

ADDRESSING DEMAND: WHY AND HOW POLICYMAKERS SHOULD UTILIZE LAW AND LAW ENFORCEMENT TO TARGET CUSTOMERS OF COMMERCIAL SEXUAL EXPLOITATION

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INTRODUCTION[†]

Human trafficking affects virtually every country, including the United States.¹ Since the passage of the Trafficking Victims Protection Act of 2000² in the United States as well as the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons,³ many have worked to address this problem of modern-day slavery, from statesmen and stateswomen to world relief organizations and grassroots organizations. Even so, these crimes continue. Some estimate there are as many as twenty-seven million people trapped in some form of slavery worldwide.⁴ Many of the slaves are women and children—bought, sold, and traded day after day for sexual exploitation.⁵ In human trafficking, as in drug trafficking, there is a triangle of activity consisting of *supply*, *demand*,

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[†] Cited throughout this Article are newspaper sources that help illustrate the widespread reach of human trafficking throughout the United States and abroad.

¹ See U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT 338–45 (10th ed. 2010). See generally *id.* at 55–359.

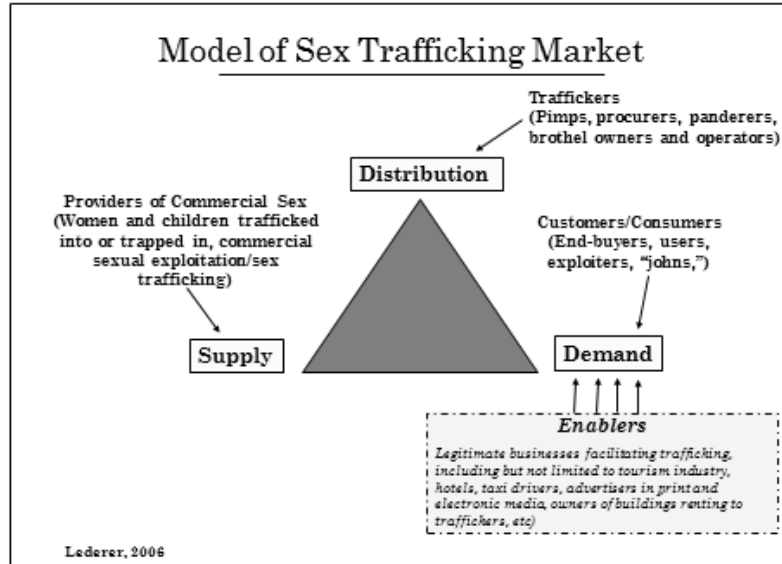
² Pub. L. No. 106-386, 114 Stat. 1466 (codified as amended in scattered sections of 22 U.S.C. (2000)).

³ Protocol To Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, *opened for signature* Dec. 12, 2000, 2237 U.N.T.S. 319.

⁴ *E.g.*, KEVIN BALES, DISPOSABLE PEOPLE: NEW SLAVERY IN THE GLOBAL ECONOMY 8 (rev. ed. 2004).

⁵ U.S. DEP'T OF STATE, *supra* note 1, at 9, 12, 34.

and *distribution*.⁶ This triangle of activity exists whether the trade is in forced labor or in commercial sexual exploitation—sex trafficking. This Article focuses on trafficking for purposes of commercial sexual exploitation.⁷ The following diagram illustrates the triangle of activity in these cases:



Since the passage of the Trafficking Victims Protection Act, with its emphasis on victim rescue, rehabilitation, and restoration,⁸ activity has centered on the “supply” side. Many organizations have designed comprehensive sets of services for trafficking victims, including short-term aid, such as food, clothing, shelter, medical attention, and legal services for those rescued.⁹ In addition, “distribution” has also been a focal point, including the investigation, arrest, prosecution, and

⁶ See R.I.R. Abeyratne, *International Initiatives at Controlling the Illicit Transportation of Narcotic Drugs by Air*, 63 J. AIR L. & COM. 289, 318 (1997).

⁷ Using the term “commercial sexual exploitation of women and children” is a deliberate decision by the author, as it broadly encompasses domestic and international trafficking of persons for purposes of forced prostitution and other sexual services and additionally alludes to the economic component of the crime and the victim status of the women and children who are forced to participate.

⁸ Pub. L. No. 106-386, §§ 102, 105–07, 114 Stat. 1466.

⁹ *E.g.*, NYC OFFICE OF THE CRIMINAL JUSTICE, HUMAN TRAFFICKING SERVS.: RES. DIRECTORY (2011), available at http://www.nyc.gov/html/endht/downloads/pdf/human_trafficking_services_resource_directory.pdf; *Services Available for Trafficking Victims*, KY RESCUE & RESTORE VICTIMS OF HUMAN TRAFFICKING, <http://www.rescueandrestoreky.org/serving-victims/services-available/> (last visited Apr. 21, 2011).

successful conviction of traffickers.¹⁰ Very little attention and few, if any, programs attend to the demand side of this triangle of activity.

This Article addresses some strategies for demand reduction. It suggests a four-point program for addressing demand and discusses ways that different jurisdictions can apply this program. The four points are as follows: (1) drafting laws that penalize patronizing and target customers and consumers of commercial sex; (2) creating first-offender programs, colloquially known as “John’s Schools,” to educate first offenders about the deleterious effects of commercial sexual exploitation; (3) creating sting and reverse-sting operations to assist law enforcement in identifying, arresting, and prosecuting buyers; and (4) developing social marketing campaigns that not only target exploiters, but also impress upon the general public the message of “no tolerance” for their actions. To put an end to commercial sexual exploitation of women and children in all of its various forms, society must recognize the larger need for continuing values-based and human rights approaches that acknowledge and affirm the dignity, integrity, and sacredness of a human life.

I. PENALIZING PATRONS OF COMMERCIAL SEX

The first step that jurisdictions may take is to draft and pass laws that target demand, and then they must enforce these laws. In 1999, Sweden became the first country to introduce a law that specifically penalized the customers.¹¹ While selling sex is not a crime, buying it has become punishable by up to six months in prison since the passage of the law.¹² This ban on the purchase of sexual services was the first of its kind worldwide. The rationale behind the law, now a decade old, is that prostitution is a form of male violence against women and that it is therefore a form of discriminatory behavior.¹³ Accordingly, the purpose of

¹⁰ See, e.g., U.S. DEP’T OF STATE, *supra* note 1, at 45; Michael W. Savage, *State Legislatures Move To Combat Human Trafficking*, WASH. POST, July 19, 2010, at A3 (noting, however, that the increased attention on traffickers has not yet led to increased convictions).

¹¹ 6 ch. 11 § LAG OM FÖRBUD MOT KÖP AV SEXUELLA TJÄNSTER (Svensk författningssamling [SFS] 1998:408) (Swed.) (“A person who . . . obtains a casual sexual relation in return for payment [] shall be sentenced for *purchase of sexual service* to a fine or imprisonment for at most six months.”). A penalty is also imposed for attempt. *Id.*

¹² See Gunilla Ekberg, *The Swedish Law That Prohibits the Purchase of Sexual Services*, 10 VIOLENCE AGAINST WOMEN 1187, 1192 (2004).

¹³ See *id.* at 1189 (“In Sweden, prostitution is officially acknowledged as a form of male sexual violence against women and children. One of the cornerstones of Swedish policies against prostitution and trafficking in human beings is the focus on the root cause, the recognition that without men’s demand for and use of women and girls for sexual exploitation, the global prostitution industry would not be able [to] flourish and expand.”).

this law was to take the onus off the women and children (the supply) and to transfer it to the men purchasing sex.¹⁴

A report by the government of Sweden evaluating the first ten years of the new approach found positive results. Street prostitution has been cut in half (and there is no evidence that the reduction in street prostitution has led to an increase in prostitution elsewhere, whether indoors or on the Internet).¹⁵ Women have found increased services enabling them to exit prostitution, and fewer men state that they purchase sexual services.¹⁶ Finally, the ban has had a chilling effect on traffickers who find Sweden an unattractive market in which to sell women and children for sex.¹⁷ The law should also reduce pimping, pandering, brothels, and other activities that are already illegal, because if there is no demand, those who are involved in prostitution and related activities for profit will no longer be able to sustain their activities.

In the wake of Sweden's success, Norway recently adopted a similar law.¹⁸ Commenting on the law's purpose, Norwegian Justice Minister Knut Storberget stated, "People are not merchandise, and criminalising the purchase of sexual services will make it less attractive for human traffickers to look to Norway."¹⁹

Many states in the U.S. have gender-neutral "soliciting" laws that can be utilized to arrest the men soliciting sex.²⁰ This approach is not as effective as the above-stated approaches, however, because even though these laws are gender-neutral on the books, they are rarely *applied* in a gender-neutral fashion.²¹ Instead, the women or children forced into or trapped in prostitution are arrested for soliciting, while the customers are passed over.²² Although this is a problem of poor and discriminatory

¹⁴ *Id.* at 1191–92.

¹⁵ Statens Offentliga Utredningar [SOU] 2010:49 Förbud mot köp av sexuell tjänst En utvärdering 1999–2008, 34–36 [government report series] (Swed.).

¹⁶ *See id.* at 33, 38.

¹⁷ *Id.* at 37.

¹⁸ ALMINDELIG BORGERLIG STRAFFELOV [STRAFFELOVEN] [CIVIL PENAL CODE] 2008:202a (Nor.) ("Any person who engages in or aids and abets another person to engage in sexual activity or commit a sexual act on making or agreeing payment . . . shall be liable to fines or to imprisonment for a term not exceeding six months or to both.").

¹⁹ John Acher, *Norway Proposes Jail, Fines for Buying Sex*, REUTERS, Apr. 18, 2008, available at <http://www.reuters.com/article/idUSL18758677> (internal quotation marks omitted).

²⁰ *E.g.* CAL. PENAL CODE §§ 266, 266h (West 2008); FLA. STAT. ANN. § 796.07(2)(f) (West 2007); 720 ILL. COMP. STAT. ANN. 5/11-14.1(a) (West 2002).

²¹ Dana Lynn Radatz, *Systematic Approach to Prostitution Laws: A Literature Review and Further Suggestions 1–2* (May 10, 2009) (unpublished M.A. dissertation, Eastern Michigan University), available at <http://commons.emich.edu/cgi/viewcontent.cgi?article=1230&context=theses>. Radatz identifies subjective beliefs of police officers as one of the explanations for the discrepancy between legislation and enforcement. *Id.*

²² *Id.* at 20.

law enforcement rather than bad law, the problem remains. To combat this inequitable application of the law, a few states, such as New York, have introduced higher penalties for customers,²³ but, unfortunately, there are some states that have higher penalties for the *victims* of prostitution.²⁴

In various states, the legislatures have been working on creative strategies to combat commercial sexual exploitation, recognizing that many of those in prostitution are victims of human trafficking. These states have approached the problem from various angles.

In the state of Washington, for instance, a bill was signed into law in April 2010 that increased penalties for those who promote commercial sexual abuse of a minor and those who commit sexual abuse of a minor.²⁵ The effect of the legislation is to intensify the severity of the punishment for sexual contact with a minor, thereby addressing concerns of minors trafficked into prostitution in the state.²⁶ The crime of promoting commercial sexual abuse of a minor is now a Class A felony, in the same class as first-degree rape and first-degree assault, and the crime of buying a minor for sex is now a Class B felony, in the same class as arson.²⁷ Further, it is not a defense that the defendant did not know the

²³ N.Y. PENAL LAW § 230.04 (McKinney 2008) (“A person is guilty of patronizing a prostitute in the third degree when he or she patronizes a prostitute. Patronizing a prostitute in the third degree is a class A misdemeanor.”). Enhanced penalties are provided for patronizing a child less than fourteen years old. *Id.* § 230.05 (“A person is guilty of patronizing a prostitute in the second degree when, being over eighteen years of age, he patronizes a prostitute and the person patronized is less than fourteen years of age. Patronizing a prostitute in the second degree is a class E felony.”).

²⁴ For example, in Louisiana, regardless of the number of times a person is charged with patronizing a prostitute, the penalty shall not exceed \$500 or imprisonment for six months. By contrast, a person who commits the offense of prostitution shall be fined in graduated amounts based on the number of offenses, with prison sentences increasing per offense as well. *Compare* LA. REV. STAT. ANN. § 14:82(B) (2004) (discussing the penalty and enhancements for prostitution), *with* § 14:83 (discussing the penalty for soliciting for prostitutes). *See also* KAN. STAT. ANN. §§ 21-3512(b), -3515(2) (West 2009) (classifying prostitution as a Class B misdemeanor but patronizing a prostitute as only a Class C misdemeanor); UTAH CODE ANN. §§ 76-10-1302(2), -1303(2) (LexisNexis 2011) (penalizing subsequent prostitution offenses with a heightened penalty but not penalizing subsequent patronization offenses with heightened penalties). For further state comparisons on penalties and other regulations regarding prostitution, see *US Federal and State Prostitution Laws and Related Punishments*, PROCON.ORG (Mar. 15, 2010, 1:33:55 PM), <http://prostitution.procon.org/view.resource.php?resourceID=000119>.

²⁵ Sex Crimes Involving Minors, S. 6476, 61st Leg., 2010 Reg. Sess. (Wash. 2010).

²⁶ While no particular section of the legislation explicitly mentions “sex trafficking,” in the report for the bill, testimony regarding the bill references the importance of this enactment as a deterrent for “domestic minor trafficking.” S. COMM. ON HUMAN SERVS. & CORR., AN ACT RELATING TO SEX CRIMES INVOLVING MINORS, S. 6476, 61ST LEG., at 3 (Wash. 2010).

²⁷ 2010 Wash. Sess. Laws 2301, 2309–11; *see also* WASH. REV. CODE §§ 9.68A.100(2), .101(2) (2011).

age of the victim.²⁸ Beside the heightened criminal sentences for these crimes, there are higher fines and punishments. If a car is used in the commission of the crime or the person arrested is the owner of the vehicle, the vehicle must be impounded, and the fine is \$2,500 to get the car back—a \$2,000 increase from the previous impounding fee.²⁹ As this is a new law, time is needed to determine whether its increased penalties and fines substantially deter “johns” from purchasing sex.

Some businesses, such as massage parlors and escort services, are fronts for prostitution, commercial sexual exploitation, and sex trafficking.³⁰ Therefore, another way to attack demand is to regulate these businesses by requiring them to obtain a license and to report their activity. This helps distinguish the legitimate businesses from those providing a façade for illegal activity. Colorado is one state that has taken this route. It requires licensing of escort agencies in the interest of the health, welfare, and safety of the people of the state.³¹ The Colorado Escort Service Code, which has been in place since 1980,³² requires a license for escort agencies to function and mandates that any violation of the licensing requirement is a misdemeanor punishable by a maximum of \$5,000 or imprisonment for not more than one year, or by both.³³

Once an application for an escort service is received by the city, a notice to the neighborhood and a public hearing are required.³⁴ At the public hearing, neighbors and neighboring businesses may testify regarding the needs and desires of the neighborhood, as well as the effects that the escort service could have on the health, welfare, or morals of the neighborhood.³⁵ The escort service licensing law also mandates that escort agencies require their patrons to sign contracts that explain that prostitution is illegal and that no act of prostitution shall be performed in relation to the services for which they contracted.³⁶

Another way that states are pursuing regulation of demand for commercial sex is the approach taken by the state of Missouri. Missouri’s recent law, passed in 2010, requires sexually oriented businesses to be

²⁸ WASH. REV. CODE § 9.68A.110(3) (2011).

²⁹ *Id.* §§ 9A.88.140 (2), (4)(a).

³⁰ See U.S. DEP’T OF STATE, *supra* note 1, at 77, 127; Joanne Kimberlin, *Women for Hire*, THE VIRGINIAN-PILOT, May 18, 2008, at 1 (reporting on the prevalence of prostitution operations under the guise of escort services); Kirk Semple, *Human-Trafficking Suspect is Arrested While Gambling*, N.Y. TIMES, Jan. 11, 2011, at A23 (discussing the arrest of a woman suspected of running a prostitution scheme under the masquerades of massage parlors, health spas, etc.).

³¹ COLO. REV. STAT. ANN. § 12-25.5-102 (West 2010).

³² *Id.* §12-25.5-101.

³³ *Id.* §12-25.5-113(1).

³⁴ DENVER, COLO., CODE § 7-320 (2010).

³⁵ *Id.*

³⁶ COLO. REV. STAT. ANN. § 12-25.5-112(2) (West 2010).

more than one thousand feet from pre-existing schools, day-care centers, places of worship, public parks, libraries, and residences or other sexually oriented businesses.³⁷ The term “sexually oriented business” encompasses adult bookstores or video stores, adult cabarets, adult motion picture theaters, semi-nude model studios, and sexual encounter centers.³⁸ This law also restricts the activity that is permitted in sexually oriented businesses.³⁹ The Missouri legislature explained that the purpose of the regulation was to minimize the impact of adverse secondary effects of such businesses, including drug use, blight on surrounding property, sexual assault and exploitation, and prostitution.⁴⁰ The legislature openly hopes to prevent the “negative secondary effects” associated with sexually oriented businesses from occurring.⁴¹

Similarly, Nebraska attempted to curb demand by two laws introduced in 2009.⁴² Unfortunately, the bills did not gain the necessary support and have been indefinitely postponed.⁴³ Legislative Bill 444 would have created an escort agency and escort licensing requirement, similar to Colorado’s Escort Service Code,⁴⁴ and Legislative Bill 443 would have regulated sexually oriented businesses, similar to the Missouri Sexually Oriented Business Act.⁴⁵ The fact that these bills did not pass highlights the need for constituents and policy-makers to continue urging lawmakers to acknowledge the reality that many trafficking victims are bought, sold, and traded through state-allowed businesses, such as escort services, massage parlors, and karaoke bars.

The companion legitimate industry that often serves as a front for illegal prostitution, commercial sexual exploitation, and sex trafficking is the massage business. In 2004, lawmakers in San Francisco responded to community organizations that documented a serious problem of massage parlors serving as brothels. They introduced a regulation, effective as of July 2004, that required massage practitioners to obtain a permit to practice and required massage establishments to obtain

³⁷ MO. REV. STAT. §573.531(1) (2010).

³⁸ *Id.* § 573.528(15).

³⁹ *Id.* § 573.531 (prohibiting full nudity, contact between semi-nude entertainers and patrons, selling or consuming alcohol on the premises, and patrons under the age of eighteen, as well as further requiring closure between the hours of midnight and 6:00 a.m.).

⁴⁰ *Id.* § 573.525(1)–(2)(1).

⁴¹ *Id.* § 573.525(2)(3).

⁴² Leg. B. 443, 444, 101st Leg., 1st Sess. (Neb. 2009).

⁴³ LEGIS. JOURNAL, 101st Leg., 2d Sess., at 423, 1467 (Neb. 2010).

⁴⁴ Neb. Leg. B. 444.

⁴⁵ Neb. Leg. B. 443.

permits to operate a massage parlor.⁴⁶ The city's hope was to curtail the use of massage parlors as fronts for prostitution.⁴⁷ Some of the operational requirements for a massage establishment include the prohibition of mattresses and beds in massage rooms, the prohibition of locks on any door to a room where a massage is being conducted, a clothing requirement for the massage practitioners, and a prohibition of alcohol on the premises.⁴⁸

Another related example of local community legal action against commercial sexual exploitation occurred in the Los Angeles metropolitan area in 1992. The "concern that businesses that cater to private *karaoke* parties [were] actually . . . fronts for prostitution and video sex prompted Monterey Park officials to temporarily ban the businesses, called KTV."⁴⁹ A "twist" on the popular karaoke bars, KTV had multiplied across the western San Gabriel Valley.⁵⁰ KTV used buildings divided into small rooms to allow for private karaoke parties.⁵¹ Law enforcement officials conducting surveillance on other crimes found that the businesses were a haven for prostitution, pornography, and gang activity.⁵² The Monterey Park City Council voted to impose a forty-five-day moratorium on KTV while the city assumed measures to prevent illegal activities.⁵³ The ban was later extended for a year.⁵⁴

Laws regulating various aspects of karaoke bars are now being considered in China, Thailand, Vietnam, the Philippines, and a number of other countries.⁵⁵ As one commentator said, "We call them karaoke

⁴⁶ S.F., CAL., HEALTH CODE art. 29, §§ 1901(a), 1908(a) (2010).

⁴⁷ See *id.* § 1929 (discussing the interaction between the Department of Public Health and law enforcement necessary to deter common issues with massage parlors, such as trafficking); cf. Robert Selna, *An Ambiguous Attitude Toward Massage Parlors*, S.F. CHRONICLE, Jan. 5, 2009, at A1 (discussing San Francisco's struggle to deter massage parlors from fronting for prostitution through licensing legislation and sting operations).

⁴⁸ S.F. DEP'T OF PUB. HEALTH, MASSAGE PROGRAM RULES & REGULATIONS FOR MESSAGE PRACTITIONER PERMIT AND ESTABLISHMENT PERMIT TO OPERATE § XI (2009). Additionally, the municipality has since repealed the permit requirement that these establishments close at midnight in favor of a more stringent closing hour of 10:00 p.m. HEALTH art. 29, § 1918(b).

⁴⁹ *Private Karaoke Parties Temporarily Banned*, L.A. TIMES, Mar. 11, 1992, at B2.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Moratorium on KTV Businesses Extended*, L.A. TIMES, Apr. 29, 1992, at B2.

⁵⁵ See Zhang Yan, *Vice Crackdown Moves to Bars*, CHINA DAILY, July 16, 2010, at M1 (discussing law enforcement's efforts to "crack down" on KTVs and bath houses "to create a safe, civilized and healthy cultural environment"); *Ban Lifted on New Discos, Karaoke Joints*, VIET. NEWS AGENCY, Nov. 12, 2009, available at <http://en.baomoi.com/Home/society/en.vietnamplus.vn/Ban-lifted-on-new-discos-karaoke-joints/20578.epi> (discussing the limitations placed on discos and karaoke bars); *Cebu Lawmaker Asks DOH*

bars, or KTV's, but they're not karaoke and they're not bars. . . . [T]hese places are brothels masquerading as respectable establishments."⁵⁶

These new laws are some examples of attempts to address commercial sexual exploitation, prostitution, and sex trafficking, recognizing that many in prostitution are minors or trafficking victims. The goal of the various legislation and regulations is to make it more difficult to find sex for purchase, reducing the amount of sex for sale on the streets and in businesses and making it more difficult for men to purchase sex. As such, each approach can be considered helpful in reducing, and ultimately eradicating, demand.

II. FIRST-OFFENDER PROGRAMS

Communities are additionally experimenting with rehabilitation programs—colloquially called “John’s Schools”—for men who have been arrested for soliciting for prostitution. These schools were the brainchild of the late Norma Hotaling, who, after founding her own advocacy and victim services organization called Standing Against Global Exploitation (SAGE), united with the San Francisco District Attorney’s Office to co-found the first-of-its-kind class for “johns,” titled the First Offender Prostitution Program (“FOPP”), in 1995.⁵⁷ This program has been replicated in roughly forty other U.S. cities.⁵⁸ These schools operate much like the weekend driver’s training schools for reckless drivers who are first-time offenders. They offer first-time offenders who have been arrested for soliciting an adult for prostitution an opportunity to go to school to learn the deleterious effects of their behavior.⁵⁹ The programs

To Step Up Info Campaign vs HIV, PHIL. NEWS AGENCY, Feb. 1, 2010, available at <http://balita.ph/2010/02/01/cebu-lawmaker-asks-doh-to-step-up-info-campaign-vs-hiv/> (considering regulation of KTVs and bars as necessary to decrease the spread of HIV in the Philippines); *Laying Down the Law*, THE NATION, July 29, 2009, available at 2009 WLNR 14666931 (discussing Thailand’s prohibition on drinking in karaoke bars).

⁵⁶ *Karaoke Bars or KTV's*, ENJOY CEBU! (Feb. 4, 2009, 12:18 AM), <http://cebunight.lifegalore.blogspot.com/2009/02/karaoke-bars-or-ktvs.html>.

⁵⁷ Norma Hotaling & Leslie Levitas-Martin, *Increased Demand Resulting in the Flourishing Recruitment and Trafficking of Women and Girls: Related Child Sexual Abuse and Violence Against Women*, 13 HASTINGS WOMEN’S L.J. 117, 120–21 (2002).

⁵⁸ Michael Shively et al., Final Report on the Evaluation of the First Offender Prostitution Program: Report Summary 97, 99–100 (Mar. 7, 2008) (unpublished report), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/222451.pdf>; see also Miyoko Ohtake, *A School for Johns*, NEWSWEEK, July 24, 2008, <http://www.newsweek.com/2008/07/23/a-school-for-johns.html>.

⁵⁹ See Meredith Flowe, *The International Market for Trafficking in Persons for the Purpose of Sexual Exploitation: Analyzing Current Treatment of Supply and Demand*, 35 N.C. J. INT’L L. & COM. REG. 671, 717 (2010). It is critical to reiterate that the FOPP programs are available only to first-time offenders who solicited an adult—not an offender who solicited a child. See *Eligibility Criteria for the San Francisco Pre-Trial Diversion Project, Inc.*, S.F. PRETRIAL DIVERSION PROJECT, INC., <http://www.sfpretrial.com/eligibility-criteria.html> (last visited Mar. 22, 2011).

also offer to drop the solicitation charges if the offenders attend the class.⁶⁰ In “John’s Schools,” they hear from victims of trafficking, learn about the nature, scope, and harm of trafficking, and are forced to examine their own motivations for buying sex.⁶¹

The original FOPP in San Francisco is an eight-hour class for a fee of \$1,000.⁶² The program’s administrative fees fund intervention services for women and girls.⁶³ The class is taught by sex-trafficking experts, health educators, and neighborhood activists.⁶⁴ A 2008 Department of Justice Study found that following the implementation of FOPPs, both San Francisco and San Diego experienced drops in recidivism rates, with San Diego’s recidivism rate dropping to less than half of what it was prior to implementation.⁶⁵

There are presently many variants of the FOPP initial model. Some jurisdictions are choosing not to have as substantial a program fee for the offender as the FOPP in San Francisco,⁶⁶ some have shorter or longer time commitments,⁶⁷ and many emphasize different educational components.⁶⁸ The original FOPP is now fifteen years old, but most of the programs only started operating in the last several years.⁶⁹ The time is therefore ripe to undertake a comprehensive, comparative analysis of the effectiveness of various schools, highlighting the best practices and components of a successful “John’s School.” In addition, it is important to examine the program’s amenability to replication and the overall effectiveness of the model in different regions of the country and around the world. Presently, it is encouraging that city governments and concerned citizens are beginning to understand that one of the most important tactics in fighting commercial sexual exploitation and sex

⁶⁰ See Flowe, *supra* note 59, at 716–17 (explaining some of the techniques used to reform “johns”).

⁶¹ *Id.* at 716.

⁶² *Id.* at 716–17.

⁶³ *First Offender Prostitution Program (FOPP)*, STANDING AGAINST GLOBAL EXPLOITATION (SAGE), http://www.sagesf.org/html/about_services_fopp.htm (last visited Mar. 22, 2011); see also Hotaling & Levitas-Martin, *supra* note 57, at 121 (further elaborating on the uses of the funds).

⁶⁴ Shively et al., *supra* note 58, at 18–19; see also Justin Berton, *Repentant Johns Taught Realities of the Sex Trade*, S.F. CHRON., Apr. 14, 2008, at A1.

⁶⁵ Shively et al., *supra* note 58, at v–vi .

⁶⁶ For example, the “John’s School” in Brooklyn, New York, only charges a \$250 fee for participation, while the program in Norfolk County, Virginia, charges \$1500. *Id.* at 106.

⁶⁷ For example, the “John’s School” in Denver, Colorado, requires offenders to attend two four-hour sessions in addition to twenty to forty hours of community service, while the program in Orange County, New York, consists of a single five-hour session. *Id.*

⁶⁸ *Id.* at vii (addressing the variations in “John’s Schools” across the U.S.).

⁶⁹ See Hotaling & Levitas-Martin, *supra* note 57, at 120; Shively et al., *supra* note 58, at 104–05 (noting the years that “John’s Schools” across the United States started).

trafficking is an active attempt to deter those who purchase women and children by educating the buyers of sex about the effects of their crime.

III. STING OPERATIONS AND REVERSE-STING OPERATIONS

A critical component of any effective demand reduction effort is identification of the customer/consumer/exploiter. Law enforcement plays a key role in curbing demand. According to the Community Oriented Policing Services of the U.S. Department of Justice, police departments get substantial and highly publicized results from conducting prostitution sting operations and reverse-sting operations.⁷⁰

In sting operations, police officers pose as prostitutes to identify and arrest customers. In reverse-sting operations, police officers pose as customers seeking to find sex for hire. Posed as clientele, once the officers are inside supposed massage parlors or other front operations, they make arrests after determining illegal activity is taking place.⁷¹ Some researchers have concluded that such operations have had no overall effect on clients, but new studies, such as a study by Devon Brewer, highlight evidence that the threat of arrest alone serves to deter men from soliciting sex.⁷²

The Internet has added a modern twist to the traditional sting operation. In online sting operations, police detectives pose as potential buyers or sellers of sex on Internet-based sites to gather evidence for cases. Law enforcement has especially targeted online personal advertisements, such as those seen on Craigslist and other similar sites.⁷³ Because the Internet is increasingly being utilized by traffickers,

⁷⁰ See GRAEME R. NEWMAN, OFFICE OF CMTY. ORIENTED POLICING SERVS., U.S. DEP'T OF JUSTICE, *Sting Operations*, at 5–6 (Response Guides Ser. No. 6, 2007), available at <http://www.cops.usdoj.gov/files/ric/Publications/e10079110.pdf> (“When sting operations are concluded, they usually result in many arrests of high-profile people, accompanied by local and national publicity.”).

⁷¹ See, e.g., Julie Pearl, Note, *The Highest Paying Customers: America's Cities and the Costs of Prostitution Control*, 38 HASTINGS L.J. 769, 775 (1987) (discussing the process of an undercover sting operation).

⁷² Compare NEWMAN, *supra* note 70, at 20 (noting that some studies have shown sting operations to be ineffective as deterrence), with Devon D. Brewer et al., *A Large Specific Deterrent Effect of Arrest for Patronizing a Prostitute*, 1 PLOS ONE 1, 6 (2006), available at <http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0000060> (noting that the arrests of prostitution customers “decrease[d] their patronizing behavior substantially”).

⁷³ Robert Rigg, *The Not-So-Risky Business of High-End Escorts and the Internet in the 21st Century*, 17 RICH J.L. & TECH. ¶ 38 (2010) (quoting *Dart v. Craigslist, Inc.*, 665 F. Supp. 2d 961, 962 (N.D. Ill. 2009)), <http://jolt.richmond.edu/v17i1/article3.pdf>; see also Bruce Lambert, *As Prostitutes Turn to Craigslist, Law Enforcement Takes Notice*, N.Y. TIMES, Sept. 5, 2007, at A1.

police have successfully uncovered many cases of illegal activity, such as child sex trafficking, in these new sting operations.⁷⁴

IV. SOCIAL MARKETING CAMPAIGNS

This fourth method is the development of incisive, targeted social marketing campaigns—aimed primarily at young men and boys, but also at young women and girls—about why it is harmful to purchase sex. The key is to reach young people in their formative years, before they become part of the sex industry.⁷⁵ Experts studying First Offender Programs have reported men saying, “Why didn’t I hear any of this twenty years ago?”⁷⁶ Such campaigns can take as their starting point tailored programmatic materials from First Offender Programs. Their focus should be on everything from public health problems, like the spread of HIV/AIDS and other STDs (as well as other serious communicable diseases such as TB, hepatitis, and Epstein Barr syndrome), to the grim facts about who runs the sex industry and how customers are helping traffickers, street gangs, organized crime, and other criminal syndicates to flourish—while hurting those who have been trafficked.

Although this may seem like an overwhelming task, successful social marketing campaigns purposed to change hearts, minds, and

⁷⁴ For example, the first human trafficking conviction in Canada involved two teenage girls who were advertised in online advertisements. See Benjamin Perrin, *Bill C-268: Minimum Sentences for Child Trafficking Needed*, ALTA L. REV. ONLINE SUPPLEMENT (Mar. 12, 2009, 6:40 PM), http://ualbertalaw.typepad.com/alr_supplement/2009/03/bill-c-268-minimum-sentences-for-child-trafficking-needed.html; Bob Mitchell, *Teens’ Pimp Got Rich; Man Who Sold Girls, 14 and 15, for Sex is One of First To Be Convicted of Human Trafficking Since 2005 Law*, TORONTO STAR, May 14, 2008, at A06. One victim, who was eighteen years old when she finally escaped from over two years of sexual slavery, had been sold along with a fourteen-year-old girl. *Id.* This is not an isolated instance either; numerous cases of online sex trafficking, child sex trafficking, and commercial sexual exploitation of children have been documented in the U.S. See, e.g., U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-07-915, HUMAN TRAFFICKING: A STRATEGIC FRAMEWORK COULD HELP ENHANCE THE INTERAGENCY COLLABORATION NEEDED TO EFFECTIVELY COMBAT TRAFFICKING CRIMES 51–52 (2007) (noting the increasing number of child convictions).

The fact that Craigslist removed its erotic services sections from its listings in the United States and Canada last year does not mean that there is no need for continuing surveillance and sting operations online. See, e.g., JR Raphael, *Craigslist’s ‘Erotic Services’ Shutdown Could Backfire*, PC WORLD (May 13, 2009, 3:39 PM), http://www.pcworld.com/article/164860/craigslist_erosic_services_shutdown_could_backfire.html. As online industry experts have noted, these advertisements will now be dispersed in other online venues. *Id.* In addition, other similar listing and advertising services also carry such advertisements. It is therefore crucial to continue monitoring these activities.

⁷⁵ See Flowe, *supra* note 59, at 717–18.

⁷⁶ Laura J. Lederer, *Addressing Demand: Examining New Practices—The Five S’s*, GLOBAL CENTURION, http://www.globalcenturion.org/?page_id=83 (last visited Mar. 4, 2011) (quoting Interview with Norma Hotaling, founder of SAGE, by Laura Lederer (Jan., 2007)).

behaviors on other social issues are instructive. Consider, for example, the campaigns to curb domestic violence or, on another health-related topic, to stop cigarette smoking. Enormous positive behavioral changes have been documented in these areas after non-profit, health, and governmental agencies designed and executed a series of campaigns, primarily targeted at youth, to reduce smoking.⁷⁷ Efforts to reduce cigarette smoking have included the following: 1) providing effective smoking-cessation interventions and guidelines tailored to youths and young adults in school, work, and community settings; 2) conducting counter-marketing campaigns designed to help young people reject messages promoting cigarette use; 3) reducing access by minors to tobacco products; 4) increasing access to school programs for preventing tobacco use; and 5) monitoring smoking trends among youths and young adults.⁷⁸ Substitute “commercial sexual exploitation” for “smoking,” and we have a starting point for a social marketing campaign to counter demand for commercial sex.⁷⁹

One U.S. city that has taken the lead on a social marketing campaign against commercial child sexual exploitation is Atlanta. Concerned parties in Atlanta became aware of the magnitude of the commercial exploitation of children in their city and became determined to raise awareness in the region. In November of 2006, the city unveiled a public service announcement campaign entitled “Dear John.”⁸⁰ The

⁷⁷ See DEP’T OF HEALTH & HUMAN SERVS., PREVENTING TOBACCO USE AMONG YOUNG PEOPLE: A REPORT OF THE SURGEON GENERAL (1994), *reprinted in* U.S. DEP’T OF EDUC., YOUTH & TOBACCO: PREVENTING TOBACCO USE AMONG YOUNG PEOPLE 145–51 (1994); *City’s High Schools Have Fewer Smokers*, NEWSDAY, Jan. 3, 2008, at A15 (remarking on the reduction in teen smoking as a result of New York City’s multi-faceted approach); *Domestic Violence Falls if Crime Taken Seriously*, PALM BEACH POST, July 10, 2005, at 2E (noting the dramatic decrease in reports of domestic violence due to the law enforcement efforts).

⁷⁸ DEP’T OF HEALTH & HUMAN SERVS., *supra* note 77, at 5, 6, 8, 9, 132, 133–34, 139–40, 145, 146 (1994).

⁷⁹ A thorough study of the prolonged campaign to reduce cigarette smoking in young people is a useful starting point. The U.S. Department of Health and Human Services, in conjunction with the Center for Disease Control and Prevention and other health agencies, funded a series of studies over many decades on effective efforts to reduce smoking. *See id.* at 5; *see also id.* at 132. The report observed that tobacco use usually begins during adolescence or young adulthood, and it agreed that preventing smoking initiation among youths and young adults is critical to reducing tobacco use in the United States. *Id.* at 5–6, 8. It noted that young people constitute a profitable market for the tobacco industry and that adolescents are the target of intensive tobacco industry marketing efforts, including sponsorship of age-specific promotions and other marketing strategies that appeal to persons in these age groups. *See id.* at 9, 145. Similar campaigns must be developed to counter demand. *Id.* at 5, 8, 132–33, 145.

⁸⁰ *Dear John Campaign*, CITY OF ATLANTA (Nov. 6, 2006), http://www.atlantaga.gov/mayor/dearjohn_111006.aspx; *see also* Kimberly Kotrla, *Domestic Minor Sex Trafficking in*

campaign consisted of a few poignant public service announcements and posters.⁸¹ One such announcement featured the mayor, Shirley Franklin, who spoke as if she were writing a letter to a “john,” demanding that he not exploit the children of Atlanta.⁸² Other videos were more shocking, including a spot featuring a normal-looking middle-aged white male stating how much he enjoyed the young girls of Atlanta and how easy they were to come by.⁸³ The “Dear John” campaign was backed by a large coalition of law enforcement, non-profits, and public servants.⁸⁴ Unfortunately programs such as these are finding it challenging to continue to be in operation due to a lack of funding.⁸⁵

CONCLUSION

At the heart of the problem of sex trafficking is an increasing commodification in our modern society that extends even to human beings—a belief that anything, even a life, can be bought anytime, anywhere, any place, for any purpose. This license masquerades as liberty and allows the worst kinds of exploitation to flourish. In addition to legal and educational solutions, we must continue to work as a global community to develop religious and values-based visions that promote the dignity, integrity, sacredness, and worth of all human beings. We are in the foothills of consciousness in addressing demand for sex. Considered attention to the *demand* corner of the triangle of activity of supply, demand, and distribution will help us achieve our goal of eradicating human trafficking—a modern-day form of slavery.

the United States: Report, 55 SOC. WORK 181 (2010), available at 2010 WLNR 8848636 (further discussing the campaign).

⁸¹ See, e.g., CITY OF ATLANTA, *supra* note 80.

⁸² *Id.* (featuring a copy of the letter that the mayor read during the public service announcement).

⁸³ See *Fighting Child Prostitution* (PBS television broadcast May 30, 2008), available at <http://www.pbs.org/now/shows/422/transcript.html>.

⁸⁴ CITY OF ATLANTA, *supra* note 80.

⁸⁵ Compare Letitia Campbell, *Selling Our Children: Atlanta Does Battle Against the Sex Trafficking of Kids*, SOJOURNERS MAG., Aug. 1, 2010, at 22 (speaking on the continued success of Atlanta’s stance against commercial sexual exploitation), with Scott Bauer, *Budget Battles Keep States from Tackling Reforms*, ASSOCIATED PRESS, July 4, 2009, available at 2008 WLNR 15990391 (noting the halt of certain state reform programs due to budget constraints, such as Rhode Island’s inability to resolve a legal loophole in its prostitution laws), and S.A. Reid, *Campaign Under Way To End Child Prostitution*, ATLANTA J.-CONST., Aug. 24, 2008, at 10D (noting some looming funding uncertainty for Atlanta’s campaign against child prostitution).