

Testimony of J. Robert Flores, Esq.,

Submitted in writing on behalf of

Enough is Enough, Inc.

Hearing on the Role of Websites in Facilitating Human Trafficking

And the Illegal Sex Trade and Its Impact on Public Safety

Office of the Massachusetts Attorney General

October 19, 2010

On behalf of Enough is Enough, Inc., I am pleased to submit the following written testimony on the role of Websites in facilitating the illegal sex trade and its impact on public safety. In framing the hearing as she has done, Attorney General Coakley makes clear that she understands the interconnectedness of the various illegal sex businesses and the impossibility of successfully addressing one without addressing those connections. The Web and related technologies are not the culprit, however, they are increasingly the means used by predators, pornographers, pimps, and traffickers to identify their victims, lure them into slavery and exploitation, and sell the products and the victims themselves to others. In so doing, those who use the technology to exploit and destroy human lives and dignity also threaten the continued freedom that the Web provides to engage in commerce, access useful information, and engage in political, personal, and religious speech.

Enough is Enough (EIE), is a non-profit organization that was started in 1994, with the mission of Making the Internet Safer for Children and Families. As a national leader in Internet safety since 1994, EIE has pioneered efforts to raise public awareness about the dangers of Internet pornography, sexual predators, cyber-bullying, and other Internet threats.<sup>1</sup> Enough Is Enough is frequently sought out by the media, educators, policy makers, law enforcement officials, and industry leaders for its expertise on developing solutions for ensuring that children have a

---

<sup>1</sup> Enough is Enough advances solutions that promote equality, fairness and respect for human dignity with shared responsibility between the public, technology, and the law. We stand for freedom of speech as defined by the Constitution of the United States; for a culture where all people are respected and valued; for a childhood with a protected period of innocence; for healthy sexuality; and for a society free from sexual exploitation.

safe and rewarding experience online. Enough is Enough (EIE), is lead by President and CEO, Donna Rice Hughes, who is an internationally known Internet safety expert, author, and speaker. As a respected leader of national efforts to protect children online, Donna has championed EIE's mission to make the Internet safer for children and families since its creation. Under her leadership and vision, EIE created the Internet Safety 101<sup>SM</sup> program for parents and interested adults with the U.S. Department of Justice and other partners. She is also the executive producer, host, and instructor of the Internet Safety 101<sup>SM</sup> DVD series, the cornerstone element of the 101<sup>SM</sup> program. Ms. Hughes has served on Congressional Committees, trained federal prosecutors, served on various state Attorneys General task forces, and testified before Congress. In leading EIE, Ms. Hughes remains committed to protecting children and adults from those who exploit important Internet and Web based technologies so that their promise can fully achieved.

#### Web Facilitated Prostitution

As a former Assistant District Attorney in Manhattan<sup>2</sup>, Prostitution offenses were part of my caseload as both a misdemeanor and felony Assistant. The

---

<sup>2</sup> I am currently an attorney in private practice in Virginia representing non-profit organizations and providing business-consulting services to social service agencies. I am a member of the bar in Virginia, Massachusetts, and New York. I have served as an Assistant District Attorney in New York City, the Criminal Division of the United States Department of Justice, as Vice President and Senior Counsel of the National Law Center for Children and Families, and most recently, as Administrator of the Office of Juvenile Justice and Delinquency Prevention at the Department of Justice. I

prosecutions included cases against pimps, the men who paid money to sexually exploit the woman or child, and the person being used as a prostitute. By far, the most common case involved charges against the prostitute, typically a young woman who was forced to sell herself by a pimp who was often hard to identify. The sexual activity occurred in cars, in the vestibules of buildings, and even in dark corners on the street. While the facts always varied slightly, the crimes always had certain things in common: the actual solicitation was difficult to witness; and, the pimp controlled the women he was forcing to work from a distance (male prostitutes seldom had pimps). Citizens who were uninvolved in the crime but had the misfortune of living or working where such crimes occurred were negatively affected by the impact on their community—the remains of the crime (used condoms, hypodermic needles and other drug paraphernalia), and increased street crime by those who were attracted by the presence of men buying sex who they might rob or assault. Accordingly, citizens and neighbors who bore the brunt of such criminal conduct regularly complained and demanded police action.

Even with the high level of visibility that such street activity provided, prostitution was viewed as a constant, with arrests and prosecutions used to minimize collateral criminal activity and control its other deleterious effects. What was missing in the 1980's and 1990's was a concern for the women, who often started out as children, who were seduced, tricked, or forced to submit to rape and sexual exploitation to make money for the pimp. Thankfully, the concern for women

---

currently consult with Enough is Enough on a variety of legal and organizational issues.

and children trapped in such situations is growing and it is being recognized for what it is, the exploitation of people who are often treated as slaves and whose lives are not their own.

Enough is Enough applauds the Attorney General for holding this *hearing and allowing the community to make this point: The progress that has been made to reach out to women and children caught in prostitution and efforts to address domestic human trafficking for sexual purposes is threatened by the use of new techniques and technologies to protect the pimps and abusers from detection, arrest, and prosecution.*

As I mentioned above, addressing the crime of prostitution, or the larger issue of sex trafficking, is complicated by what these crimes have in common: secrecy, control of the victim, and the lack of a willing or identifiable complainant. The misuse of the Web makes all of these challenges much greater.

Secrecy: In the traditional street version of the crime, it is relatively easy to observe that a conversation between the man seeking to sexually exploit the woman and his target is occurring even if one cannot hear what is said. The police can witness the approach to the car from a distance, the brief time spent together, the clothing and demeanor of both people, and, in some cases, the exchange of money. Even with such evidence, however, the most serious types of prostitution or solicitation charges cannot be pursued by prosecutors because the key elements of such a crime involves what was asked for and what was offered. Given the use of

coded language, the efforts of those involved to avoid certain language, and the difficulty in proving those conversations, prosecution of street level cases remains a significant challenge.

Nonetheless, prosecutors and police understand that it is impossible, for prostitution and other related criminal activity is to be controlled, if open street prostitution occurs without a law enforcement response. As a result, at least in New York, prosecutors can prosecute for a violation under the Loitering for Prostitution statute. The Loitering charge, however, remains a class B misdemeanor, the lowest level crime chargeable in New York State. As a result, when the conduct involves minors, uncommonly violent activity, or represents a significant risk to innocent citizens by creating other dangerous situations, it is not unusual for police to undertake investigations using undercover officers. Such undercover investigations are often limited in duration and relatively rare since they are expensive, time consuming, and target a very limited type of conduct. In sum, police face a dilemma; undertake hundreds of investigations targeting minor conduct or a few intensive investigations that will not affect the majority of prostitution related crimes. In this comfortable legal environment, pimps continue their activity, lure younger and younger girls into their grip as cultural changes have added to the allure of the pimp culture, and face little individual risk of identification, investigation, and arrest.

Today, the use of the Web increases such challenges exponentially. The technology makes the critical law enforcement challenges even more difficult to

solve and when web based markets for prostitution and sexual exploitation exist, the market becomes a regional, if not global, market. As I mentioned previously, being able to prove that money was exchanged for sex, requires either a witness or a recording of that conversation. Pimps and prostitutes who use the Web can avail themselves of a global marketplace, the ability to disguise themselves and change that disguise quickly, and avail themselves of coded language because the Web service has created an environment where users know what is really being offered without anyone having to state the obvious. It is as if a particular block in Manhattan put up a sign that indicated that women gathered there were all prostitutes. By doing so, the person putting up the sign has created a market for prostitution and, at the same time, made it possible for the prostitute to be even more opaque in how they carry out their activities—no longer needing to walk into the street, dress provocatively or search out other blocks for the opportunity to engage in such crime.

Web-based marketing creates a global market for even the most local goods. In terms of commercial sexual exploitation (CSE) it is possible to identify a girl to exploit, set up a private meeting, negotiate a price, and begin the encounter even before the customer arrives on a business trip to a city hundreds, if not thousands, of miles away. Because the Web offers this market expanding capacity, it swells the number of individuals that can be marketed to and drives the demand to find more and more men, women, and children to offer for exploitation. As the size of the market increases of both exploiters and the exploited, the number of law

enforcement officers focused on human trafficking and prostitution remains the same or shrinks. This happens because the vice squad must now include trained cyber crime investigators who are already focused on other crimes. Moreover, because the sexual exploitation occurs in homes, hotels, or other private spaces, citizen outrage is not as pronounced. The average citizen is not aware of how human trafficking works, cannot easily see the devastation of prostitution on the people bought and sold, and face far fewer visible threats to their personal safety or quality of life. Instead, the medical costs associated with sexually transmitted diseases, emergency room visits associated with violence perpetrated by pimps and abusers, long-term mental health issues, and drug crime continue and grow as a result of prostitution, but are visibly divorced from the acts of prostitution and less of an immediate priority for some citizens.

#### Web-based marketing

To make money, commercial sexual exploitation has traditionally depended on publicizing where such activities occur so that their customers can easily find them. Whether in red-light districts, brothels, or the street, police could also determine, as quickly as the man looking for such activity, where it was located. Once a location was known, police could locate victims of commercial sexual exploitation and have a good start on witnesses to some or all of the activity.

Today, the officer's easy access to key information has changed, largely as a result of the use of the Web and cell phone technology. A pimp who wants to do business can now set up his operation on a Web based classified ad site that can change on a regular basis while still reaching the same customers because he still advertises on the same site. For example, "*hot girl looking for quick dates call xxx-xxx-xxxx*," can change to look like, "*hot brunette looking for quick dates call yyy-yyy-yyyy*." By using a disposable cell phone and changing the "come-on" and call back number, the police will not know from simple observation that it is the same person. Moreover, even if they identify the individual, they do not know where any of the individuals involved are starting from, what is said by telephone, or where the meeting will occur without phone taps, email interception, and a team of police.

For the pimp running young girls, this is an excellent new business model. The pimp has access to a much larger market of "Johns" who no longer need to travel to areas of high prostitution and law enforcement interest. The pimp can attempt to differentiate his "product" as more desirable, using the terms "young," "pre-teen," or "barely legal," in his online descriptions to appeal to the those looking to satisfy their desire for sex with a young woman, or even more perverse, their desire for a child. Because the woman or girl to be sexually exploited will not be seen until the encounter takes place, if the woman or girl to be sold turns out to be a minor, the predator/customer will get what he bargained for, if not, he will certainly not be in a position to complain and will still have a person to sexually exploit. For pimps prostituting children, however, because the transaction happens at arms length the

Web provides additional protection for the pimp as the girl can be taken to the meeting place by someone other than the pimp while still remaining under his control. The greater protection from detection may increase a pimp's interest in using underage girls and boys, something that is extremely risky for street level activity.

The business model aided by the Web undermines law enforcement efforts. Just as the business model increases the pimp's market, it increases the number of possible suspects, size of jurisdiction, and victims the police must deal with. Rather than treating the crime of prostitution as a street based or off-line offense, in which non-specialized street level police can participate, every case now requires cyber crime investigators. In turn, these investigations require more manpower and resources, police who are trained in both vice and computer crime, and time to conduct proactive investigations. The result is that police, regardless of their commitment to the effort, can't undertake such sophisticated and expensive investigations as often as they could carry out street level criminal enforcement. Moreover, they must now usually justify the use of these additional and costly resources on the basis that it will result in a prosecution on a major charge, something that is unlikely if the woman being sold is an adult, the crime is not completed and little or no evidence can be gathered about her pimp. While this may be disappointing to advocates, if such investigations were started simply on the basis of the advertisement and a string of unsuccessful investigations resulted, the effort would consume the budget and make future investigations more rare.

## Control over the victim

In addition to helping pimps market sexual exploitation, the Web increases the ability of a pimp or criminal organization to control the woman or child they are selling. In traditional street level prostitution, the pimp and the prostitute typically maintain some level of physical separation in order for the pimp to have some protection from law enforcement. Every time the pimp forces the woman he is prostituting back on the street, she can run to the police, another pimp, or to an outreach worker.<sup>3</sup> The Web allows the pimp much greater control because the woman or girl being bought need not be out of his control until the transaction is agreed upon and the John pays. Since the locations for the meetings are often at a hotel, private home or apartment, or other off-street location, the pimp can choose to limit those locations to places he can control or where he can spot the presence of police more easily. By controlling how the advertisement is placed, where the event occurs, requiring payment directly, and handling the transportation, a woman trying to flee will have many fewer opportunities to leave or be approached by outreach workers offering a way out.

---

<sup>3</sup> It is relatively rare for a woman being kept as a prostitute to willingly leave her pimp/captor. The woman may suffer from trauma, have been convinced that the pimp loves her, or face the threat of violence to herself or her children and family members. When they do leave it is usually as a result of extreme violence directed at them or another woman, the establishment of a relationship with an outreach worker that may take months, or the arrest of the pimp for other crimes.

Pimps gain other benefits when using the Web to facilitate their prostitution business—control of their victim through isolation and the protection of jurisdictional boundaries that limit where police may work. To avoid losing control of the women he is selling a pimp must constantly demonstrate his total control over the woman. The pimp must also create an environment where the woman feels totally dependent upon him. The Web helps the pimp accomplish both goals. First, the Web makes it possible for the pimp to move more frequently since he is not dependent upon putting the woman out on the same street every day. His “street” is now the World Wide Web and he can offer the women anywhere he moves to even before he arrives. Constant moving means the pimp can limit the woman’s ability to make a friend or even identify possible help. It also takes the woman farther and farther away from her home and familiar surroundings so that she is dependent on the pimp for food, clothing, and medical care, for herself and for any children she has with her. The second additional benefit is that movement across the jurisdictional boundaries of local law enforcement make it nearly impossible for local police to play any significant role in addressing Web based prostitution on their own. State police, federal investigators, and special cyber-crime task forces must handle such cases and these are in short supply because they can cross local geographical and state boundaries. Thus, the Web actually reduces the number of law enforcement agencies that can work on such cases providing even greater protection for pimps using the Web to conduct their operations.

The victims of trafficking and prostitution can also be more easily isolated and controlled because they can be quickly moved around the country or world without losing access to the market of men looking to exploit women. By increasing how often they move the women they control, pimps increase their control much more easily. Isolation through movement no longer has a down side for the pimp because the pimp can still easily reach his core market regardless of location because the website creates and maintains the market connection independently. Websites that contain *Erotic* and *outcall* advertising sections typically allow a user to post their services from anywhere in the world and organize it by geographic location as specific as a zip code. Thus, when a pimp travels to a different town to evade law enforcement he can place ads in advance of arriving at his new location. This creates challenges even when local law enforcement gets involved because the woman involved may stay outside of the jurisdiction unless a transaction is agreed to between the parties. In fact, the pimp may remain in the original location and send the trafficking victim with a subordinate to maintain control, collect the money, and then return with the victim. Such cross-jurisdictional travel facilitates the crime but complicates enforcement. In sum, the Web allows for increased movement that, in turn, benefits the pimp in several ways.

### Witnesses to the Crime

Over the past several years, more and more work has been done by advocacy groups to focus attention on the “Johns” who buy women for sex. This work has been

particularly successful in addressing street level prostitution because the “Johns” are also on the street and clearly visible to law enforcement. Undercover officers posing as prostitutes are easily able to gather all of the needed evidence since they are part of a face-to-face transaction. Once this activity moves indoors and is Web-based, however, orchestrating an undercover operation with an officer who is posing as a prostitute is immensely more difficult because security must be maintained over the private location—a hotel room, house, or apartment. The transaction originated with a website and any email or communications must be monitored and recorded because there is no face-to-face communication until the encounter. In undercover cases police must make significant efforts to protect the undercover officer because of safety concerns and the fact that the undercover must be able to testify to what was said during the encounter. The problem, however, is also a function of the need to control the investigative space—much more costly enforcement and a limit to the number of undercover cases that can be worked in a given shift.

Web-based prostitution also increases logistical problems for police because for pimps using such website advertising, they control when, where, and how the meeting will occur. The pimp may limit his operations to “in-call” and require the police to send someone to the location where the prostitute will be available. This is a significant obstacle for some departments that will not allow their officers to remove clothing or initiate a sexual conversation in an attempt to avoid claims of entrapment. Because Web based prostitution is not tied to a location, the

meeting/pick up may be done on the street with any activity delayed until the arrival at another location or by car where the “John” drives off to another location before any explicit conversation takes place. In both situations providing security is difficult and dangerous.

### Encouraging children to engage in prostitution

The Web makes it possible for anyone, including teens, to advertise themselves or their schoolmates as prostitutes. Just as a teen can access pornography websites, create or enter a chat room that gets filled with pedophiles, and send and receive pictures of themselves or other friends engaging in sex or nude, the Web can facilitate the entrance into prostitution by a teen on their own or at the instigation of an adult or a minor friend. The key attributes of the Web—a huge audience, low or no cost use, and practical anonymity, allow teens and adults to meet in ways that can escape attention by caring adults, reach an audience of adult men that they could never meet in person, and solve the transportation problem that teens often have by allowing the teen to specify the meeting place and organize the transportation through the “John”.

Because the Web is a place where legitimate business is conducted alongside illegal trade, it has the ability to confuse a user about the legality of certain activities or products that can be purchased or obtained. Young people already suffer from the damage that pop culture has done regarding the conduct of appropriate sexual

expression. Celebrity sex videos that add to, instead of detracting from, the celebrity's ability to get work or hawk products are well known to youth. The ubiquity of pornography on the Web sends the further message that it must not be so dangerous a practice to create, view, or sell such material. Taken together, it is no longer strange for young people to consider selling themselves or their friends for sex if the money is "right", the person's status goes up, or the excitement and danger appeal to their adolescent desire to test limits. Web based businesses that promote any illegal or illicit sexual activity contribute to the confusion of teens who may decide to initiate such activity or be less likely to resist adult pressure to participate even when they really don't want to engage in sexual activity.

For students and teens, however, who have a history of abuse and live in stressful and chaotic environments where money is often earned through criminal or illicit activity, the Web represents even greater danger—it can provide validation and support to a teen who is already struggling or pressured to engage in sex for money. As I discussed above, the Web seems to make things safer, thus reducing a teen's ability to respond to danger signs. Teens use the Internet and web as a way of exploring and learning about activities they are curious about. In many cases, even if the information is wrong, it holds little danger for the teen reading or studying the material. This is not so, however, with the vast majority of information about sexual activity that is available on the Web. Not only is much of it wrong, information about sex on the Internet and Web is often designed to lower inhibitions, encourage involvement in pornography or sexual activity and normalize the behaviors. For a

troubled youth, Web sites that feature sexually explicit advertisements can provide instruction in how to arrange such encounters, encourage them to equate sexual activity with a way to earn money, and make the activity appear more fun and less dangerous, especially if the youth has been sexually abused, faces financial pressures, or lives in an environment where they are routinely picked on or abused. The notion that someone would pay them to spend time with them and have sex for which they would pay can appear, in the mind of the troubled teen, to meet several important needs.

## Recommendations

First and foremost, those who post such information, whether or not on commercial sites, should be held more responsible for content they post. While many efforts to address sexually explicit speech and activity on the Internet and Web by placing affirmative burdens on Internet speakers have failed, I believe that new efforts should be made to study whether such speakers are benefitting from legal protections or access to the courts that they are not constitutionally entitled to receive. This may include taxing them, denying them access to the courts to obtain redress from harms that were reasonably foreseeable to those who run such businesses, or denying them the ability to limit liability by incorporating their business should be studied and any permissible limits imposed.

Second, states should invest in educating parents along with children about the risks in using the Internet. Currently, the federal government requires that schools and libraries utilize some form of technology that protects against access to sexually explicit content if they receive certain federal funds. Moreover, schools in nearly every state mandate some form of computer safety education for children, though none require such efforts be directed at their parents. As a result, children are left to protect themselves and those who could be their strongest advocates are often in the dark about the dangers and risks their children and other students face.

Third, continued public pressure should be maintained and expanded against any Internet/Web based business that facilitates the sexual exploitation of people. In so doing, Massachusetts, or any other state, will help establish a community standard that does not accept the commercial sexual exploitation of people, supports sexually responsible behavior, and sends a message to young people that their privacy and personal dignity are not for sale, at any price.

On behalf of Enough is Enough, I want to thank you for the opportunity of submitting this testimony in support of the instant hearing. Again, we applaud the Attorney General for her efforts to examine how Massachusetts might better protect its citizens from those who would buy and sell them for the amusement and exploitation of others.