



Stop Enabling Sex Trafficking: California's Perspective

by

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for the Senate Committee on Commerce, Science and Transportation

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I. Introduction

Thank you, Chairman Thune, Ranking Member Nelson and all the Members of the Committee for the opportunity to be here today. It is my privilege to testify before the Committee on Commerce, Science and Transportation on Senators Portman and Blumenthal's bipartisan S. 1693, The Stop Enabling Sex Traffickers Act of 2017.

As the Attorney General of California – our state's top law-enforcement officer – I have a unique role to play in combating the heinous crime of human trafficking. Today, I am here to explain why the Communications Decency Act needs to be clarified so that we can more effectively do our jobs in enforcing laws that protect children and help us eradicate this crime for good.

Human trafficking is one of the fastest-growing criminal enterprises worldwide. All too often, criminals prey on women and children and profit from sex trafficking without fully facing the consequences of their crimes. California has more reported cases of human trafficking than any other state. As Attorney General, I am committed to doing everything in my power to prosecute traffickers and disrupt the criminal organizations that profit from the exploitation of human beings.

The Urban Institute examined the underground economy of sex trafficking in eight major U.S. cities, including San Diego, and found that pimps and traffickers interviewed for the study took home between \$5,000 and \$32,833 a week. Notably, in this study, multiple pimp offenders reported, "no one actually gets locked up for pimping".¹

The perpetrators of human trafficking have become more sophisticated and organized, requiring an equally sophisticated response from law enforcement and its partners to disrupt and dismantle their networks.

¹ Urban Institute, <https://www.urban.org/research/publication/estimating-size-and-structure-underground-commercial-sex-economy-eight-major-us-cities>

II. Amending the Communications Decency Act

Section 230 of the Communications Decency Act was passed in 1996.

Unfortunately, some courts have interpreted the Communications Decency Act as currently written to limit our ability to go after companies that actively profit from sex trafficking and crimes against children. We believe that those judicial decisions misconstrued what Congress intended when it originally enacted the Communications Decency Act. I therefore applaud the current efforts to make clear that the Communications Decency Act does not bar States from pursuing these important prosecutions.

The world was a different place in 1996, the last time this Congress passed a major telecommunications act – in particular, the Communications Decency Act – before most of today’s victims of sex trafficking, adults or children, were even born. The modes of trafficking children are different. The horrendous crime is the same, but the venue for it has changed. The internet has caused an explosion of sex trafficking, where virtual brothels are used by pimps to exploit and sell vulnerable children on a daily basis.

Maggy Krell is a career prosecutor at the California Department of Justice who has taken the lead on sex trafficking cases for our office, including against the owners of Backpage.com. She said that, “virtually every human trafficking case now involves a website component. Law enforcement needs to be able to disrupt the criminal networks.” This point underscores the importance of amending the Communications Decency Act.

I therefore support passage of S. 1693 and its amendments to Section 230 of the Communications Decency Act. It’s an important step we should take to make clear the authority of state and local law enforcement to protect victims of trafficking from those who promote, facilitate and benefit from sex trafficking online.

I appreciate the work of Senators Portman and Blumenthal and many of you on this Committee in leading the effort of the United States Senate on this bipartisan bill. I also want to thank Senator Harris for all that she has done to combat trafficking in California.

I know that the Internet Association and others have come out against this bill, but this bill is narrowly crafted to target sex trafficking. I appreciate the help of many of these companies that are helping California and other states more effectively target traffickers and pimps and encourage them to come to the table to work with us on this bill. I hope they will join us at the table on this bill to address this critical issue.

This bill is about protecting our most vulnerable. This is not a Republican or Democratic issue. This is an issue of justice, and ensuring that our nation’s top cops – my fellow attorneys general across the country – are able to enforce the law. In fact, recently, 49 of

my colleagues – representing nearly every U.S. state – signed a letter to this Committee urging Congress to act.²

In fact, in that letter, my colleagues and I urged Congress to go broader than S. 1693, and encouraged amendments be applicable to not only sex trafficking but all criminal enforcement action. I believe that this action will make the bill even stronger, and protect against other crimes such as child pornography and other forms of cyber exploitation. I encourage the Congress to continue thinking about and working on this bill and issue. California welcomes the opportunity to be a part of the discussion.

III. California’s Experience and Perspective

According to the National Human Trafficking Hotline, 4,460 cases of human trafficking have already been reported for 2017, 705 of which were reported in California since the start of the year. In fact, over the past five years, California has consistently had the most human trafficking cases reported in the United States.³

In recent years, transnational criminal organizations and affiliated domestic gangs have expanded from drug and firearm trafficking to the trafficking of human beings. From cross-border tunnels for transporting victims to domestic recruiting of vulnerable populations in our local communities, these criminal organizations have set aside traditional rivalries to set up commercial sex rings that profit from the sale of human beings, in particular, young women and girls.

California has led the nation in the fight against human trafficking – from increasing penalties against traffickers to providing resources to help survivors heal from the trauma of their experience and seek and find justice. Our state has passed legislation to finally treat sexually exploited children as victims, not criminals. We also have a law in California that requires large companies doing business here to provide information to consumers about their efforts to fight human trafficking. And we are continuing to push innovative legislation aimed at prevention to teach our children in the classroom how to recognize and avoid predators.

Further, my office runs a Human Trafficking Taskforce with local law enforcement in San Diego that disrupts and dismantles human trafficking and child exploitation organizations through a comprehensive, collaborative and regional law enforcement and prosecution response. The Taskforce works to identify victims and hold exploiters accountable; along

² <https://www.oag.ca.gov/news/press-releases/attorney-general-becerra-urges-congress-amend-communications-decency-act-empower>

³ National Human Trafficking Hotline, <https://humantraffickinghotline.org/states>

with promoting community awareness, expanding the exchange of information, and enhancing law enforcement resources and training.

The State of California is committed to combatting all human trafficking and has demonstrated this consistently and will continue to work with partners across the country on this important issue.

IV. Backpage.com Case

The California Department of Justice brought charges alleging that the owners of Backpage.com committed conspiracy, money laundering, and pimping by profiting financially from advertisements used to promote and solicit the sex-trafficking of teenagers, including victims under the age of 16.

However, the defendants argued in court that the Communications Decency Act gave them broad immunity from all of the charges. Ultimately, the judge allowed us to go forward on the conspiracy and money laundering charges, but as to the other charges, the Judge said: “If and until Congress sees fit to amend the immunity law, the broad reach of section 230 of the Communications Decency Act even applies to those alleged to support the exploitation of others by human trafficking.”

We are pursuing our prosecution of the conspiracy and money laundering charges. But regardless of our success in California, the amendment is aimed to ensure that state and local law enforcement, across the board, have the unquestioned authority to enforce our laws and protect our most vulnerable citizens. This bill takes an important step forward in serving that goal and helping victims.

Although I support the bill as an important step, it is essential to note for the Committee that the bill can be made even stronger. The focus of this bill is narrow, in the sense that it specifically mentions only state prosecutions involving sex trafficking. We believe that the original intent of Congress in enacting the CDA was to preserve state prosecutorial authority more generally, just as the original CDA preserved federal prosecutorial authority. I understand and respect that Congress is seeking to strike a balance here in narrowly crafting this bill. My team at the California Department of Justice and I would be happy work with Senators Blumenthal, Portman, and this Committee to make the bill even stronger.

V. Conclusion

But let's be clear, this discussion today is not just about tweaking a statute. It's about real lives.

Flip through any newspaper. Countless instances of child sex trafficking – and its online promotion – occur every day in the United States. Federal and state law enforcement recently arrested a Chicago man accused of pimping a 16-year-old girl via an online website, leading to her murder. The man “shopped [the girl] around” online, delivered her to a customer, and then fell asleep in his car outside a parking garage. When he awoke, he discovered the girl's body in the garage, “her throat slit and her body badly beaten.” We can, and we simply must, do better.

I am sure our panelists today will share the degree to which this crime is plaguing our country.

We can't deny that the internet plays a significant role in sex trafficking and has created virtual brothels where victims are bought and sold online. And we won't turn a blind eye to the biggest beneficiaries of sex trafficking because they were owners of a website instead of pimps on a street corner.

Amending the Communications Decency Act is a critical step we can take in the fight against human trafficking and one that we must take. To that end, we look forward to working with Congress to on this very important issue for Americans across the country.