



Urban Justice Center

123 William Street, 16th floor, New York, NY 10038
Tel: (646) 602-5600 • Fax: (212) 533-4598
www.urbanjustice.org

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STATEMENT TO HEARING OF SENATE COMMITTEE ON THE JUDICIARY ON S.B. 0584

Chair McCaffrey, Honorable Senators, Ladies and Gentlemen,

Good evening. We deeply regret that the demands of working with our clients made us unable to join you on such short notice for today's hearing on S.B. 0584. We very much appreciate the opportunity share our experience and expertise with you by way of this statement.

Over the past seven years, the Sex Workers Project at the Urban Justice Center has provided critical legal and social services to hundreds of victims of trafficking into prostitution in New York City. We have also participated, as part of a broad coalition of feminists, social service providers, and anti-trafficking experts in the reauthorization of the federal anti-trafficking law and in advocating for the passage of the New York State anti-trafficking legislation.

We are speaking out today against S.B. 0584 and H.B. 5044-A based on our own extensive experience working with survivors of human trafficking, as well as that of service providers and anti-trafficking advocates across the country. Collectively, members of the national Freedom Network, of which we are a member, have served almost 2000 trafficking victims in the U.S. since 2001, and have assisted clients in approximately half of the cases where the federal government certified that individuals were victims of human trafficking.

Based on this extensive experience, we urge Rhode Island to go forward, not backward, in the fight against human trafficking, by passing strengthened state anti-trafficking legislation rather than rushing to enact legislation that will ultimately have the effect of punishing victims of trafficking into prostitution and pushing them further from help. We implore Rhode Island to continue to pursue the sound public policy it has adopted – whether intentionally or inadvertently – and avoid the mistakes of other states which have failed to eradicate prostitution while causing severe harm to the very people they claim to be helping.

Contrary to the assertions of the bill's proponents, prostitution arrests help no one. Furthermore, there is no guarantee of immunity for victims of trafficking, even under the narrow affirmative defense offered by H-5044A. Moreover, assumptions that police will exercise their discretion in a manner that will avoid arrests of trafficking victims assume that they will be able to identify them at first sight. The experience of advocates in other states, as well as the results of a recent Northeastern University study commissioned by the National Institutes of Justice, strongly indicate that this is not always possible or likely. Statements suggesting that no victims of trafficking have been prosecuted under prostitution laws in other states are, quite simply, unfounded. Our agency has worked directly with many victims of human trafficking who were arrested, prosecuted, and convicted of prostitution-related offenses under New York State's laws, which are almost identical to the legislation under consideration today, without ever being identified as trafficked. So there can be no question that the bill has the potential to inflict greater harm to victims of human trafficking than the status quo.

There is also no question that law enforcement *already* has a panoply of tools at its disposal to investigate, pursue, and prosecute traffickers and others who harm those engaged in prostitution. There is absolutely no need to criminalize prostitution in order to put a stop to human trafficking. Indeed, current federal anti-trafficking legislation imposes stiff criminal penalties on *anyone* who uses force, fraud, or coercion to induce any person in to any commercialized activity. Cases of labor trafficking can be and are prosecuted without criminalizing picking tomatoes, domestic work, or waiting tables in a restaurant. The state of Rhode Island's law on prostitution is in *no way* an obstacle to law enforcement's pursuit of traffickers under state or federal anti-trafficking laws. To suggest otherwise is to shirk law enforcement agencies' responsibilities under existing state and federal law.

Nor would the proposed legislation encourage or in any way make it easier for trafficking victims to come forward. As world renowned anti-trafficking expert Professor Ann Jordan of American University's Center on Human Trafficking points out, blanket arrests of people engaged in prostitution in the hopes of encouraging trafficking victims to come forward and testify against their traffickers has the effect of using a blunt instrument where careful, well-informed surgical strikes are needed. It is a weapon we wouldn't dream of using against any other victim of violence. We would never argue that we need legislation that allows us to arrest victims in order to stop domestic violence. As Professor Jordan points out, the purpose of the criminal law is to prosecute criminals, not to twist victims' arms into recognizing their victimization. We would never try to force a domestic violence victim to cooperate in the prosecution of her abuser, we would offer supportive services, increase public awareness of the problem, and support her in achieving safety in the best way for her and her children.

As Robert Moosy, an experienced prosecutor in the U.S. Department of Justice's anti-trafficking unit points out, what is needed in the fight against human trafficking are in-depth investigations based on the voluntary cooperation of victims, obtained by building trust over the long term and

offering much needed support to overcome fear of retaliation by traffickers and to address the circumstances that render victims vulnerable to coercion by traffickers.

The findings of SWP's most recent research report, *Kicking Down the Door: The Use of Raids to Fight Trafficking in Persons*, are consistent with these trafficking experts' experiences. One of the primary findings of our report was that a focus on enforcement of prostitution statutes to address human trafficking has led to the identification of very few victims of trafficking into prostitution. It has, however, caused severe harm by subjecting those trafficked into sex work to repeated arrests, incarceration, prosecution and retraumatization without increasing the likelihood of locating, identifying, or assisting victims.

The report was based on interviews with 46 people with experience of law enforcement actions against indoor sex venues, including service providers who have worked with hundreds of trafficking victims, law enforcement personnel, and 15 immigrant women who have been trafficked. Trafficked women reported that they were repeatedly arrested, in some cases up to ten times, in police raids on brothels and other sex work venues, convicted of prostitution, and even sentenced to jail without ever being identified as trafficked. Their experiences were corroborated by interviews with service providers who had worked with hundreds of trafficking victims over the years.

Law enforcement personnel also described difficulties gaining the trust of people arrested as part of anti-prostitution efforts, and noted that they were often not good witnesses in the prosecution of their traffickers. This is certainly consistent with the experience of the Provincetown Mayor's outreach team, which has not successfully identified or assisted a single trafficking victim as part of raids on spas and brothels. One law enforcement agent told us: "The nature of the crime and the nature of the victims make raids not effective. What level of evidence do you need? You need a victim to be willing to open up and tell you." As a service provider put it more bluntly, "it's incongruous to think that you would open up after being handcuffed."

By continuing with its enlightened approach, Rhode Island would by no means stand alone. New Zealand decriminalized prostitution in 2003, and Sweden has removed criminal penalties against people engaged in prostitution. Nor would maintaining the status quo turn Rhode Island into a haven for sex trafficking. A government commission in New Zealand found no link between the decriminalization of the sex industry and human trafficking. In fact, the United Nations Human Rights Commission Trafficking in Persons report for 2008 notes that the incidence of international trafficking in New Zealand is "modest."

We therefore urge Rhode Island legislators to avoid a rush to judgment, and instead respectfully suggest that they carefully consider whether the proposed legislation will result in greater harm

to victims of trafficking into sex work, and direct their energies to passing and enforcing strengthened anti-trafficking legislation pending in the House and Senate.

Thank you for your consideration and attention. I am available at your convenience to discuss this legislation and our research and experience further.

Respectfully submitted,

Andrea Ritchie
Director, Sex Workers Project at the Urban Justice Center
646.602.5690
aritchie@urbanjustice.org