

Attorney General Rob McKenna, President
National Association of Attorneys General
2030 M Street NW, 8th Floor
Washington, DC 20036

May 30, 2012

Dear Attorney General Rob McKenna,

It has come to our attention that the National Association of Attorneys General has commenced the Pillars of Hope campaign directed at ending human trafficking. As organizations and service providers that work directly with survivors of trafficking and others engaged in the sex trade, we support efforts to raise awareness of human trafficking. However, we want to sound a note of caution in diverting precious time and resources towards “End Demand” strategies to end prostitution in the hope that those strategies will also end trafficking into prostitution and child prostitution. End Demand strategies have not been shown to be effective, and they have often had harmful effects on sex workers and trafficking victims, including minors.

The NAAG emphasizes several policies in the Pillars of Hope Campaign that concern us. For example, Pillars of Hope outlines a campaign to encourage the public view that purchasing sex is socially unacceptable. We fear that this campaign will only increase harmful stigmatization of sex workers while failing to do anything to end trafficking into prostitution or child sexual exploitation. The NAAG also mentions a campaign to promote these messages in conjunction with the Super Bowl, even though there has never been any evidence of a link between sporting events and trafficking. Finally, the NAAG expresses an interest in continuing the campaign against online classified services such as Backpage.com, obviously in the hope that this will stop prostitution. However, shutting down any online service is not a solution as internet-based prostitution would simply move to another site if Backpage.com were shut down.

We urge NAAG to pursue policies and use precious resources to take action that will help victims of trafficking and child sexual exploitation without further stigmatizing or harming adult sex workers.

FURTHER CRIMINALIZING CLIENTS AND STIGMATIZING SEX WORKERS WILL NOT STOP HUMAN TRAFFICKING OR CHILD SEXUAL EXPLOITATION

In attempting to educate the public about human trafficking, the NAAG should be careful to promote messages about trafficking and child sexual exploitation that are evidence-based. The Attorneys General are in a unique position to influence state legislatures and government agencies regarding the best policies to aid victims of trafficking and child sexual exploitation and to prosecute traffickers and child abusers. States obviously have limited resources with which to pursue criminals, and therefore, the NAAG should support policies that have been shown to work, such as supporting cooperation with organizations that work with trafficking victims and adult sex workers, training law enforcement on trafficking and prostitution, and providing accurate information about trafficking. Although End Demand style policies have a simplistic appeal, a more nuanced investigation into the complexities of human trafficking and child sexual

exploitation reveals that *trafficking is not demand-driven*. Instead, trafficking is driven by the greed of traffickers and facilitated by restrictive immigration policies, lack of labor rights and economic, social and other factors. Therefore, in order to reduce human trafficking and child sexual exploitation, the Attorneys General should focus on prosecuting traffickers and abusers and supporting programs to reduce the conditions that make trafficking and child sexual exploitation possible. They will completely miss the mark if they waste energy and resources to arrest more clients of adult sex workers who are not trafficked.¹

There is no evidence demonstrating that trafficking into prostitution is caused by client demand for trafficking victims

The Pillars of Hope campaign expresses “ending demand for trafficking” as a goal. While we also seek to end trafficking, there is little evidence that trafficking into prostitution is driven by the ‘demand’ or desires of clients. Anderson and O’Connell Davidson completed a comprehensive study on the question of whether trafficking for commercial sex and domestic labor are demand-driven and pointed out significant evidentiary defects in the “demand” theory. They found that “demand for both commercial sexual services and the labor of domestic workers, like demand in all markets, is very much a socially, culturally and historically determined matter. It is also intimately related to questions concerning supply or availability; indeed, we could almost say that supply generates demand rather than the other way round.”² They cautioned against tactics that focus only on the sex sector as “it is not clear that calls for punitive policies against [purchasers of commercial sex] would lead to the desired outcome” of reducing trafficking into prostitution.³

There is no evidence that increased arrests of clients reduces prostitution or trafficking

No study has yet demonstrated that increasing the investigation and prosecution of persons who purchase commercial sex acts causes any decrease in trafficking or prostitution in the United States.⁴ For example, educational diversion programs for those arrested for purchasing commercial sex, colloquially known as “John Schools,” are already in effect in fifty jurisdictions in the United States. None of these programs have been shown to have an effect on the prevalence of prostitution or human trafficking.⁵ In fact, studies show that they may not even

¹ See Global Alliance Against Traffic in Women, *Moving Beyond ‘Supply and Demand’ Catchphrases: Assessing the Uses and Limitations of Demand-Based Approaches in Anti-trafficking* 28-35 (2011), *available at* http://www.gaatw.org/publications/MovingBeyond_SupplyandDemand_GAATW2011.pdf (providing examples of the ineffectiveness of End Demand policies in ending trafficking).

² Bridget Anderson and Julia O’Connell Davidson, International Organization for Migration, *Is Trafficking in Human Beings Demand-Driven? A Multi-Country Pilot Study* (2003), *available at* http://www.childtrafficking.com/Docs/anderson__o_connell_dauids1.pdf.

³ *Id.*

⁴ See Global Alliance Against Traffic in Women, *supra* note 1, at 36.

⁵ One study claims that the San Francisco john school reduced recidivism, but that study was seriously flawed and did not, in fact, prove any link between the john school and the reduced recidivism. Compare Michael Shively, et al., Abt Associates, Inc., *Final Report on the Evaluation of the First Offender Prostitution Program*, (2008), *available at* http://www.abtassociates.com/reports/FOPP_Evaluation_FULL_REPORT.pdf, with Rachel Lovell and Ann Jordan, *Do John Schools Really Decrease Recidivism?: A methodological critique of the evaluation of the first offender prostitution program in San Francisco*, working paper on file with authors.

reduce recidivism among participants.⁶ Educating our community members may be a laudatory goal, but these initiatives show that the current models are not best practices that should be replicated.

It is also instructive to look at other nations that have implemented laws to criminalize clients to see if they have been able to document any effect on human trafficking (or prostitution). Sweden criminalized the purchase (but not the sale) of commercial sex in 1998 with the belief that this would lead to an end to prostitution and trafficking into prostitution. The government does not have any evidence that the law reduced trafficking into prostitution. Although it proclaims that the law has reduced street prostitution by 50%,⁷ their own data does not provide any evidence to support the claim.⁸ In fact, these tactics have not even reduced prostitution in Sweden.⁹

More troubling, increased prosecutions of clients may decrease reliable reporting of human trafficking, child sexual exploitation and abuses against adult sex workers

Human trafficking organizations and law enforcement have learned from working intently on this issue, that many trafficking victims are directly helped by one of their customers who help them escape or report their situation to law enforcement. Purchasers of commercial sex who feel increasingly targeted by law enforcement and so are in greater fear of being arrested are less likely to report trafficking-like situations or act as witnesses.

TRAFFICKING INTO PROSTITUTION AND LARGE SPORTING EVENTS

As part of its Pillars of Hope campaign the NAAG employed an End Demand approach with respect to the 2012 Super Bowl. This plan was based on assumptions that large sporting events like the Olympics, the World Cup, and the Super Bowl increase the number of persons,

⁶See, e.g., Martin A. Monto and Steve Garcia, "Recidivism Among the Customers of Female Street Prostitutes: Do Intervention Programs Help?," 3 *Western Criminology Review* (2011), *available at* <http://wcr.sonoma.edu/v3n2/monto.html>.

⁷Sweden's Chancellor of Justice Anna Skarhed Report, *Förbud mot köpavsexuell tjänst En utvärdering 1999–2008* 34-36 (2010), report summary in English *available at* <http://www.sweden.gov.se/content/1/c6/14/92/31/96b1e019.pdf>.

⁸Susanne Dodillet and Petra Ostergram, *The Swedish Sex Purchase Act: Claimed Success and Documented Effects* (2011), *available at* <http://www.petraostergren.com/upl/files/54259.pdf>; Annika Eriksson and Anna Gavanas, National Board of Health and Welfare, Individual and Family Unit, *Prostitution in Sweden 2007*, 47-48 (2008), *available at* www.socialstyrelsen.se.

⁹Elizabeth Bernstein, *Temporarily Yours: Intimacy, Authenticity, and the Commerce of Sex* (2007); Don Kulick, *Sex in the New Europe: The Criminalization of Clients and Swedish Fear of Penetration*, 3 *Anthropological Theory* 199 (2007) (Studies show that although the Swedish law and similar efforts to crack down on street-level prostitution in the U.S. may have decreased the *visibility* of prostitution, it has not decreased its frequency, but rather moved indoors or "underground."); Sweden's Chancellor of Justice Anna Skarhed Report, *Förbud mot köpavsexuell tjänst En utvärdering 1999–2008* (2010), report summary in English *available at* <http://www.sweden.gov.se/content/1/c6/14/92/31/96b1e019.pdf> (stating that although there was an initial decrease in prostitution, now the government could only conclude that prostitution had simply not increased in Sweden since the law); Working Group of the Legal Regulation of Sexual Services, *Purchasing sexual services in Sweden and the Netherlands: Legal Regulation and Experiences* (2004), *available at* www.nswp.org/sites/nswp.org/files/PURCHASINGSEX.pdf (A 1999–2003 study showed stable levels of street-based prostitution.).

particularly minors, who are trafficked for sex. These allegations are simply unfounded. The idea that trafficking is inextricably linked to sporting events is a prime example of an unfounded rumor resulting in a gross misuse of resources. The claims that large numbers of persons would be trafficked for sex to both Sydney in 2000 and Athens in 2003 for the Olympic Games, or to Germany in 2006 and South Africa in 2010 for the World Cup have been investigated and found to be unsubstantiated.¹⁰ Furthermore, the claims that thousands of underage domestic minors would be trafficked for sex at the U.S. Super Bowl in Dallas in 2011 or Indianapolis in 2012 have not been supported by any plausible evidence.¹¹ Finally, of the small number of arrests occurring in these locales,¹² none but a handful was related to minors.

In the case of the Super Bowl in Indianapolis this year, Indiana passed an emergency bill to update previous laws in an attempt to toughen up their human trafficking laws by extending the definition of sex trafficking and increasing penalties.¹³ The city also engaged in an extensive campaign to educate and train hotel workers and cab drivers to recognize the signs of human trafficking.¹⁴ While we support well targeted education campaigns to spread awareness about human trafficking, there was no evidence to bear out propositions by officials that many women and minors would be trafficked to the city for the event.¹⁵

¹⁰See, e.g., Carpenter, Les, “Debunking World Cup’s biggest myth,” *Yahoo News*, June 10, 2010.; Cronin, Brian, “Sports Legend Revealed: 40,000 prostitutes enter the country hosting the World Cup,” *Los Angeles Times*, June 16, 2010.; O’Neill, Brendan, “Stop this illicit trade in bull ____ stories,” *Spiked*, March 18, 2010; IOM (2007), *Trafficking in Human Beings and the 2006 World Cup in Germany*, Migration Research Series no. 29 available at http://www.iom.ch/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/serial_publications/mrs29.pdf (stating that “the estimate of 40,000 women expected to be trafficked [in Germany surrounding the World Cup] was unfounded and unrealistic”); SWEAT (2010), *Press Release, Sex Workers Education and Advocacy Taskforce (SWEAT) and the UN Population Fund (UNFPA), Oct. 21, 2010* available at <http://victimempowermentsa.wordpress.com/2010/10/25/sex-workers-during-2010-soccer-world-cup-reality-vs-predictions/> (stating that during the 2010 World Cup in South Africa, there was only a small increase in the number of female sex workers who advertised online and that there was “no spike in supply and demand of paid sex through newspaper and online advertising” during this time period); What’s the Cost of a Rumour? A guide to sorting out the myths and the facts about sporting events and trafficking, Report by the Global Alliance Against Traffic in Women, 2011, available at <http://www.s-i-o.dk/tekst/WhatstheCostofaRumour.pdf> (stating that there were no instances of trafficking for prostitution linked to the 2004 Olympics).

¹¹ Kotz, Pete, “The Super Bowl Prostitute Myth: 100,000 Hookers Won’t Be Showing Up in Dallas.” *Dallas Observer*, January 27, 2011.

¹² Sex trafficking related arrests in Germany for the entire year of 2006 were less than 1000; there were 133 arrests in Dallas during the *North Texas Law Enforcement, Attorney General’s Office Prevent Human Trafficking Surge* at the 2011 Super Bowl. Of the 133 mostly prostitution-related arrests, only 8 were related to human trafficking and of those only 4 involved minors. See Huseman, Jessica L. 2011. “Top FBI agent in Dallas praises Super Bowl security effort, sees no evidence of expected spike in child sex trafficking.” *Dallas News*, March 2, 2011.; Peterson, Matt. 2011. “Efforts of sex trafficking task force led to 133 arrests in run-up to Super Bowl.” *Dallas News*, February 18, 2011.

¹³ Elizabeth Prann, Indiana passes human trafficking law in time for Super Bowl, *FoxNews.com*, February 2, 2012 available at <http://www.foxnews.com/us/2012/02/02/human-trafficking-law-passes-before-super-bowl/>.

¹⁴ Siara Sparkman and Evie Lichtenwalter, *The Ball State Daily News*, February 1, 2012, available at <http://www.bsudailynews.com/gov-daniels-approves-anti-trafficking-bill-1.2693657#.T0saYYcgfd4>.

¹⁵ Rachel Loyd, Urban Legends and Hoaxes: How Hyperbole Hurts Trafficking Victims, *Huffington Post*, February 3, 2012, available at http://www.huffingtonpost.com/rachel-lloyd/village-voice-escort-ads_b_1250617.html (stating that while “there have definitely been some reported cases, the statistics just don’t bear out this claim.”).

The misguided focus on trafficking and sporting events relies on gendered stereotypes, not on evidence. Not only men attend sporting events and not all men who attend sporting events buy the services of victims of human trafficking. Rather than addressing the serious problem of human trafficking, this misdirection diverts important resources and tends to obscure the real source of the problem.

BACKPAGE AND INTERNET FORUMS FOR SEX WORK

NAAG's Pillars of Hope campaign also expresses an interest in continuing the NAAG campaign against online classified services such as Backpage.com. Efforts to shut down adult services ads on websites like Backpage.com are misguided approaches to combat human trafficking. In fact, we are very concerned that these actions will fuel the growth of human trafficking. Without Backpage.com, other escorting sites, of which there are thousands,¹⁶ will quickly fill the gap.¹⁷ We work with survivors of human trafficking, and can assure you that traffickers will not be dissuaded by the absence of one website. Human traffickers will scatter to these other sites, which are less structured and harder to monitor, or go offline altogether.¹⁸ Trafficking that occurs in hidden locations with no public profile is much harder to find, investigate, and stop. Does the NAAG have an effective strategy and adequate resources to counteract the redistribution of online human trafficking that will result from the removal of Backpage.com's adult services section? Utilizing limited resources against one Internet forum will do nothing to reduce trafficking within the sex industry.¹⁹

We have heard from local and federal law enforcement agencies that the existence of Backpage.com actually makes it easier to investigate and combat human trafficking. Traffickers

¹⁶ See Mark Latonero, Ph.D., *The Role of Social Networking Sites on Online Classifieds*, Human Trafficking Online, Sept. 2011, at 14, available at https://technologyandtrafficking.usc.edu/files/2011/09/HumanTrafficking_FINAL.pdf. A report by A Shared Hope International found that there could be as many as 5,000 websites offering commercial sex, either directly or indirectly.

¹⁷ *Backpage replaces Craigslist as top site for prostitution ad-leader*, AIM Group, Oct. 19, 2010, available at <http://aimgroup.com/blog/2010/10/19/backpage-replaces-craigslist-as-prostitution-ad-leader/>. After Craigslist.org refused to accept further escort ads, Backpage.com experienced a 15.8% surge of unique visitors in September 2010. Escort listings increased 17.5%. A handful of other similar sites also experienced revenue growth that either matched or exceeded Backpage.com; see Shoshana Walter, *Online Sex Trade Is Flourishing Despite Efforts to Curb It*, N.Y. TIMES, Mar. 16, 2012, available at <http://www.nytimes.com/2012/03/16/us/online-sex-trade-flourishing-despite-efforts-to-curb-it.html>.

¹⁸ *Online prostitution advertising stunted by Craigslist's departure*, AIM Group, September 6, 2011, available at <http://aimgroup.com/blog/2011/09/06/online-prostitution-advertising-stunted-by-craigslist's-departure/>. In the year since Craigslist.org removed escort ads from their website, it is estimated that the amount spent on online prostitution has fallen by more than 50%. While this could erroneously be hailed as a victory, it is illogical to assume that a decrease in online ads equates to less sexual trafficking. Sadly it only implies that portions of this illegal activity have moved to less visible areas. Despite the decrease in revenue, ads are still plentiful. Backpage.com had an estimated 86,600 sexual advertisements in August 2010.

¹⁹ See Megan Woolhouse, *Craigslist not the only online site for sex ads*, Boston.com, Sept. 8, 2010, http://www.boston.com/business/technology/articles/2010/09/08/craigslist_not_the_only_online_site_for_sex_ads/. Efforts to take down these sites are compared to a game of "Whac-a-Mole" by John Palfry, codirector of the Berkman Center for Internet & Society at Harvard Law School. He urges that attacking intermediaries through censorship will not eliminate illegal online activities.

and other perpetrators of violence leave “virtual footprints” when they utilize Internet forums, and this information is available to law enforcement through subpoena.²⁰ Law enforcement investigations around the country that have utilized online sex advertisements may have resulted in arrests and prosecutions that would not otherwise have been possible.²¹ Backpage.com currently provides evidence to law enforcement agencies to support trafficking cases.²² Many other sites do not offer this support.²³

We believe that law enforcement developing a working relationship with Backpage.com will be more helpful than clinging to the hope that removal of online sex ads will alleviate the prevalence of sex trafficking.

ALTERNATIVE APPROACHES

As a leader in the law enforcement community, the NAAG has an important role to play in the fight against trafficking. We encourage NAAG to focus on the following alternative policies and activities as part of your campaign:

Support law enforcement cooperation with service providers and advocacy organizations that are rooted in communities affected by human trafficking.

Organizations that support sex workers, undocumented immigrants, low wage workers, and other marginalized communities are best positioned to identify possible victims of trafficking. In the 2011 Trafficking in Persons Report the U.S. State Department recommends partnerships between government offices and NGOs. By partnering with advocacy and support groups that are knowledgeable, trusted resources, law enforcement can start to build the trust that is needed to address this crime.²⁴

Support organizations that assist survivors of human trafficking.

Human trafficking into prostitution is a horrific human rights abuse, and there are a growing number of qualified direct service providers with expertise on assisting its victims. Supporting organizations that work to assist survivors of human trafficking is an essential part of any campaign to end trafficking.

Support uniform training of law enforcement on human trafficking and prostitution issues.

Law enforcement officers on the state level need universal and consistent training on how to identify victims of human trafficking and human trafficking situations. Unfortunately, lack of uniform training leads to a patchwork of better and worse responses to human trafficking around

²⁰ Latonero *Supra* note 15, at 13.

²¹ *Id.* at 19, 20. A Florida federal jury found Tyrone Townsend guilty of sex trafficking in February 2011. Twenty-eight Internet sex ads were included among the evidence. See Katia Hetter, *Fighting sex trafficking in hotels, one room at a time*, CNN, Feb. 29, 2012, <http://www.cnn.com/2012/02/29/travel/hotel-sex-trafficking/index.html>.

²² Patricia Calhoun, *Backpage.com response to John Suther's announcement of human-trafficking indictment*, Denver Westword Blog (Jan. 31, 2012, 3:07 PM),

http://blogs.westword.com/latestword/2012/01/backpage_response_john_suthers_human_trafficking.php.

²³ *Id.*

²⁴ See Trafficking in Persons Report, U.S. Department of State, June 2011, *available at* <http://www.state.gov/j/tip/rls/tiprpt/2011/166777.htm>.

the country. Law enforcement should collaborate with knowledgeable organizations to develop training modules on how to deal with adult sex workers and minors in prostitution. This would include important topics such as how to identify and differentiate between trafficking victims, children in prostitution and voluntary adult sex workers and how to link each group to appropriate services and support.²⁵

Provide accurate information and support to trafficking victims.

Attorney General Offices are often contacted by residents who do not know who else to call about a problem. While the Attorney General is not always the best placed enforcement agency to investigate a human trafficking case, they can provide an avenue for those who want to know about their rights and have access to services. Since trafficking victims are often hidden in the shadows, they need a way to access information and resources. NAAG could be an important resource for trafficking victims looking for a local referral.

We believe these alternative approaches will both help victims of trafficking and child prostitution and not harm voluntary sex workers.

Sincerely,

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Desiree Alliance
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Best Practices Policy Project
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²⁵ See Robert Moosy, J.D., *Sex Trafficking: Identifying Cases and Victims*, NIJ Journal No. 262, March 9, 2009, available at <http://www.nij.gov/journals/262/sex-trafficking.htm>.

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Attachment:

[Beyond 'Supply and Demand' Catchphrases: Assessing the Uses and Limitations of Demand-Based Approaches in Anti-Trafficking, The Global Alliance Against Traffic in Women \(GAATW\).](#)