



## Urban Justice Center

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### SEX WORKERS PROJECT FACT SHEET: FEDERAL TRAVEL ACT

Many sex workers wonder whether the federal Travel Act can be used to prosecute independent prostitutes—in other words, does it effectively make prostitution a federal offense?

#### WHAT IS THE OFFENSE?

- The federal Travel Act is aimed at combating certain crimes that involve interstate activities (activities or travel across state lines). The Act *does not* make it a federal offense to engage in prostitution. Instead, it makes it a **federal offense to use interstate facilities and interstate travel to facilitate prostitution** (to make it easier to engage in the act of prostitution.)
- For example, it is not a federal offense under the Travel Act to run an escort service that engages in prostitution if everything connected with the business takes place within the state and does not use any methods reaching out across state lines. Once there is travel across state lines to facilitate the prostitution, or once interstate telephone calls or the mail is used to facilitate the prostitution, it can become a federal offense under the Travel Act.

#### WHAT TYPE OF PROSTITUTION IS THE TRAVEL ACT AIMED AT COMBATING?

- The original purpose of the Travel Act was to combat organized crime because, without federal help, states lacked the resources, ability, or willingness to prosecute organized crime that often extended across states lines. The Act covers illegal activities often associated with organized crime, such as gambling, narcotics, bribery, and prostitution.
- In addition, the Travel Act states that the illegal activity has to qualify as a “business enterprise” in order to be prosecuted under the Act—meaning that sporadic or short-lived prostitution is unlikely to be targeted by the Act.

#### WHO IS USUALLY PROSECUTED?

- The Act is usually used to prosecute people who organize, run, or have at least some management over the illegal activities—in prostitution cases, this is usually the individual who, for example, organizes a prostitution ring or manages an escort service or brothel. Congress originally intended the Travel Act to apply to large-scale, criminal operations and not individual criminal acts. **However**, some courts have allowed the law to be more generally applied to any person engaged in any organization of the illegal activities covered by the Travel Act.
- Although the language of the Act is broad enough to apply to lower-level players, a sex worker **generally** should not worry about prosecution under the Travel Act **if he or she is not involved in organizing or managing a prostitution business that is bigger than his or her own individual operations.**

#### WHAT QUALIFIES AS INTERSTATE ACTIVITY UNDER THE TRAVEL ACT?

- **Courts tend to see almost any type of interstate activity as enough to qualify under the Travel Act, as long as the interstate activity made the act of prostitution easier.** Therefore, it is important to err on the side of caution. Courts have held that interstate activity includes, among other things, traveling across state lines to engage in prostitution, placing interstate telephone calls in the course of prostitution (perhaps to obtain credit card approval for a customer), and even sending laundry from a prostitution business to a cleaning service across state lines.

## WARNING: THE NOTABLE EXCEPTION:

- **ONE CASE** serves as a warning to mainly independent prostitutes. In this exceptional case, two female defendants had traveled from Massachusetts to Maine for a prostitution job initially arranged by a male associate who did not go along on the trip. Once in Maine, the two women performed acts of prostitution with members of a convention at a local motel. They were prosecuted under the Travel Act in 1978, while their male associate who had not traveled with them was acquitted of the Travel Act charges. The women argued that they had originally gone to Maine in the capacity of entertainers or dancers and that the sex acts were a casual and spontaneous response to propositions made after their arrival in Maine. The court rejected the argument and they were convicted under the Travel Act.
- This case is an exception to the norm, but should be taken as a lesson in what is legally possible under the Travel Act. The women had only committed a few, short-lived acts of prostitution that may not qualify as organized crime or a “business enterprise.” In addition, they were not large-scale organizers or managers of prostitution. However, the court found extensive evidence in this case that the women and their male associate had discussed and planned the prostitution and that the women did, in fact, set out for Maine (meeting the interstate activity requirement) with the clear intention of committing prostitution. The women’s role in helping to organize and arrange these acts of prostitution gave the court enough of a legal basis to convict them.
- While the Travel Act is usually applied only to those who organize and promote prostitution in a management capacity, under the language of the statute it can technically apply to those who “carry on” prostitution. ***In this case, the women both “carried on” prostitution and appeared to have a small organizational, management capacity in the venture.***

## THE BIGGER WORRY:

- The more likely problem that the Travel Act will pose for a sex worker is that he or she will be, in effect, forced to help the government conduct its investigation and case against those organizing or running the prostitution business—perhaps wearing a wire or testifying as a witness for the government. For example, there is a case in which the owner and the manager of a strip club were prosecuted under the Travel Act, but the women who danced and engaged in prostitution in the club (under the direction of the owner and manager) were not prosecuted. Instead, they were used as government witnesses.
- When a sex worker is threatened with prosecution and thus forced to continue working in order to help the government obtain more evidence against a manager or owner, the government is potentially putting the sex worker in great danger—especially if that manager is a member of organized crime.

## FURTHER ISSUES:

- Sex workers should think about the impact of the internet—does advertising oneself on the internet qualify as using an interstate activity to facilitate prostitution? There have so far been no cases like this prosecuted under the Travel Act, but it may be a possibility.
- There are also currently some bills proposed in the United States Congress that would **federally criminalize** domestic trafficking in persons, including sex trafficking. The terms used in these bills to define “domestic trafficking” and “victims of domestic trafficking” appear to criminalize a wide variety of localized commercial sex in which someone else makes arrangements or provides access to a prostitute. It is important to keep this in mind.

**DISCLAIMER** : This fact sheet was researched and written on March 15, 2005. The law may have changed. These materials are provided solely for informational purposes and are not legal advice. Transmission of these materials is not intended to create, and receipt does not constitute, an attorney client relationship. This matter should not be pursued further without contacting an attorney or legal representative.