution advertising. The seekingarrangement.com website’s goal is to create what the site’s pimps describe as mutually beneficial relationships between two people. “Such a relationship is usually between an older and wealthy individual who gives a young person expensive gifts or financial assistance in return for friendship, or intimacy.”283 The prostitution culture often seen in dating websites has expanded to include children. A fourteen-year-old boy in Tokyo met a thirteen-year-old girl through an online dating service and paid her for sex in a public bathroom.284

VII. PROSECUTORIAL STRATEGIES

The global nature of prostitution and trafficking has led to the creation of federal anti-trafficking laws that include the Mann Act and the Trafficking Victims Protection Act (TVPA).285 Given the range of felonies committed by pimps and traffickers, other laws are applicable for prosecuting them such as Racketeer Influenced and Corrupt Organizations Act (RICO).286 Whereas in the past, those prostituting have been primary targets of arrest,287 states are now starting to enforce prostitution laws against sex buyers.288

282 Id. Continuing to promote the interests of sex buyers, Brandon Wade developed Carrot Dating, a 2013 mobile app where men “can use bribery to get first dates.” CARROTDATING.COM, http://www.carrotdating.com/ (last visited June 15, 2014).
287 BOYER ET AL., supra note 62.
The TVPA was signed into law in 2000 with reauthorizations that expanded it passed in 2003, 2005 and 2008. In addition to defining the crimes and penalties for trafficking, the TVPA established civil remedies, provides services for victims, and created T-visas and U-visas for foreign victims of trafficking to obtain immigration relief. The T-visa is available to victims of trafficking in the U.S. who are willing to assist in the prosecution of traffickers and who can show that they would suffer extreme hardship if removed from the U.S. The U-visa is available to victims of criminal activity in the U.S. who have "suffered substantial physical or mental abuse," who have information about the criminal activity, and who are helpful to law enforcement in prosecuting the crime.

The TVPA defines a perpetrator of sex trafficking as a person who "knowingly . . . recruits, entices, harbors, transports, provides, obtains, or maintains by any means a person; or benefits, financially . . . knowing . . . that means of force, . . . fraud, [or] coercion . . . will be used to cause the person to engage in a commercial sex act." No transportation is required in order to meet the legal requirement of trafficking under the TVPA. Prostitution of minors under TVPRA 2005 is presumed to be exploitive and any person who causes another person under the age of 18 to engage in a commercial sex act is guilty of sex trafficking. Adult trafficking victims must prove force, fraud, or coercion. The Department of Justice prosecuted 162 defendants for sex trafficking under the TVPA in 2012, with 366 T-visas issued to victims and 103 issued...

294 Id.
296 U.S. DEPT OF STATE, TRAFFICKING IN PERSONS REPORT 382 (2013),...
to foreign national children. These numbers remain limited because of the burdensome requirements for the visas. Created primarily to prosecute traffickers rather than to assist victims, the TVPA is onerous for trafficking victims. It is often too dangerous for victims to testify since traffickers and organized crime groups threaten not only their lives but the lives of family members, sometimes holding them hostage. Other forms of immigration relief are less burdensome to victims, such as U-visas or self-petitioning under VAWA remedies for domestic violence.

The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008 amended the TVPA to make civil remedies available for victims. Thus victims can sue traffickers as well as individuals or corporations who are complicit with traffickers. No foreknowledge is required—only that the third party “should have known.” The civil remedy under the TVPRA holds traffickers and those who are complicit liable for damages arising out of her prostitution even after the criminal case has terminated. The TVPRA remedy has some advantages: it would implicate individuals and corporations in a pattern of detrimental practices that would serve as a deterrent based on the financial and reputational risks involved. Civil remedies also hold third parties accountable and create opportunities for survivors of trafficking to obtain necessary services.

In a case in progress a survivor of trafficking used the civil remedy section of the TVPRA to sue a sex buyer for facilitation


297 Id. at 384.
299 Telephone Interview with Margaret Baldwin, Executive Director of Refuge House, Tallahassee, Fla. (Feb. 2012).
300 The Act provided that not only could victims of trafficking sue the immediate perpetrator, but anyone who “knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter.” H.R. 7311, § 221(2)(A)(ii).
301 Sallie Pullman, Exploring Civil Remedies for Child Trafficking Victims: Class Action Litigation and Our Capacity to Reduce Demand, NDAA.ORG, 2 (2011), http://www.ndaa.org/npecatupdate_newsletter.html. In other laws with similar language the notion of benefit includes financial benefit as well as business opportunities, gaining access to file-sharing websites that contain illicit images of children, and being provided pornography. Id.
302 Id. at 3. The civil suit will be stayed until the criminal case has been terminated. Id. at 4.
303 Id. at 3.
of trafficking when he bought her for sexual use.\textsuperscript{305} In this case, the sex buyer and the pimp pled guilty to criminal charges of trafficking and sexual exploitation. The United States Attorney for the Western District of Missouri has used the language from the TVPA to prosecute buyers of sex under that statute.\textsuperscript{306} This case marked the first time that sex buyers were convicted under the TVPA in a sex trafficking case in which the victim was an adult.\textsuperscript{307}

There have been a number of successful prosecutions of pimps and traffickers who used online prostitution classifieds to advertise and sell women and children for sexual use.\textsuperscript{308} Many federal antitrafficking cases against Craigslist have been based on its advertising of children for sale in prostitution.\textsuperscript{309} Pimps have been charged with violating child pornography laws as a result of posting online advertisements of children for use in prostitution.\textsuperscript{310}

\begin{flushleft}
States’ rights to protect children from being pimped online have been opposed by the Electronic Frontier Foundation using First Amendment arguments. Attorney General Rob McKenna and prosecutors were restrained from enforcing a Washington state law that would require online classified advertisers such as Backpage to verify the ages of people advertised in “adult services.” Similar measures have been introduced in New York, New Jersey, and Tennessee. Attorneys from Backpage cited the Communications Decency Act protecting them as website operators from liability over the speech of “unaffiliated parties.” AG McKenna stated, “Backpage is many things, but an ally in the fight against trafficking it’s not. It’s a cash machine churning out tens of millions a year for its owners by charging $1 and up for prostitution advertisements.”

The National Association of Attorneys General has begun to lobby Congress to narrow section 230 of the CDA so that it will protect against civil but not criminal liability.

Social networking sites and online classified advertising sites maintain data servers in more than one state. The interstate commerce element of the TVPA allows prosecution of online traffickers as illustrated in the Eleventh Circuit decision in United States v. Myers. The defendants placed pornography of their victims on Craigslist and Backpage and were charged with trafficking two girls for sex. The court concluded that the interstate commerce element of the statute was satisfied by the movement of funds through accounts and servers in various states.


312 Id.; see James R. Marsh, EFF Joins the Child Exploitation Bandwagon, CHILD LAW BLOG (June 19, 2012), http://www.childlaw.us/eff_joins_the_child_exploitation/ (stating that in its opposition to a Washington state law preventing child sex trafficking the EFF is supporting freedom of speech on the internet).

313 Qualters, supra note 311.


316 See United States v. Myers, 430 F. App’x 812, 815 (11th Cir. 2011).

317 Id. at 815–16.

318 Id. at 816.

319 Id. at 817; MARK LATONERO, HUMAN TRAFFICKING ONLINE: THE ROLE OF SOCIAL NETWORKING SITES AND ONLINE CLASSIFIEDS 20–21 (2011),
The Mann Act criminalizes the act of transporting or enticing a person—adult or child—to travel for the purpose of engaging in prostitution.320 Only the intent of the perpetrator is relevant; whether or not the victim consented is irrelevant.321 Unlike the TVPRA, there is no need to prove force, fraud or coercion under the Mann Act.322 Providing transportation323 with the intent of prostituting the victim is sufficient for conviction under the Mann Act.324 The Act’s focus on the perpetrator’s behavior can spare the victim from testifying—a major advantage over the TVPRA. When a TVPRA prosecution appears difficult, the penalty, not inconsequential, of a ten-year prison sentence calls for wider use of the Mann Act.325

Online prostitution has blurred jurisdictional boundaries. When an online sex buyer in New Jersey solicits prostitution from a seller (pimp or trafficker) normally located in New York, the Mann Act can be applied. Transportation may be proved through travel receipts, toll records or other documentary evidence that do not require a victim’s testimony. Electronic conversations arranging the meeting can be used as evidence that the sex buyer negotiated a commercial sex act with the trafficker. Some courts have ruled that warrantless cell phone searches are permissible when police are searching for evidence of a specific crime such as selling drugs or soliciting prostitution.326 Emails, text messages, and other


320 The Mann Act provides that the knowing transport of “any individual in interstate or foreign commerce . . . with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both.” 18 U.S.C. § 2421 (2012).

321 See id.

322 See id.

323 Transportation is not a requirement of TVPRA. See supra text accompanying notes 300–07.


325 After pleading guilty to pimping women between NY and CT for prostitution, Corey Davis launched an appeal to overturn his guilty plea following his 293 month sentence under the Mann Act. United States v. Davis, No. 3:07-cr-11 (JCH), 2008 U.S. Dist. LEXIS 99802, at *1, *6 (D. Conn. Nov. 26, 2008).

326 In United States v. Flores-Lopez, 670 F.3d 803 (7th Cir. 2012) a judge ruled that the search of a cell phone was legal because the officer conducted a limited search and only looked for phone numbers associated with the alleged drug deal. Id. at 810. The judge argued it was similar to flipping through a diary to search for basic information such as addresses and phone numbers. Id. at 807. Understanding that data from cell phones of men arrested for buying sex are a potential source of information about organized criminals and traffickers, the California Supreme Court in January 2011 ruled in People v. Diaz that it is legal in California for detained arrestees’ cell phones to be searched by police without requiring a
electronic communications are likely to be a rich source of evidence for Mann Act prosecutions and possibly other crimes.\textsuperscript{327} The “persuades, induces, entices” language in the Mann Act means that it can be applied to sex buyers as well pimps.\textsuperscript{328} A sex buyer in New Jersey for example, who contacts a person in prostitution that he discovered on Backpage under listings in New York, could be held liable if he urges her to come to New Jersey to perform an act of prostitution. If it can be proved that he knew the woman was in New York, he will have violated the Mann Act.

Pimps have been prosecuted under RICO. In 2011, U.S. Attorneys charged thirty-eight California gang members under RICO for trafficking women and children via social networking sites.\textsuperscript{329} Gang members recruited vulnerable girls and women through MySpace, Facebook, and Twitter and then held them in captivity.\textsuperscript{330} The women and children were then “sold, traded, or ‘gifted’ [by gang members] to other ‘pimps.’”\textsuperscript{331} Gang members from Texas and from United Arab Emirates continue this practice of warrant, a decision the Supreme Court refused to overturn in October 2011. People v. Diaz, 244 P.3d 501, 502 (Cal. 2011). Several other appellate courts have ruled similarly to California in this regard. See Timothy B. Lee, Obama Administration Asks Supreme Court to Allow Warrantless Cellphone Searches, WASH. POST (Aug. 19, 2013, 2:24 PM), http://www.washingtonpost.com/blogs/the-switch/wp/2013/08/19/obama-administration-asks-supreme-court-to-allow-warrantless-cellphone-searches/.


\textsuperscript{328} See United States v. Farn, 251 F.3d 510, 511 (5th Cir. 2001); see also Carrie Johnson, Spitzer Won’t Face Charges for Scandal, WASH. POST, Nov. 7, 2008, at A2 (reporting that “Justice Department guidelines disfavor indictments against clients of prostitution rings,” such as Eliot Spitzer, even when it appears that the client violated the Mann Act).

\textsuperscript{329} Press Release, supra note 24.

\textsuperscript{330} Id.

\textsuperscript{331} Id.
MySpace recruitment, captivity, and sales of humans. RICO punishes any persons who have received any income derived either directly or indirectly from any racketeering activity as well as persons employed by or associated with any enterprise that conducts its affairs through a pattern of racketeering activity. According to Lieutenant Derek Marsh, Co-Director of the Orange County, California Human Trafficking Task Force, charging sex buyers with conspiracy to commit the crime of human trafficking would subject them to liability for the same penalties as traffickers and pimps. Marsh argued that because “[t]he crime of conspiracy is already familiar to investigators, prosecutors, and judges, and its application has a long history of success,” the consistent use of conspiracy charges would have “a real chance . . . of making these demanders of inhumane services cease their demands.” Racketeering activity includes any acts that are indictable under numerous code sections, including the Trafficking Victims Protection Act and the Mann Act. Once evidence of a conspiracy—for example a conspiracy to buy prostituted women—is shown, the sex buyer’s “connection to the conspiracy, need only be slight, and the government is only required to prove that the defendant was a party to the general conspiratorial agreement.” RICO could thus be used against sex buyers who did not admit to conspiring to trafficking but who shared a common purpose and were involved in some aspect of trafficking. Many of the more than thirty “state RICO statutes have significantly broader civil and criminal applications than the federal [RICO] statute,” providing for civil liability, criminal liability, and forfeiture. Some states’
statutes have longer periods of limitations than the federal statute and “[m]any state RICO statutes have fewer essential elements than the federal statute.” Prosecutors should use these laws more aggressively against sex traffickers.

The Travel Act can be used to prosecute sex traffickers when interstate or foreign travel is involved. This law provides that whoever travels in interstate and foreign commerce with intent to “promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity,” is in violation of federal law. The statutory definitions of unlawful activity include “prostitution offenses in violation of the laws of the State in which they are committed or of the laws of the United States.”

Some states have laws that criminalize online traffickers or pimps of children, if not traffickers or pimps of adults. In 2011, Florida enacted an internet child solicitation statute that criminalizes the use of the internet to solicit or seduce a minor for sex, including prostitution, and criminalizes traveling to meet a child for sex. A section of the Florida law imposes criminal penalties on the Internet owner/operator for knowing use of the service for the prohibited purposes. A 2011 Massachusetts anti-trafficking law establishes the crime of enticing a child into prostitution by electronic communication. Statutory rape laws should also be used against sex buyers when the victim is a minor. For instance New York Penal Law section 130.30 penalizes rape in the second degree. The statute provides that a person over the age of eighteen commits rape in the second degree when he or she engages in sexual intercourse with a person less than 15 years of age. There is no requirement in this law that force, fraud or coercion must have been used. Like the TVPA, engaging in a commercial sex act with an individual less than 18 years of age

339 Id. at 2.
341 Id. at § 1952 (a)(3).
342 Id. at § 1952 (b)(1).
343 FLA. STAT. ANN. § 847.0135 (West 2014).
344 Id. It would be preferable if the word “knowing” was removed from the law.
346 N.Y. PENAL LAW §130.30 (McKinney 2014).
348 N.Y. PENAL LAW §130.30; GLOSSER ET AL., supra note 347, at 86.
requires no proof other than the commission of the act. States’ statutory rape laws should not be ignored. 349

A Florida civil law provides victims of prostitution and trafficking with the right to sue pimps for damages they inflict and could be used to prosecute online trafficking cases. 350 The Florida law permits women who are coerced into prostitution via exploitation of their social and legal vulnerability to sue, defining coercion as restriction of communication with others, exploitation of a person’s developmental disability, cognitive limitation, affective disorder, or addiction, exploitation of previous victimization by sexual abuse, exploitation during the production of pornography, and exploitation of the human needs for food, shelter, safety, or affection. 351

VIII. CONCLUDING THOUGHTS

“For a Web site like Backpage to make $22 million off our backs,” said a trafficking survivor, “it’s like going back to slave times.” 352

The transition of trafficking and prostitution to the Internet has created unique challenges for law enforcement. “Technology creates new ways for people to interact with each other,” said Eric Goldman, a law professor at Santa Clara University in California. ‘You have to figure out if old law maps to new interactions.’” 353

Today the prostitution transaction includes not only victim, buyer and trafficker/pimp but the most invisible partner: the online advertiser. 354

When prostitution happened on the street in

349 For an analysis of each state’s statutory rape laws, see GLOSSER ET AL., supra note 347.
351 Fla. Stat. Ann. § 796.09(3)(k)–(o); see also CAPTIVE DAUGHTERS AND INTL. HUMAN RIGHTS LAW INST. OF DEPAUL UNIV. COLL. OF LAW, DEMAND DYNAMICS: THE FORCES OF DEMAND IN GLOBAL SEX TRAFFICKING 88–89, 111 (Morrison Torrey & Sara Dubin eds., 2004), available at http://www.law.depaul.edu/centers_institutes/ihrl/downloads/demand_dynamics.pdf (discussing claims brought and won under section 796.09). In 2006, the Florida Council Against Sexual Violence, in collaboration with Florida Legal Services, the Jacksonville Women’s Center, and Refuge House, sought federal funding to support civil legal claims that may be brought by prostituted women under section 796.09 of the Florida Code. E-mail from Margaret Baldwin (Mar. 17, 2006, 1:48 PST) (on file with author).
someone’s neighborhood, it was clear whose jurisdiction that was. Enforcement of a range of laws against johns and pimps was sometimes fueled by citizens’ concern about prostitution as a neighborhood nuisance rather than concern about prostitution’s exploitation and violence. Communities wanted prostitution out of sight and out of their neighborhoods. Because online sex businesses are less visible to the public, victims of sexual exploitation in prostitution are isolated and can be in greater danger from sex buyers. A survivor of prostitution opined that street prostitution was actually safer than online prostitution since friends watched out for her on the street. “They don’t know what they are doing,” she said about women who are sold via online websites, “they’re alone.”

355

The United States has shown ambivalence regarding enforcement of laws on prostitution and trafficking. This is highlighted in public comments of U.S. Attorney Michael J. Garcia about a sex buyer’s purchase and interstate transport of a prostituted woman that was facilitated via an online escort advertisement, Emperor’s Club VIP. Mr. Garcia indicated that the Department of Justice (DOJ) does not typically prosecute sex buyers who buy women from pimps except in cases of prostitution of children.

“In light of the policy of the Department of Justice with respect to prostitution offenses and the longstanding practice of this Office, as well as Mr. Spitzer’s acceptance of responsibility for his conduct, we have concluded that the public interest would not be further advanced by filing criminal charges in this matter.”

356

This federal indifference to the prostitution and often co-occurring trafficking of adult women has had an additional adverse impact on the enforcement of state laws against prostitution. Because of a lack of resources and also because of the need for special training, it has been difficult to monitor online prostitution and trafficking. Nonetheless, police in many states including Washington,


357 Personal observation by the second author, during his tenure as Director of Human Trafficking Prevention and Training with New York State Division of Criminal Justice Services.
Tennessee, New York, and Virginia conducted sting operations by posting fake prostitution advertisements online resulting in numerous arrests of men seeking to buy sex.\(^{358}\)

In this article we have summarized information about online prostitution and trafficking. Describing the history of technological advances that permitted pimps, traffickers and sex buyers to expand the sex industry online, we discussed the use of websites, online classified advertising, message boards, dating and sugar daddy sites, live streaming video, and the involvement of organized crime in online trafficking. We have also noted that these technologies leave digital traces that can be used by law enforcement, and that online technologies raise new issues for those involved in challenging trafficking such as adult pornography, child pornography, and interstate commerce.\(^{359}\) We have discussed some challenges to prosecutors: the inseparability of different arms of the sex industry despite the insistence of some that they are discrete entities. Other prosecutorial challenges include complex jurisdictional boundaries, lack of resources and funding. We also described creative and successful prosecutions.

Challenging Internet giants Google and Facebook and accusing them of protecting massive profits via free speech arguments, a Huffington Post blogger wrote,

>This is a human rights fight. It’s not about sex. This isn’t about left or right, liberal versus conservative but about freedom. This isn’t about actual free speech either. It is about trillion-dollar interests too lazy to move this issue to priority one. Everyone needs to get involved to change the internet giants minds. That includes the LGTB community, liberal and feminist activists, evangelicals, and everyone else. We need to unite—for once—to make it clear that fighting to stop slavery, child rape and sex trafficking is not


\(^{359}\) BOYD ET AL., supra note 20, at 3.
about fighting human sexuality. It is the opposite. We are freeing people to make their own choices.\textsuperscript{360}

New community alliances have been formed in response to the human rights violations of trafficking. After police complained of a lack of funding and resources to combat prostitution, Big Sisters, based in Iceland,\textsuperscript{361} gave the Reykjavík Metropolitan Police “56 names, 117 telephone numbers and 29 emails of men who expressed interest in” buying sex acts from women in prostitution “through the websites einkamal.is, mypurplerabbit.com, raudatorgid.is and classified ads offering ‘massages’ in [the] daily newspaper Fréttabladid.”\textsuperscript{362} The activist group noted that although sex buyers attempt to hide their identities, their computer skills are sometimes limited.\textsuperscript{363} San Antonio police have mentioned similar concerns about a lack of funding for prosecution of online trafficking cases.\textsuperscript{364} Applications that detect suspected money laundering by trafficking networks have been developed by JP Morgan Chase. For example, sex trafficking was discovered by “investigation of several credit card transactions at a nail salon during nonbusiness hours.”\textsuperscript{365} It is worth noting that police in 2013 closed down Hong Kong’s largest prostitution website, charging the owners who they described as members of criminal syndicates with money-laundering and living off the avails of a prostitute.\textsuperscript{366}

Citizen assistance and cooperation with law enforcement could be


\textsuperscript{361} Buying sex is illegal in Iceland, although selling it is not. This law is similar to that of Sweden. \textsc{General Penal Code} \textsc{[Gen. Penal C.]} No. 19/1940, ch. XXII, art. 206 (Ice.); see also \textsc{A New Law Makes Purchase of Sex Illegal in Iceland, JAFNRETTISSTOFA} (Apr. 21, 2009), http://www.jafnretti.is/jafnretti/?D10cID=ReadNews\&ID=523.


\textsuperscript{363} Id.


a major step forward in providing evidence of online trafficking. This might occur via crowdsourcing, the online broadcast of a problem, such as trafficking, to a large and undefined group of people who then apply their talents to solving the problem. Via crowdsourcing, new collaborations between the public, NGOs, law enforcement, and researchers can produce new information such as mapping the location of trafficked individuals or those at high risk for trafficking.367

Despite the obstacles to combating online prostitution and trafficking, law enforcement and prosecutors have tools to successfully charge and convict pimps, traffickers and most importantly sex buyers. It is incumbent upon policy makers and law enforcement to enforce existing laws and where needed, to develop new laws and policies that will abolish online (and offline) trafficking and prostitution. While many have been recruited, sold and trafficked into prostitution on social networking sites, the sites can also be turned against traffickers. A thirty-year-old New Jersey woman used Facebook to contact a family member who then rescued her and others from a trafficker who held them captive.368 The creative and proactive use of online technologies against sex buyers, pimps, and traffickers is cause for hope.

367 Survivors Connect has used an open-source platform, Ushahidi, to crowdsource information about cases of violence against women, potential trafficking, and resources. Aashika Damodar, founder of Survivors Connect noted, “No one individual or organization can know everything there is to know about the conditions or locations of trafficking, however, with increased awareness, all individuals may have some piece of knowledge that can be critical to solving the larger puzzle.” Telephone Interview with Aashika Damodar, Founder of Survivors Connect (Nov. 15, 2011) (on file with the author). Damodar suggested that individuals can contribute to ending trafficking via the use of simple online technologies such as a text message or email about suspicious web activity. Id.; see also Jeff Howe, The Rise of Crowdsourcing, WIRED MAG., June 2006, at 176, 176–78 (identifying several fields in which crowdsourcing has been used effectively); Dan Woods, The Myth of Crowdsourcing, FORBES.COM (Sept. 29, 2009, 6:00 AM), http://www.forbes.com/2009/09/28/crowdsourcing-enterprise-innovation-technology-cio-network-jargonspy.html (describing misconceptions about how crowdsourcing works to solve problems by sending issues to uniquely qualified individuals rather than by sheer number of participants).