

Facts About the Department of Justice's Anti-Trafficking Efforts July 2008

Myth: Contrary to the wishes of the President, human trafficking is not a priority for the Department of Justice (DOJ).

Fact: In full support of the President's priorities, the Department has developed and implemented a highly successful anti-trafficking strategy over the last seven years.

- *Prosecutions:* From Fiscal Years 2001 to 2007, DOJ's Civil Rights Division and U.S. Attorneys' Offices around the country prosecuted 156 trafficking cases—securing 342 convictions and rescuing more than 1400 victims. This represents an almost seven-fold increase in prosecutions compared to the previous seven years. These prosecutions have led to sentences as long as life in prison and to millions of dollars in restitution to victims.
- *Task Forces Across the Nation:* DOJ has brought together federal, state, and local law enforcement investigators and prosecutors, along with social services agencies, in 42 task forces to help identify and rescue all kinds of trafficking victims and punish offenders. So far, we have trained 75,000 people to help in the fight against trafficking.
- *Rescuing Children:* Since 2003, DOJ's Criminal Division, the Federal Bureau of Investigation, and the National Center for Missing and Exploited Children have sponsored the Innocence Lost Initiative, a collaborative federal and state effort focused specifically on the identification and rescue of juveniles trafficked into commercial sex. Since its inception, the Initiative, which is implemented through 28 task forces in selected cities, has led to the rescue of more than 400 children and 313 convictions.

Myth: The Department opposes reauthorization of the Trafficking Victim Protection Act.

Fact: The Department of Justice strongly supports reauthorization of the Trafficking Victims Protection Act (TVPA).

- **The Senate reauthorization bill, S. 3061, provides new authorities that will enhance our efforts and allow us to further protect victims and bring offenders to justice.** For example, S. 3061:
 - Expands authority to detain pending trial defendants who have been charged with trafficking offenses as a risk of flight or a danger to the community. This will better enable us to assuage victims' fears of cooperation that have arisen while traffickers remain at large in their communities.
 - Creates new offenses imposing severe penalties on those who obstruct or attempt to obstruct investigations and prosecutions of trafficking cases. This will better

enable us to prosecute the “enforcers” used by traffickers to intimidate victims, victims’ families, and other witnesses.

- Creates new offenses imposing severe penalties on those who knowingly benefit financially from trafficking crimes. These provisions will broaden our ability to prosecute persons who profit from human trafficking.
- Creates a conspiracy statute for trafficking offenses with penalties equal to the underlying substantive offenses. This will allow the government to fully prosecute and punish all persons who planned and participated in a human trafficking operation. Currently, conspiracy to traffick in persons can only be charged under the general conspiracy statute for all federal crimes, which provides for a maximum of just five years imprisonment.
- **The House reauthorization bill, H.R. 3887, however, would substantially compromise the Department’s successful anti-trafficking strategy and its effective implementation.**
 - It would dramatically recast DOJ’s highly successful and critically important fight against trafficking to focus on all forms of adult prostitution.
 - State and local authorities already combat most adult prostitution. The federal government should not be diverted from its core anti-trafficking mission against prostitution involving force, fraud, or coercion and child victims.
 - Focusing on adult prostitution would also harm our fight against child exploitation, including the investigation of child pornography and Internet based child exploitation crimes. Resources would inevitably be diverted away from one of our highest priorities.
 - The bill would rename our Child Exploitation and Obscenity Section as the “Sexual Exploitation and Obscenity Section” and require that it coordinate nation-wide adult prostitution cases through the Innocence Lost Initiative task forces.

Myth: The Department is alone in opposing the House version of the reauthorization bill.

Fact: Dozens of law enforcement agencies, women's and immigrants' groups, crime victims' rights organizations, and policy experts across the political spectrum support the Department's opposition to provisions of the House bill:

- **The National Association of District Attorneys** stated:

“Because prostitution-related crimes are of a substantially local nature states and localities have historically and effectively prosecuted these types of crimes.... Federalization of these types of crimes is ill-advised as these crimes have minimal federal contact; would divert federal resources from human trafficking cases involving fraud, coercion or force, and unnecessarily involve all levels of government.

- **The Fraternal Order of Police** stated:

“Given that State laws address crimes like pimping, pandering, and solicitation, it is not clear, or even advisable, that the Federal government become active on these local issues in the absence of evidence that the offenses were committed as part of or in furtherance of a human trafficking operation. To do so is a waste of resources at all levels of government.”

- **The National Association of State Attorneys General** stated:

“This expansion of federal authority alters the proper focus of federal law enforcement efforts...One result would be the wasting of federal resources in the pursuit of criminal charges for conduct more appropriately investigated and prosecuted at the local level...The additional criminal conduct proposed by the Act does nothing more than incorrectly define ordinary pandering and pimping as “sex trafficking”. With state and local officials prosecuting over 95% of all criminal cases, this expansion of federal criminal authority is simply unnecessary.”

- **Human Rights Watch, the Asian American Legal Defense and Education Fund, the Coalition to Abolish Slavery and Trafficking, the National Council of Jewish Women, the National Coalition Against Domestic Violence, the National Immigration Law Center, and others** stated:

“Congress should respect the ability of state law enforcement officials to continue handling adult prostitution cases and allow the Civil Rights Division to continue prosecuting adult trafficking cases, including adult sex trafficking cases. Congress should support and protect the core mission of the Child Exploitation and Obscenity Section by leaving it unchanged so that it can continue to tackle the extremely difficult child abuse and exploitation (including child sex trafficking) cases.”

- **The Heritage Foundation** stated:

“The [House passed] TVPRA trivializes the seriousness of actual human trafficking by equating it with run-of-the-mill sex crimes--such as pimping, pandering, and prostitution--that are neither international nor interstate in nature. The net effect of this unconstitutional federalization of local crime would be to blur the respective lines of federal and state authority, assert federal supremacy without providing sufficient federal resources, and thus undermine the efforts of state law enforcement against both ordinary sex crimes and the local effects of human trafficking. Likewise, saddling federal authorities with the enormous job of fighting local sex crimes would divert them from their own anti-trafficking efforts.”

Myth: The Department unreasonably opposed sensible provisions of the House bill that would expand the U.S. government’s fight against trafficking.

Fact: The Department opposed certain provisions of the House bill as being counter-productive to effective law enforcement.

- The Department did not oppose any “streamlining” of care for victims. We opposed the bill’s *total removal of the Department* from the process of determining who was a trafficking victim for purposes of providing benefits and granting visas. Rather than streamlining, such removal would result in threats to victims’ safety in the absence of law enforcement officers on the scene and hurt law enforcement’s ability to identify additional victims and arrest the traffickers, as well as increase fraud.
- The Department opposed the creation of an inter-agency database on trafficking because it would contain sensitive information involving on-going investigations and prosecutions. Sharing such information with non-law enforcement agencies could risk the lives of victims and jeopardize investigations and prosecutions.
- The Department opposed a provision that would grant *all* prostitutes in the United States access to federal crime victims’ funds because it would divert resources from victims of trafficking, and all other crimes, and interfere in possible state and local prosecutions of those prostitutes.
- The Department opposed eliminating the affirmative defense for child sex trafficking that the trafficker did not know the victim’s age because such a “strict liability” crime is extremely rare in federal criminal law.
- The Department opposed the House bill’s criminalization of adult sex tourism because it was so broad it would detract from our current efforts to detect and punish child sex tourism. Child sex tourism cases are very resource-intensive, requiring gathering evidence abroad, bringing victims to the United States to testify, and coordination with foreign law enforcement agencies. Requiring the Department to prosecute all adult sex tourism could hinder investigation and prosecution of those priority cases.

- Similarly, the Department opposed extending extraterritorial jurisdiction over trafficking crimes in which an American was neither a perpetrator nor a victim and that occurred in a foreign country. In a world of limited resources, we focus on cases in which there is a connection to the United States that clearly establishes our jurisdiction and authority. We did not oppose extending jurisdiction over an American who committed trafficking abroad.

Myth: The Department even opposed provisions of the House bill that should be non-controversial.

Fact: The characterization of the Department's positions on the House bill has been grossly misleading. In fact, in some cases, the Department's position has been deliberately distorted.

- We did not oppose giving visa applicants the phone numbers of anti-trafficking hotlines in the United States. We simply did not think the names of the hotlines should be spelled out in a federal law, particularly since the names could change.
- We did not oppose increased penalties for Americans who sexually abuse children abroad. In fact, the House bill does not call for an increase in the existing penalty for child sex tourism offenses. Currently, someone who engages in child sex tourism is subject to a maximum of 30 years imprisonment. The bill would merely restate that same penalty in a different section of the federal criminal code.
- We did not oppose reporting on enforcement of anti-trafficking laws. We opposed a requirement that every year we report instances in which any federal agency throughout the government terminated a contract or grant because the contractor or grantee engaged in trafficking or patronized prostitutes. Surveying all federal agencies for that information, when trafficking cases would already have been criminally prosecuted, would be unnecessary.
- We did not oppose judging foreign governments as to whether they put criminals in jail. We opposed judging countries simply for imposing low sentences or probation. Criminal cases often involve cooperating defendants that result in minimal sentences in exchange for information or testimony. We believe the State Department should have the discretion to take such situations into account.
- We did oppose the legislative creation of a presidential award, but only because it would interfere in the President's policy-making authority, a typical concern when considering the balance of powers between the legislative and executive branches.

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