

HUMAN TRAFFICKING AND THE INTERSECTION WITH OUR FINANCIAL SYSTEM

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON
NATIONAL SECURITY AND INTERNATIONAL TRADE
AND FINANCE

OF THE

COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

ON

EXAMINING HOW NEBRASKA IS FIGHTING BACK TO PREVENT AND
ERADICATE HUMAN TRAFFICKING IN THE STATE AND ACROSS THE
NATION

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TUESDAY, SEPTEMBER 3, 2019

U.S. SENATE, SUBCOMMITTEE ON NATIONAL SECURITY
AND INTERNATIONAL TRADE AND FINANCE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Lincoln, NE.

The Subcommittee met at 2:00 p.m., at the Nebraska Department of Transportation and Highway Safety Office, 1500 NE-2, Hon. Ben Sasse, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF CHAIRMAN BEN SASSE

Chairman SASSE. All right, this hearing will come to order. Thank you all for making time. Welcome to the first Subcommittee Hearing on Human Trafficking and the intersection with our financial system. Today, we'll be unpacking how Nebraska is fighting back to prevent and eradicate human trafficking in the State and across the Nation.

We are pleased to be joined by four genuine experts on this topic, folks who've worked extensively to combat the scourge of human trafficking. We'll be hearing from Doug Peterson who is the Attorney General of Nebraska. He will be discussing the successful Human Trafficking Taskforce that was stood up in our State in 2015, as well as what Nebraska is doing beyond to help educate neighboring States. Since 2016, the Human Trafficking Taskforce has trained over 3,000 individuals in Nebraska and it consists of five regional teams.

We're also going to hear from Julie Slama, State Senator. Julie has introduced and worked to pass comprehensive legislation to fight human trafficking. That's LB 519. She'll be speaking about the prevalence of human trafficking in rural areas, as well as the intersection between human trafficking, sex trafficking, and broader poverty across the Midwest.

Crysta Price, who is the founder and CEO of the Human Trafficking Initiative Labs, known as HTI Labs, is joining us. When she was a student, Crysta co-led a team that created a theoretical model of international trafficking flows. And this led to a project focusing on the near complete lack of data on domestic trafficking. Ultimately resulting in the use of online advertisements, data science, and network analysis to identify potential trafficking networks within the human trafficking world. HTI Labs is recognized as one of the world's leading experts in fighting human trafficking.

Finally, we'll hear from David Murray, who's the Vice President for Product Development and Services at the Financial Integrity

Network. David will be discussing how criminal organizations can avoid detection through using financial institutions to shield their behavior. David has developed market leading counterillicit finance programs, when he's worked with global banks, money services businesses, and other FinTechs. Before joining FIN in 2017, for 9 years prior, David served as the Senior Advisor at the U.S. Department of Treasury, where he advised the Undersecretary for Terrorism and Financial Intelligence. And he coordinated more than 700 people working in the bank secrecy regulation space, international financial transparency standards, and more.

When you think about human trafficking, and as we've had a number of media reach out to us in advance of this field hearing of the U.S. Senate Banking Committee, people don't often think of Nebraska. It turns out that Nebraska, like all the other States, have a huge human trafficking problem. This is a scourge by many people's estimates. There are more slaves on the face of the earth today than in any point in all of human history. Nebraska is fortunate though, to be one of the leading States trying to utilize all the available resources to combat and prevent human trafficking.

Several organizations that have made Nebraska a State to look to in combating this evil are here today. And our unicameral has pushed back through passing strong legislation to address trafficking and to go after human traffickers. We have leading experts in the field with us today recognized throughout the world, because of their activities, to study the negative effects of this stain on our society. And people who take advantage of the most vulnerable in our neighborhoods obviously should be prosecuted to the fullest extent of the law. And our home State is leading the charge on that.

Moms and dads have enough normal things to worry about without having the kind of evil of human trafficking to be something that we know exists across our State. We cannot keep letting victims down time and again, as has happened for many decades in the country. And this hearing is trying to look at the intersection between human trafficking and financial services networks to figure out what more can be done.

Again, I want to thank all four of you for appearing before the Subcommittee Hearing of the U.S. Senate Banking Committee. I look forward to all of the testimony from all four witnesses, and we'll now proceed to that testimony. And we'll begin with Doug Peterson, Nebraska's Attorney General. Thank you General.

STATEMENT OF DOUGLAS PETERSON, NEBRASKA ATTORNEY GENERAL

Mr. PETERSON. Thank you Senator, and thank you to your Committee to come to Lincoln and address this important topic. You'd mentioned a little bit of the history, I'll cover that briefly and then give a little bit of update where we're at and then how your Committee might be of help.

When I took office in January 2015, Nebraska had a law on the books with regards to human trafficking, but it was a very, very limited law. And as a result, Nebraska, on a national level, was rated very poorly as to our ability to address human trafficking. But we proposed some legislation to the senators and the Nebraska unicameral has been very—they've been strong leaders in moving

forward with legislation to help now Nebraska rate as one of the higher rated States in addressing human trafficking.

We've strengthened the penalties; we've strengthened definitions; we've strengthened the ability for law enforcement be able to gather important information. So in the 5 years—four-and-a-half years, it's been very encouraging to see.

The first two parts of the really our human trafficking laws been in the area of training and awareness, and that was 2015, 2016. As you mentioned, a lot of Nebraskans would not have perceived that human trafficking took place here. In fact, I know my wife and I used to support a ministry called Tiny Hands in India. So human trafficking was a foreign problem in those countries and then all of a sudden recognized now, in fact, we have human trafficking in Nebraska.

The relationship that the State Government has with Federal authorities is very important. Because prior to 2015 Nebraska is primarily dependent on the Federal laws and Federal law enforcement. There was an Omaha Human Trafficking Taskforce, which was led out by the FBI, and it had the Omaha police, Douglas County Sheriff, State Patrol. It was a very effective task force in addressing human trafficking and had some very important cases that they were successful.

The problem was in Nebraska, if you got outside of the Omaha Taskforce, we just didn't have the laws or the awareness to how to address human trafficking. So in 2015–2016, the laws were passed, we were able to get some really good training across the State for law enforcement. But also, we're also able to develop some great awareness. One of the examples was the segment that a lot of—it's estimated over 80 percent of those who are trafficked are going to, at one time or another come and have medical needs in your community.

One of the examples that I thought was very powerful as to the importance of awareness and training, is the training program was focused on the medical community. And there happened to be an emergency room doctor who attended one of the day programs. She went back to her medical clinic, as a trauma clinic, and there was a young lady brought in by a young man. She was pregnant, barely showing. The young man seemed very impatient about this whole process, didn't seem like a father, bringing his wife in to see how the baby was doing.

This was a much different presentation. As a result, she found that odd and she had this recent training, when she took the young lady back into the examination room. She identified a barcode tattoo right under her panty line, and that she had learned from the training program was a classic example of someone being trafficked. And sure enough contacted law enforcement, and was able to confirm that this is a young lady being trafficked across the State, interstate trafficking. And because of that awareness that the doctor had, it was an important example of why this to important.

There's been a lot of work done in the trucking industry, education community. So I think the awareness is always going to be something that we have to stay in front of. But I think the State

of Nebraska today is far more aware of what human trafficking might look like and how to respond to it.

The other important element of our efforts under the Nebraska law was the training awareness, but then developing the task force across the State. So we have five regional task forces that have been set up across the State of Nebraska. They include law enforcement; they include care providers; they include groups like the Child Advocacy Center, which is an important partner in this effort.

Those law enforcement networks across the State have helped us have both a focus collectively as a State, but they have put us in a much better position, if we have an incident in Chadron, Nebraska. An incident in O'Neill, which we did have. We now have a trained team and they know how to work together with those in their region to address this trafficking complaint.

O'Neill, Nebraska, as you know, is a fairly small community. We had a trafficking situation there where a young girl was actually trafficked from Tennessee through Arkansas, and to the customer up in O'Neill. Again, when you have that type of interstate activity working closely with the Feds is helpful, but to have that trained task force up in the O'Neill area was very helpful for us. You also have the issue of labor trafficking, again, working with the Feds has been an important partnership that we have there.

I'm not going to go into a lot of detail of the enforcement activity that's taking place in 2017 and '18 because some of those are still ongoing investigations or prosecutions. But I would say that the relationship and the partnership that we have with Homeland Security and with the FBI is an important task force combination that I think has been very helpful. I also think working with Nebraska State Patrol has been critical. They've been really one of the lead law enforcement agencies for us across the State.

But one of the things I feel is probably—is not heralded enough is how many—and you mentioned a little bit in your opening comments, of how many of these different private organizations from the faith community, from all different communities that have come forward, that have wanted to try to help. Whether it's helping with young ladies or young people after they've been taken out of a sex trafficking operation, or how they can help better educate. We have the nuns in Omaha who've taken on the hotel industry to better educate all hotel employees how to be aware of human trafficking. That wasn't a Government initiated effort. That was purely people who in their faith community cared about this and stood forward and started doing those important training programs. So those efforts have been really important and had been helpful for us also in the law enforcement.

Just finally, in the area of finance what I would say in the several operations that we have had in Nebraska, those operations primarily been cash operations. But human trafficking is unique in the fact that human trafficking can go from a 20-year-old guy trafficking his 16-year-old girlfriend and paying her in meth, to that type of small operation all the way to a dark web operation with cryptocurrency that runs across State lines between Denver, Chicago, Minneapolis, and Kansas City.

So you have the whole scope of potential financial arrangements. And that is key for us because financial, we have to show as prosecutors, we have to be able to show that this act was done for purposes of financial gain. And that's why working with Federal authorities and the Senate in this area will be important, because it's getting more and more sophisticated as to how they go about financing and how they go about trying to skirt that particular burden that we have. So I see my time is up, but I thank you.

Chairman SASSE. General Peterson, thank you for your work and for your testimony. Senator Slama.

STATEMENT OF JULIE SLAMA, STATE SENATOR, STATE OF NEBRASKA

Ms. SLAMA. Thank you Senator Sasse. It's an honor to testify on a subject which has become one of my priorities in the legislature, human trafficking. Human trafficking is the fastest growing criminal industry worldwide. It was made a Federal crime in 2000 and Nebraska made it a crime on a State level in 2006. In the years that have followed, lawmakers have tried to give law enforcement the tools they need to crack down on this horrendous crime including, in the Nebraska legislature. I think you pointed it out very succinctly, human trafficking is modern day slavery.

With regards to today's topic of the intersection of human trafficking with the finance sector, traffickers typically utilize banks, or other financial institutions, or cryptocurrency, or some form of money to fund their operations. As Attorney General Peterson referenced sometimes the currency used is not in money, but in drugs, unfortunately.

Financial institutions can play a significant role in disrupting human trafficking. Some institutions have committed significant energy and resources to detect potential financial indicators of human trafficking by using training toolkits. Red flags to financial institutions include, but are not limited to trafficker's lifestyle being inconsistent with their stated income. A trafficker using the victim's account. Carefully structured deposits to avoid detection. So just under that marker that would spur an investigation. Strange deductions on an employee's pay stub or large sums of money transferred to several banks.

At times, deposits are made to accounts for massage parlors, or cantinas, or other shell businesses creating a seemingly legitimate business to cover for reporting purposes. Financial institutions are on the front lines, monitoring transactions and spending patterns. However, some traffickers avoid financial institutions altogether and will only make transactions using cryptocurrency or prepaid credit cards.

With the shutdown of Backpage.com and Massagerepublic.com and because Visa and MasterCard refused to process payments from these sites and other known trafficking sites, cryptocurrency has become more prominent for its unfettered use. Prepaid credit cards are also hard to trace, thereby giving a trafficker a way to use funds without being identified.

So another way that traffickers avoid scrutiny from financial institutions is to force their victims to use their own accounts for transactions. When this happens a financial institution may notice

red flags, such as frequent hotel and gas station expenses, or there may be other history of unusual domestic travel expenses. In these cases, traffickers avoid putting his or her name on the victim's account, which ensure that any crime being committed is buried fully by the victim and that the victim is left to pay off the debts of their trafficker.

Handling funds generated from human trafficking can be considered money laundering. If money laundering is suspected through not only the victim's account, but regular business accounts that could be those shell companies, a financial institution may attempt to go after a trafficker via the money-laundering ring. This has been a very effective method of obtaining justice for the victims.

Nebraska has taken many positive steps to fight human trafficking over the last several years. Beginning in 2006, when Nebraska made human trafficking a crime, there have been several updates to our State statutes to fight this scourge.

Not only has the Nebraska Attorney General's Office created the Human Trafficking Taskforce, but Nebraska has also increased penalties for traffickers and buyers. Victims of human trafficking are allowed to sue their traffickers and trafficked children and adults are provided immunity from prosecution.

Victims of sex trafficking can clear the records of prostitution charges and other offenses that are a direct result of them being trafficked. Just this year with LB 519, the Nebraska Legislature updated its statutes to provide wiretapping powers to law enforcement agencies, extend the statute of limitations for trafficking, and ensure that all children who are victims have the same access to resources for recovery regardless of who trafficked them.

The Trafficking Victims Protection Act of 2000 was passed in the first positive steps to fight trafficking on the Federal level. This Act has been updated four times, most recently in 2013, to include establishing a Federal civil right of action for trafficked victims to sue their traffickers. Adding human trafficking to the list of charges under Racketeering, Influence and Corrupt Organizations Act, RICO, establishing grant programs to State and local law enforcement to combat trafficking, and enhancing criminal sanctions against traffickers and expanded definitions of various types of trafficking.

The Federal Government also established the National Defense Authorization Act of 2013, which among other goals, seeks to eliminate human trafficking associated with Government contractors. Under this Act, Government agencies have the ability to terminate, without penalty, any contract or grant with any organization that engages in human trafficking. It establishes methods of reporting and investigating possible instances of human trafficking associated with any Government contract or grant program.

Human trafficking is a growing industry and make no mistake about it, it is not limited to urban areas. It reaches across our country, even to rural Nebraska, even the southeast Nebraska in District One. We all have a duty to fight back against this horrible crime and our financial institutions can take the lead in spotting signs of trafficking. That's the close of my testimony. Thank you.

Chairman SASSE. Thank you Senator. Ms. Price, thank you for being here.

**STATEMENT OF CRYSTA PRICE, DIRECTOR OF THE HUMAN
TRAFFICKING INSTITUTE, CREIGHTON UNIVERSITY**

Ms. PRICE. Thank you. The hidden nature of this particular crime means that estimates of its prevalence are often inconsistent and inaccurate. Most conclusions about trafficking are based on a small portion of survivors who have been able to come forward. Well-developed data infrastructure is required to overcome this challenge, and effectively identify and combat trafficking.

We try to assist our community in meeting these goals by developing the data infrastructure to link existing cases on known situations of trafficking, and by developing information that doesn't yet exist on potential victims who could be trafficked. We also work to develop better communitywide processes for more effective victim response and support.

Our efforts are united by the understanding that it is nearly impossible to identify trafficking from one source alone. It necessarily requires community partnerships where financial institutions play a key role. While we also work with service providers, policy makers and State and local agencies, I'll confine most of what I'll talk about today to our work with law enforcement, because it's through that collaboration that we've been able to work with financial data.

This work occurs through the Nebraska Human Trafficking Taskforce, led by the Attorney General. We have been very lucky to be able to have a close relationship with law enforcement across the State, from NSP to Grand Island Police Department, and none of our work could have been possible without such relationships.

Financial institutions have undertaken praiseworthy efforts to develop indicators and red flags. While the approach can reveal a subset of trafficking instances, it's exceptionally difficult to identify a situation of trafficking from financial data alone for a few reasons.

First, traffickers' financial behaviors mimic money laundering for any other type of crime. And so it's difficult to say specifically that it's trafficking.

Second, the crime of trafficking is defined by elements of force, fraud, and coercion. And these elements are not necessarily evident in financial institution data. The information necessary to establish trafficking comes through investigations that include nonfinancial sources.

And third, the commercial sex market in general, and specific trafficking organizations in particular, have shown themselves to be extremely adaptable in the face of attempts to limit their activity by financial institutions.

This point is illustrated by a Homeland Security Investigations case that we were lucky to support. During the course of the investigation, the network's bank accounts were flagged as suspicious and shut down by the financial institutions. But the traffickers simply shifted to using Western Union transfers and continued their operations.

In my view, finding otherwise missed instances of trafficking requires shifting from static red flags to active ongoing information sharing between financial institutions, researchers who can uncover trafficking, and law enforcement officials who can investigate it.

Our collaborative work on the investigation I just referenced where we jointly developed a lead with HSI illustrates the promise of such cooperation and information sharing. They were able to find a receipt for a bank transaction which led to an email address. And that email address, when shared with our research center, enabled us to uncover additional advertisements that were part of the network. And that allowed us to really see how widespread that network was.

HSI then used this information to determine which advertisements to subpoena. And this subpoenaed information allowed us to understand the organizational structure. So all of that information came together to understand what it is we were looking at. When HSI compared our data with account data from financial institutions, they were able to map the movement and identify the ring-leaders.

In doing this, they discovered that one of the locations belonged to someone who regularly received deposits from up to 30 different financial accounts. And so you can see it sort of spread across and decentralized across multiple different financial institutions.

Essentially, our scraping and exploiting, at the time, Backpage helped our law enforcement partners know that the initial lead was not just this one off prostitution case in Omaha, and it provided an understanding of the structure and magnitude of the organization. That financial data was really critical because it led to the identification of the actual perpetrators responsible.

This all-source data effort led to the dismantling of the largest international sex trafficking organization to date. And we were subsequently told that the results of the case advanced a second major case, which dismantled the largest national sex trafficking organization to date.

The trafficking industry is always evolving, but this is particularly the case when we are targeting it. For example, the shutdown of Backpage and the subsequent FOSTA/SESTA legislation. This doesn't mean that we should avoid targeting the industry altogether, it just means we need to be able to respond and operate in the shifted landscape.

This highlights the importance of conducting ongoing research to understand how we can connect the dots to identify networks in an environment where the new commercial sex websites are operating in foreign countries not subject to U.S. law enforcement subpoena requests, in an environment where online commercial sex advertising is more decentralized than ever across dozens of websites, and previously identifying information, such as phone numbers, are increasingly randomized through apps.

Government can play a particularly central role in this environment by easing access to past commercial sex ads contained in Backpage records, by working with other Governments to make it easier to access the records of foreign companies that host ads for commercial sex, and by facilitating raw data sharing related to human trafficking.

Perhaps the most solvable obstacle is the struggle that some of our partners have had in accessing the Backpage records, currently in the custody of the FBI. This has constrained our development of new leads and made it difficult to move forward with ongoing

cases. It's important to recognize, I think, that there are pockets of innovation across the country developing new methods to uncover these networks, and among them is the financial industry, Memex, Thorn, and HTI Labs. There are a lot of really interesting pockets of this innovation happening.

There are a lot of significant hurdles to integrating all of this information. But it has been critical to our ability to identify situations of trafficking here locally and expanded to cases nationally and internationally. Thank you.

Chairman SASSE. Thank you, Ms. Price. Mr. Murray, thanks for being here.

STATEMENT OF DAVID MURRAY, VICE PRESIDENT FOR PRODUCT DEVELOPMENT AND SERVICES, FINANCIAL INTEGRITY NETWORK

Mr. MURRAY. Thank you Chairman Sasse for convening us here to discuss human trafficking and its intersection with the financial system. And thank you for the invitation to testify. It is an honor to be here.

Human trafficking is highly profitable, generating more than \$150 billion a year. Human Trafficking interacts extensively with the financial system in contrast to other types of criminal activities whose touch points are usually more discreet. Drug Trafficking for example, is overwhelmingly a cash business and the proceeds of the crime are held as cash well into the money-laundering cycle. Fraud typically targets money that is already in the financial system through transactions that are designed to appear legitimate.

In contrast, human traffickers may receive money from buyers either in cash or through electronic means and the transactions that are vital to operating their businesses may be small or large. As a result, human trafficking has many intersections with the financial system. At lower levels of human trafficking organizations, human traffickers have used cash, retail payment systems, online payment systems, and cryptocurrencies. At higher levels of human trafficking organizations, human traffickers have exploited anonymous companies to conceal their activities.

Federal, State, and local officials have worked with the financial industry to disrupt human trafficking organizations and push them out of the financial system. But as you've already heard, human trafficking is difficult to combat because the financial transactions associated with human trafficking dwell in parts of our financial system where transparency may be poor. Small payments carried out through retail payment systems, online payment systems and cryptocurrencies, and large payments carried out through anonymous companies.

Human Trafficking demands a swift response that enables financial institutions to prevent financial transactions related to human trafficking, or to detect them quickly once they have occurred. We can better protect our financial system by banning anonymous companies, strengthening cryptocurrency regulation, and improving transparency of retail and other consumer payments systems.

My first recommendation is that Congress pass legislation that bans anonymous companies. Give us a Cash Act that was released in June is one of several legislative efforts to eliminate this vulner-

ability in the U.S. financial transparency regime. Anonymous companies have been a persistent weak spot in our efforts to prevent money laundering and disrupt criminal organizations. They were mentioned in the first ever national money-laundering strategy in 1999 and highlighted as a major vulnerability in the National Money Laundering Risk Assessment in 2018.

Anonymous companies are the ultimate utility player in a money-laundering operation. Their primary role was to conceal criminals' identities, but they can do much more. Anonymous companies can conceal relationships among the parties to a transaction, to defeat financial institutions anti-money-laundering detection systems. They can also conceal sanctions evasion, as in the case of ZTE or North Korea. And they can hide politically exposed person's interest in the transaction, as seen in the behavior of corrupt officials in Venezuela and throughout the world.

Human trafficking organizations and other transnational criminal organizations have exploited anonymous companies for decades. In many places in the United States, obtaining a library card requires more documentation than forming a legal entity. The ease with which anonymous companies can be formed makes identifying criminals more difficult, lengthening the time that it takes more enforcement to disrupt human trafficking networks, if they can disrupt them at all.

My second recommendation is that Congress create a new class of financial institution under the Bank Secrecy Act, or BSA, to cover firms involved in virtual currency transactions. Virtual asset service providers, or VASPs, should include service providers that are already covered by the BSA, as well as virtual assets services that currently fall outside the scope of the BSA. Protecting virtual assets from illicit finance will become even more important as virtual assets become more credible challengers to existing consumer payment tools.

Virtual assets are vulnerable to illicit finance because they offer rapid and irrevocable settlement and the potential for anonymity. Importantly some virtual assets are traded through decentralized networks. In other words, there is no entity performing a governance function and controlling in addition to the payment system.

In practice, the lack of a central oversight body means that anyone can create a VASP and begin facilitating transactions. Effectively safeguarding virtual assets requires a regime that acknowledges that VASPs are not a unitary class of financial institutions and instead recognizes that VASPs play different roles in facilitating virtual asset transactions.

Some VASPs are currently regulated as money transmitters under the BSA. Others are not regulated at all. Even for those VASPs currently regulated as money transmitters, the regulations are insufficient to protect virtual assets from exploitation, because the assets are not subject to the customer identification program rule where the customer due diligence rule.

The most important actor in virtual asset transactions is the party that validates the transactions. The validators are the essential actors in virtual currency transactions, they are as important to virtual asset transactions as credit card system operators are to credit card transactions. And virtual asset transaction validators

are in the best position to govern virtual asset networks and control admission to virtual asset networks. Unfortunately, virtual asset transaction validation is not currently regulated under the BSA.

My third recommendation is to revisit the payment processor exemption that is currently in the BSA. The exemption was codified almost a decade ago based on long standing practice in regulating money transmission. But the payments landscape has changed considerably over the past 20 years. As retail and other consumer payments evolve, the BSA must evolve with them.

It is increasingly likely that the entity with the best insight into a business's financial activity is a payment processor that is excluded from the BSA. This leaves out payment systems vulnerable to criminal exploitation, and deprives law enforcement of valuable information. The payment processor exemption should be narrowed so the payment processors are covered by the BSA, when they have the best insight into merchant's activities and risks.

The payment processor exemption is especially important in the context of human trafficking, because many of the human trafficking red flags rely on end to end visibility into consumer payments.

Together these three recommendations modernize the BSA and position it better as a weapon for detecting and disrupting human trafficking, while also making sure that the BSA remains useful as electronic funds transfers to displaced cash in our economy.

Thank you again for the invitation to be here. And I'd be happy to take any questions that you have.

Chairman SASSE. Thank you Mr. Murray, and thanks to all four of you. I would like to start by talking a little bit about where leads come from, how we know what we know in a data sense in general, as we look at potentially human trafficking victims and trafficker networks. But also how ongoing training works as we try to inform the feedback loop to better legislation.

And Ms. Price, I wonder if we could begin with you. I was one of the cosponsors of the legislation that Congress enacted to try to take away the liability exemption that Backpage was hiding behind. And obviously, the problems that's caused for Backpage is a good thing. But one of the unintended consequences probably is a dispersal of the marketing networks that makes it more difficult for people like you who are trying to get a global view.

For folks who don't know much about this, do you want to explain the story of what happened—what Backpage was, what happened to them, and what the implications are now for you and your work?

Ms. PRICE. Backpage.com was a website that looks and acts like a more criminal version of Craigslist, essentially. And most of the—actually 80 percent of the online commercial sex industry at that time, was advertising on Backpage.

And the way that that would work is they would post ads that would essentially result in someone responding to the ad and then meeting up for a date. The commercial sex industry was sort of centralized through Backpage.

And the way that that worked was that there were a lot of ads that were posted on there that were ultimately for trafficking vic-

tims. Backpage itself turned over about 400 a month, I believe, of minors who were advertised on the site. And there were a lot of survivors who were trafficked on Backpage and understandably very frustrated about that.

The way that we were able to identify leads from Backpage is that we scrape those ads, which is essentially like creating a bot that's copy and pasting everything, and then write algorithms to make sense of it, to connect those ads into individuals and try to assess risk. Essentially looking for things like youth and other vulnerabilities, trying to connect the dots into specific networks.

There were a couple of different things that happened in the legal climate surrounding Backpage. So back about 2 years before FOSTA/SESTA passed, Backpage was a website where you could just post ads through MasterCard, Visa, you'd use your credit cards. And then when MasterCard and Visa stopped processing credit card transactions on the site, what happened was that opened up this big period of free ads, were Backpage actually facilitated the sex providers in switching to cash and Bitcoin.

We saw at that time a huge spike in ads. And then when the legislation was passed to hold them liable, ads were being posted all across the board. Now there are about a dozen or so websites, some major ones are now hosted and are operating out of the Netherlands. Places where the environment is legal for the commercial sex industry. And what that has meant for creating leads is the need to now scrape all of those new websites and then rework those algorithms to connect them across the different websites to still be able to identify specific situations of trafficking.

The difficulty with that rests largely in the inability for the metadata to be mapped as easily. But the overall concept of being able to leverage all that data, then work with law enforcement to get feedback on whether that was actually a high-risk situation of trafficking. That process is still one that we in the community are moving forward on. And we have been able to find ways to try to build that feedback loop in by building platforms where we can pass those leads, and then they can get that feedback.

The goal is to be able to incorporate other sources of information so that you aren't just essentially falling for their marketing, because that's really what those ads are. So it takes a lot of basic research into the industry to understand the way that it works so you're not making silly assumptions at the very beginning, there were some assumptions built into those risk indicators that didn't end up being accurate. But we're moving forward even though it is now a lot more difficult across the board.

Chairman SASSE. Thank you. Very helpful. Attorney General Peterson where do most leads come from to Nebraska law enforcement and what are hopeful signs about where we might generate more leads to free these women and kids?

Mr. PETERSON. Well I appreciate the work that Crysta and her group have done, because Crysta's has been a good source on the Backpage. We refer to Backpage as low hanging fruit, because it seemed that's where some of the really low tech operations went to try to sell. And the type of work that Crysta had been doing is very helpful because they can look at key words that would indicate that they're trafficking young girls, typically.

And one of the things I think is a big challenge is that we're finding across the country that human trafficking, markets are becoming younger and younger in age. I think the entry age in 2015 was probably around on average around 15 years old and now I think the numbers around 13. The market's demanding younger girls paying more. It's a pretty sickening market.

A lot of our leads actually come through our sting operations that we do. We'll set up, we can follow some internet traffic, I don't want to go into too much detail, but we can follow that to see where market activity—we've used Crysta's material. I know law enforcement across the State has used some of that information. So we'll follow traffic behaviors on the internet. And then we'll set up our own operations if we sense that there's potential buyers who are specifically looking for younger girls. Those are different sting operations that we can develop.

It's rare that we'll get—one of the big challenges in human trafficking is I refer to the girls, but we need to understand there's young boys being trafficked also. They don't see themselves as victims oftentimes. In a large way they've been brainwashed to believe that they're working together with this person. Particularly with the girls being given promises that someday they'll get a lot of money.

So it's very rare that you get a young girl who could run off to a phone and say I've been kidnapped, I'm being trafficked. It's really more through the sting operations and the internet that we try to go to find the activity.

Chairman SASSE. Can you talk a little bit about that training exercises you've done with Nebraska State Patrol? You've been very active in the space I guess for 4 years, and my sense from talking to some patrol men and women, is that there was a very different mindset about what they thought they were encountering when they would sometimes find a trafficked person 4 or 5 years ago.

Mr. PETERSON. Yeah. In a lot of ways, changing the mindset in law enforcement was one of the initial goals or objectives in 2015. It used to be under our old laws that if you came into a hotel room, and you found a buyer and a 16-year-old girl, the perception was there you have a 16-year-old prostitute, and there you have the buyer, those were kind of two parties. And there wasn't really a concept, well number one it's a 16 year old. Legally, she's not at legal capacity to consent to something like that.

And there wasn't this understanding and the fact that she could be the trafficked by a seller operation and under coercion and duress or force. That's why she's in that room.

So it's been an effective 4 years of having law enforcement now identify what that looks like, so that they go into that room now, that young lady is going to be perceived first of all, as a victim, as a 16-year-old victim of trafficking. Now the facts and the investigation will be flushed out. But that's a different perspective. You don't go in and look at her as a criminal. You look at her as a victim, and how do we bring her in, get her confidence to explain who's been trafficking her.

The other thing from a law enforcement perspective is they've just developed much greater awareness. One of the State troopers was telling me when, this about 2 years ago, out in the sand hills

we were doing a program out there. And he said, we used to see cars that were obviously cutting across the rural sand hills area of Nebraska, and we'd first think we would think is drug interdiction. We were thinking they were trying to get from Denver to Minneapolis or to Rapid City.

And he said, now we see them with any young lady in the vehicle, we're immediately thinking potential trafficking also. So they just have a much greater awareness as they're coming up in different settings where they have vehicles that they suspect could be trafficking and having that tool. And once we start the investigative process, law enforcement's new emphasis on this has been very helpful, because they're much more keen in working with us on sting operations and things like that.

Chairman SASSE. Thank you. Senator Slama, you've been very interested in this and working hard on this issue since you got to the unicameral. Who do you learn from? Where do you learn? Why—how did this become an issue of yours and how do you take the next steps in ongoing education of the legislators, both in Nebraska and neighboring States?

Ms. SLAMA. So in coming into 2019, which was my first session in the unicameral, I partnered with two of my senior senators, Senator Linehan and Senator Pansing Brooks. In addition, working with the Attorney General's Office to craft several different bills. Smaller bills that we were hoping to each individually make a dent in human trafficking across the State.

I think my predecessors, including Senator Pansing Brooks, have done an outstanding job in shifting the narrative in Nebraska, like Attorney General Peterson referenced, and shifting that mindset from assuming that a minor girl who's found with a buyer is a prostitute and treating her as such.

LB 519 represents and a combination of the bills that we were working on at the beginning of session. And it was very encouraging for me to see such an all-encompassing bill. I mean we extended the statute of limitations for minor trafficking victims to unlimited for adult human trafficking victims from 3 to 7 years.

Gave law enforcement agencies the wiretapping powers on suspected human trafficking rings. And made sure that our kids who are victims of trafficking have the exact same access to resources, regardless of whether they were trafficked by a parent or a caregiver, or another family member or a boyfriend. Because we saw loopholes in our State statutes that led to minors who are being trafficked, being treated differently based on who their trafficker was.

And in continuing to change the narrative, I think the biggest—the most encouraging part was just the bipartisan support of this bill—so this wasn't a Republican effort, this wasn't a Democratic effort. This was something that even the older school, older male senators, were wholeheartedly on board with. There were times where we had to reiterate the difference between trafficking and prostitution, so that they could get a better grasp on why we were doing what we were doing.

But I think that Nebraska has done an outstanding job in shifting that narrative from a prostitute being someone who is doing

this of their own free will, to most of the time, being a victim of some person trafficking them.

Chairman SASSE. You also mentioned briefly in your opening statement, but in a little more detail in your written materials, that victims are often forced to use their own payments for hotel rooms and things so that they can shield their trafficker from being exposed. Could you unpack that just a little bit more so that folks understand—

Ms. SLAMA. Absolutely.

Chairman SASSE. —how that works? And what needs to be done to free these victims from after the fact being held liable for things that were done in their name, but not with their volition?

Ms. SLAMA. Yes and Veronica's Voice actually has a very helpful reference guide for bank employees in understanding what the red flags are when a suspected trafficking victim is coming in and making payments. So oftentimes you'll see a victim coming in. Their lifestyle really doesn't match what their stated income is. They'll come in in nice clothes, nice car.

You'll often see them come in and have somebody—it's typically their trafficker doing their business for them. Sometimes they can't speak English. Other times it's just the threat of intimidation. They're referred to as a handler.

You'll also see consistent domestic travel expenses. So hotel room expenses that the person—that the trafficking victim has paid for themselves to prevent any red flags from coming up, gas station expenses, that sort of thing. To places where it wouldn't really make sense for a person to be traveling to. They live what is typically a very nomadic lifestyle for no real reason. And certainly not in line with anything that is listed on their official accounts.

So there are toolkit's out there for everybody from bank tellers, to financial institutions too—I wanted to reference the toolkit that was just released by the Nebraska Hospital Association to where even our hospitals can play a role in noticing these red flags and taking action as necessary.

Chairman SASSE. Thanks. Mr. Murray, you have a chance to see into a whole bunch of different countries anti-money-laundering regimes. If you could pick any tools that other countries have that you wish the U.S. had, what would they be? What countries are particularly effective at countering some of this illicit behavior?

Mr. MURRAY. Well I'd say the biggest is transparent company formation practices. That's really something that we need to work toward here. We are a laggard, we are behind the U.K., we are behind the EU, we are a laggard. And it's something that we need to fix here. It is a serious national security vulnerability that cuts across a number of programs the United States Government has, including the BSA, including all of our sanction's programs, including CFIUS. So it's the leading vulnerability, and it's something that we need to get much better at.

Chairman SASSE. Thank you. You also have a lot of experience at the Department of Treasury. And the 2000 Trafficking Victims Protection Act had a standalone sanctions program that has been not yet been implemented, is my understanding, that can designate significant human traffickers. Can you help us understand why 19 years after the law that hasn't been implemented? And if it were,

how useful a tool would it be in identifying those significant traffickers?

Mr. MURRAY. I believe that what Treasury has done has been to designate human trafficking networks under the Transnational Criminal Organization Authority. But I can confirm that and circle back with your team. You know it's quite often the case that OFAC has a series of overlapping authorities, and it will use the authority that's best suited for the evidence that it has at hand.

So even though there is a standalone human trafficking authority, the Transnational Criminal Organization Authority may be more flexible and may make it easier for them to get at targets more quickly.

Chairman SASSE. Thank you. Ms. Price, can we size this problem a little bit? I know you said that it's incredibly difficult to do because in the past, maybe 10, 15 years ago, the assumption was you can only extrapolate from victims that came forward and a tiny subset of them are going to do that. But do you have a theory of how we should be thinking about sizing, about how urgent—we know it's urgent, how large the problem is?

Ms. PRICE. The most respected prevalence estimate out there tends to be the International Labor Organizations 2016 estimate of, I believe, 24.9 million victims worldwide of trafficking.

In terms of what's happening here, when we were looking at the broader commercial sex industry, and we studied that for a few years, we saw about 900 individuals a month being advertised on Backpage in Nebraska. Trying to work to estimate trafficking risk within the industry is a big focus of ours.

But about 15 percent of those individuals, we deemed to be definitely high-risk situations of trafficking. To be honest, in our work diving deeper into some of those situations, I think that we are underestimating it at that point. That line is somewhere between 15 and 35 percent.

I think that the best way to answer the prevalence problem more generally is bringing together a way of estimating the larger industries that have a high risk of trafficking. And there is a lot of academic institution research on that.

But the on the ground experience of law enforcement and service providers and survivors working with them is important to understand particular instances of trafficking. And then building a methodology to be able to use that to get more solid estimates. That's really the biggest goal of the academic community when it comes to trafficking prevalence estimates.

Chairman SASSE. Could you map a little bit what the new tools are that you see coming online over the next handful of years? Like when for people who are new to this space, when you talk about different academics, institutions and particular researchers that are working in this space, how will the scholarship evolve in the next 3 to 5 years? What data tools are available, and then I know you're going to want to talk a little bit about Government activity you'd like to see to make access to the data easier as well.

But I'd like to just understand what evolution in the tools should we expect?

Ms. PRICE. I think increasingly moving to that online space of being able to take that data to estimate situations of trafficking

and partnering with our community to be able to sort of bottom up identify specific instances. In terms of how it's changing, there's a lot of discussion about it potentially changing to a dark web based process.

But at least when it comes to sex trafficking and the commercial sex market, we do tend to see that they need to be able to advertise to reach the broader market in some way. And so in a way that's a blessing, because it's something that's a little bit easier to access in some ways. But the academic community, I think is increasingly taking advantage of data science techniques and computer science techniques partnering with places like what we do and some of these other computer science based institutions.

And I think that that is becoming an incredible tool to use to be able to talk about prevalence, to be able to look into the data and to understand what we're seeing. So I do believe that that's where we're headed, but that does require access to partnerships.

We have been really lucky to be able to build that here locally, because the Nebraska response to trafficking has been extremely collaborative. And they've definitely seen the value of bringing in research and building that data infrastructure. So we've been lucky to have that sort of partnership. But that's tough to do in academia that can be really tough to do.

And so I think that there's a lot we can do to ease that a little bit, particularly providing access to more raw data once it's no longer an ongoing investigation, or once it's no longer really needed. I think that that can go a really long way in being able to understand how we can actually pull this all together to find specific networks.

There's a lot of that behind the scenes data that can be used to better predict trafficking indicators as an academic research community.

Chairman SASSE. Thank you. This question is for both Attorney General and for Senator Slama. In Nebraska we've heard from groups like Truckers Against Trafficking, about location based marketing of victims in the past. Can we unpack what we know about rural places that sometimes would work based on more word of mouth networks, because there's a specific geography or just unpack more broadly what we know about urban versus rural trafficking venues?

Mr. PETERSON. You know, I think in a lot of ways, it's very regional across the country what trafficking looks like in Houston, Texas, is going to look different than what it looks like in central Nebraska. So that's why you have to have good law enforcement and good communication.

One of the things that Crysta's organization provides is a heat map that shows us different areas where we might look for it. We know there's certain cultures that have certain practices and not unique to Nebraska, but because of that particular culture being in the area that we can follow what their trafficking model looks like. I prefer not to get into details and identify those different groups. But those are helpful.

And that's why the network with the Federal authorities is very important, because they can follow those same patterns and say that this particular group tends to prefer this type of business

front. And this is what you should probably be looking for. And that's been very helpful for us to see if we can buy.

And in fact, one of our, again, I'm always guarded about speaking too much because some things are ongoing. But one of the helpful tools we've been able to have is to go back and look at business records of some of these operations. Who were they—who was a business opened under? What corporate name? Where are their financial institutions? Some of that stuff has been helpful to say this wasn't just a rare incident in this town in Nebraska, but in fact we can see this pattern across the State.

So I think from a technology standpoint though, it's very interesting, because the large tech companies are taking a tremendous amount of data. That's been in the national news, you know, taking location markings every six seconds on an Android phone. Some of this technology, financial technology, health technology, data that's being stored and kept, frankly could be also very helpful to law enforcement. Because what you find is with enormous amounts of data gathered on individuals you can find pretty clear patterns of behavior.

The problem is some that these private companies have to balance between privacy and working together with law enforcement. But we're finding that in the future that may be helpful for us to better follow those patterns of trafficking.

Chairman SASSE. Senator Slama, urban versus rural distinctions you've been studying?

Ms. SLAMA. Sure just a few that I've ran into, or we see typically a difference in tech usage. In rural areas it's a little bit more word of mouth, informal, whereas in urban settings you have that connection to the technology, to that Backpage.com.

Also there are sometimes differences in payment methods. So in our rural areas you have a higher prevalence of meth use in the first place, so these women and sometimes young men who are being victimized will be paid in drugs, sometimes meth rather than cash. Those are the main differences.

And just in terms of enforcement, our law enforcement officials have to take a different approach based on the technology differences that you could see in an Omaha versus central Nebraska, or a southeast Nebraska trafficking ring.

Chairman SASSE. And Mr. Murray, I neglected to ask you when we were talking at sizing with Mr. Price a little bit ago. What's our best estimate of what share of all human trafficking is carried out by sophisticated criminal organizations versus more localized small units that are probably going to use cash or drug payment methodologies. If we were successful in implementing more rigorous methodology around financial institutions, how much of it do we think is actually reachable? What share of that, of the trafficking is moving through large structures?

Mr. MURRAY. Yeah so as she mentioned, the best source of information is really the International Labor Organization. And I don't believe that they've broken down small and large in that manner. But what they have broken down is how profitable each victim is based on where they are in the world. And each victim in North America earns traffickers \$34,000 a year.

Chairman SASSE. Wow.

Mr. MURRAY. In profit right. So that that's a substantial sum of money that's out there. And, you know, I really think that what's called for here, and what's really important here, is really looking at the systemic financial transparency issues that we have, and working those to better equip law enforcement and also better equip OFAC. Because if law enforcement is in a position where it is struggling to detect the largest traffickers, to disrupt the largest trafficking networks, OFAC's also going to struggle because OFAC's process is an evidence-based process. And when they put somebody on the list, they have to be prepared to defend that designation in court.

Mr. PETERSON. Senator if I might interrupt?

Chairman SASSE. Please do.

Mr. PETERSON. I almost hate to—one of the challenges when you talk about this topic, is to actually explain the profitability of the business model. I'd almost asked the media not to release that figure of \$34,000, because there are numerous people who, if they saw that would be incentivized to look around where they could develop their own network.

And so it's always difficult to talk about this, it's difficult to say what our challenges are, because then they exploit our challenges. Some of them are pretty apparent. But the profitability one is always one that we try not to talk about just because we don't want to encourage anyone to think that this might be some type of a business enterprise that they'd be interested in.

Chairman SASSE. Thank you. I'd like to do a final round that is essentially some of your biggest asks for policymakers. What should the policymaking community know, both executive legislative, but also Federal versus State and local and inside inter-agency, inside Nebraska, as well. It would be useful to have policy asks and obviously there's the age old if you had a marginal dollar, where would you spend it if we were investing more in the space? A lot of what we need is statute and we need consciousness raising and we need better partnerships, but also at the level of financial resourcing. What would we ask for? And General Peterson I'll begin with you.

Mr. PETERSON. Thank you Senator. What I would say is all law enforcement agencies, we have a little bit of model what this was like before. Because when the Federal authorities and State combined to make a real focus on child pornography and child sexual assault victims you saw a lot of law enforcement agencies step forward in combination with Federal authorities and develop better scanning techniques on child pornography.

What happened over a period of time and some of that funding went away. It's very labor intensive to have a law enforcement officer watching the screens for child pornography.

In the same vein, I think our biggest challenge now, you know, 15 years since that initiative, is that now I find that one of the greatest concerns is the technology involved with the dark web and the inability of local law enforcement agencies to have the money to actually go that direction.

It almost feels without the Federal authorities help, and I know it's a challenge for them too. But I think as technology advances,

more and more traffickers are going to be comfortable going to the internet.

And Senator Slama made a good point that some of them can't, they're not that sophisticated, they're going to continue to be the low level operations. But I think more—if they find it profitable, they're going to start going there so that they can have a greater sense of confidentiality.

So I think working in the future with both Federal authorities, the FBI, Homeland Security and developing better abilities to scan the dark web and see where trafficking may take place. And on the other end of that ask would be to working closely with financial institutions, with cryptocurrency and other ways that we can track it.

Those would be two ways I think to get the larger operators. We're going to continue on a local level just to use some of our standard law enforcement techniques, word of mouth, sting operations, and things of that nature. And some of the other data that we're able to get from some of these lower operations that would be operating on the internet.

Chairman SASSE. Thank you. Senator.

Ms. SLAMA. On my end I think Nebraska has done a great job of changing the mindset, changing the narrative when it comes to trafficking. And I'd like to see the narrative change towards that positive end nationwide. The Feds can obviously take steps towards that. There are some States that are lagging behind when it comes to changing the narrative behind child prostitution, to being child trafficking victims. On the Federal, State, and local level, it'd be great to see better resources for recovery for victims, and better toolkits for groups that may interact with the victims.

A lot of these initiatives are started at a grassroots level, it would be nice to have some of those toolkit's come from the top down, and have those be distributed nationwide, rather than seeing in Nebraska, we're making some positive efforts when it comes to toolkit's for law enforcement officers, health care providers, and other groups. But I'd like to see that spread nationwide.

Chairman SASSE. Thank you. Ms. Price.

Ms. PRICE. I think that a lot of stakeholders have identified the need for more systemic collaboration information sharing between financial institutions, law enforcement, and researchers. Particularly when it comes to pulling in open source data.

I think this is a challenge, information sharing is always a challenge. But it is something that we can overcome through our partnerships. And one thing that was mentioned by some of our partners was the potential for a sort of national center that can help integrate all of that information and can help build the public-private partnership processes that can ease all of that.

I think that at the end of the day it comes down to pulling together these different types of information. And so to your point with the toolkit's, one of the things that our State task force has done is develop a screening process. And it's really intended to be a systemic sort of screening process. We took about 3 years to develop it.

The idea being that many different industries can notice different red flags. Having that come together in some sort of an evidence-

based way to be able to connect them to services. And then later, worry about what that may mean for whether you can get any sort of cooperation for law enforcement.

So I would like to see that be adopted across the State. We are very excited that some of our major Government agencies are now going to be adopting that process. And using this software that helps facilitate that. But helping to facilitate a lot of the law enforcement and open source data and financial data to answer a lot of the questions of how that would actually work, would go a very long way in sustaining a lot of these efforts that are currently happening.

Chairman SASSE. Thank you and thank you for the tutorials you've given my office on this too. You're the main input for us to understanding the uses of a lot of that data. Mr. Murray.

Mr. MURRAY. Thank you. So I have two recommendations. My first would be with respect to company formation. As we discussed and as far as the funding to accomplish that, because it will require money for consent to implement that. So the information can be collected easily and so that it can be shared widely with the people who can use it to disrupt human trafficking networks.

The second is I think we need to do a better job of keeping up with evolutions and payments. I think that we're at risk of the Bank Secrecy Act falling behind and falling behind in critical ways. This isn't good for investigators. And this isn't good for industry either.

There are a number of financial services providers, a number of FinTech's in this country, who are really shoehorned into regulatory definitions that don't make sense for them. And it's just—it's not surprising they don't make sense for them, because you know they're working against definitions that were written before there was a consumer internet.

So here I would recommend that a task force be set up that includes the Executive Branch, the Legislative Branch, and industry, to really think about how we should define this term "financial institution". And that how we should make sure that financial services are well governed by the private sector and well regulated by the public sector. Thank you.

Chairman SASSE. Thank you and thank you for flagging the proliferation of the different digital financial networks as well, because that's one of the topics that I'm sure my team and I and the Senate Banking Committee are going to continue being educated on, in future hearings in this space.

We were also fortunate to have another witness that we had invited who was unable to attend. But I have to do housekeeping here to formally submit for the record the testimony of Dr. Louise Shelley who is the Omar L. and Nancy Hurst Endowed Chair, the Director of Terrorism, Transnational Crime, and Corruption Center at the School of Policy and Government at George Mason University.

Unfortunately, she could not attend today, but she did prepare formal remarks as well. And we would like to take her testimony which covers how human trafficking finances interact with the economy in underground banking, money laundering, and real es-

tate and cash movement. We want to also put that into the record. So by unanimous consent, I do submit that to the record.

That formally concludes the questioning for today's hearing. But for other Senators who are Members of the U.S. Senate Banking Committee who wish to submit questions to the record, for any of you those questions will be due by Tuesday, September 17th. And we ask that the witnesses would reply to any of those questions and my team will be happy to try to facilitate that process with you for questions that come in from other Senators.

And again, we'd like to thank all four of you for sharing your expertise and thoughts and research with us today. And for your really important work trying to fight against this evil. So thank you for being here and thank you for your work. This hearing is adjourned.

[Whereupon, at 3:08 p.m., the hearing was adjourned.]

[Prepared statements, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF DOUGLAS PETERSON

NEBRASKA ATTORNEY GENERAL

SEPTEMBER 3, 2019

Good afternoon, Chairman Ben Sasse, Ranking Member Mark Warner, and distinguished Members of the National Security and International Trade and Finance Subcommittee. It is a privilege and an honor to speak before this Committee. I want to start by thanking the Committee for its focus today on this important topic of human trafficking.

Nebraska may not be the first place that comes to mind when one thinks of forced labor or sex trafficking. As I travel the State, I have noticed that some Nebraskans are initially a little skeptical about the scope of the human trafficking problem. However, once we are convinced it happens here, now—in our State and on our watch—there is no shortage of outrage or of dedication to end it.

We are now 4 years into our formal statewide effort to accomplish our three-fold goal:

1. To help the victims and survivors,
2. To stop the traffickers, and
3. To end the market.

Senator Sasse has asked me to highlight this work in Nebraska and I am happy to do it. I am proud of what we have done, though there is a lot more we need to do before we can begin to claim success.

The first human trafficking law in the country, the Trafficking Victims Protection Act, was passed by the U.S. Congress in 2000. Nebraska passed its first law against it in 2006. It was a good start, but like its Federal counterpart, it needed strengthening. Therefore, in 2015 the State legislature amended the law to increase both the penalties and the scope of those to be held responsible. Two years ago, Nebraska made more changes. It again increased the penalties, beyond the Federal penalties in some cases. The Unicameral followed Congress' lead in explicitly including buyers with sellers in the category of "human traffickers." The law also clarified that a trafficker cannot get away with buying or selling minors by claiming he did not know the victim's age. Last year, Nebraska Legislature passed the most comprehensive record relief law in the Nation, according to Polaris, the organization that runs the national human trafficking hotline. It gave Nebraska a B for its law providing trafficking victims a way to clear their record when the "crimes" committed were actually the result of their exploitation. It was the only State to get a grade above a C. Shared Hope International also rates each State on its legislative framework to address the commercial sexual exploitation of children. Nebraska went from an F to a B in 5 years. This past year the State legislature enhanced our abilities to investigate trafficking by authorizing wiretaps for human trafficking investigations.

These laws—Federal and State—are only as good as those who use them. Nebraska is blessed with dedicated and focused public servants, eager to use the law to address human trafficking. In 2010 the FBI-led Omaha Child Exploitation Task Force was formed and to this day serves the greater Omaha area with distinction. 2015 saw the formation of the statewide initiative, the Nebraska Human Trafficking Task Force (NHTTF). It began under a Federal grant from DOJ's Bureau of Justice Assistance—the "Enhanced Collaborative Model" grant. There have been many of these across the country, always awarded to a partnership of a law enforcement agency and a service provider organization. NHTTF was among the first, however, to apply this grant, not to a metropolis, but to a geographically large State with a diffused population.

Organizationally, NHTTF divided the State into five regions. While we develop statewide protocols and tools, the work on the ground is done by these regional teams. This work includes investigating leads, confronting traffickers, and giving victims a lifeline to a better life. These teams meet at least quarterly, more often when needed, such as in preparation for a proactive sting. This structure is a realization that the team leaders know the local dynamics and know the best way to motivate the greatest number to collaborate. They also know what events to best target, and whom to include in the operations. NHTTF has conducted successful proactive stings in each of the regions. These mostly involve law enforcement in two scenarios—(1) posing as sellers to draw out those seeking to buy sex from minors; and (2) posing as buyers, especially when law enforcement has reason to believe a person being offered is underage or coerced.

NHTTF takes a distinctive approach to these operations. They begin with a presumption that someone being provided for commercial sex is a victim. This is based on a realization that many "prostitutes" were coerced or forced into commercial sex,

many of them while minors. It is also true that sex trafficking victims very rarely self-identify as victims. This presumption that the person is a victim is rebuttable, but it is the starting premise, which is a change in the traditional law enforcement approach regarding someone selling sex. Among other reasons to do this, a victim is much more likely to help us find and stop a trafficker if law enforcement consistently treats this victim as a citizen to protect rather than as a suspect to arrest.

Another key aspect to the momentum in Nebraska is the training and awareness efforts. When it comes to human trafficking, raising awareness is critical to our success. Sometimes there are precious few windows of opportunity when a trafficking victim is in the public view. It is vital the general public—and especially public servants—get informed and keep an eye out for signs. The first step in stopping it begins when someone sees where and when it is happening.

So, NHTTF and its partners have done a great deal of trainings. Much of it has been for the general public—talks in Rotary, Kiwanis, community, and church groups. However, NHTTF prioritizes focused training for strategically located people. Law enforcement is an obvious category and NHTTF has trained over 1,000 sworn officers across the State. Service providers are another key group. Those who work in hospitals, in schools, and in hotels will more frequently encounter trafficking victims, so NHTTF has custom-designed training that we eagerly provide to them.

Now, with that background, let me narrow my comments to what is most relevant to this Finance Subcommittee—the financial aspects of human trafficking. I'll address the profit motive and then hurdles to prosecution.

As this Committee is aware, criminal networks are becoming more sophisticated with their ability to hide and move financial assets. Human traffickers are no exception. They may even be driving some of the innovations. Most of the commercial sex NHTTF encounters in Nebraska is still done in cash. Often this cash is eventually deposited into accounts into traditional financial institutions. Subpoenas from bank records and wire transfers have helped investigators uncover enterprises as they connect the dots through financial transactions. Yet, with all the new ways to hold and transfer finances, the task force encounters obstacles to tracing the financial aspect to human trafficking.

Another hurdle is proving the commercial nature of the crime. Of course, an element of sex trafficking is that the sex act is commercial. To prosecute, the State must establish an exchange of money or of something else of value. Traffickers are getting creative, making this element harder to prove. NHTTF partners have certainly seen them use cash, but also prepaid credit cards, Venmo and PayPal, and cryptocurrency. In other cases in Nebraska, the commercial transaction has been a purchase of airline tickets, or payment of an extended hotel stay, or bond money to get the sex seller's relative out of jail, or even the sex buyer registering his car in the sex seller's name. These all come with extra difficulties to find and then prove the commercial aspect, and to establish the financial connection between seller and buyer. While the criminal element is becoming more creative, so too is law enforcement. For one, NHTTF has collaborative partnerships with not only local traditional banks in our State but also with newer financial entities. For example, the task force has received valuable assistance from mobile payment service providers. Continued collaboration with both traditional and next generation financial service companies is critical for law enforcement agencies to obtain information necessary for prosecution. Forums such as this are helpful to encourage this type of collaboration between law enforcement and the financial services sector.

As the task force moves forward, NHTTF wants to conduct even more targeted investigations into the larger but more financially savvy trafficking enterprises. To do this successfully, the task force will also need to be more sophisticated in its investigations. NHTTF has greatly benefited from collaboration with others, such as Homeland Security Investigations, the FBI, and HTI Labs, who will also testify before you today. The task force is eager to use all the tools at its disposal and all the wisdom of its tech-savvy partners to follow the money and root out this crime. We aim to make human trafficking in Nebraska a high-risk, low-profit proposal.

Thank you again for your focus on human trafficking and the chance to testify here today on what we are doing to address it in our State. I am happy to take any questions you might have for me.

PREPARED STATEMENT OF JULIE SLAMA

STATE SENATOR, STATE OF NEBRASKA

SEPTEMBER 3, 2019

Good afternoon, Mr. Chairman and Members of the National Security and International Trade and Finance Subcommittee. My name is Julie Slama and I am a State Senator, representing District 1 in the Nebraska Legislature. It is an honor to testify on a subject which has become one of my priorities in the Legislature—human trafficking.

Human trafficking is the fastest growing criminal industry globally. Human trafficking was made a Federal crime in 2000, and Nebraska made it illegal on a State level in 2006. In the years that have followed, lawmakers have tried to give law enforcement the tools they need to crack down on this horrendous crime. Human trafficking is modern day slavery.

With regards to today's topic of the intersection of human trafficking with the finance sector, traffickers or buyers utilize the financial services industry to discreetly store money to pay for their victims' transportation from town to town, book hotel rooms for their victims to perform illicit acts, as well as payments to coordinate such acts. Human trafficking is a \$150 billion global industry. Traffickers utilize banks and other financial institutions to make thousands of small transactions and to break up their larger transactions into smaller ones over several banks.

Financial institutions can play a significant role in disrupting human trafficking. Some institutions have committed significant energy and resources to detect potential financial indicators of human trafficking. Red flags to an institution include, but are not limited to, a trafficker's lifestyle being inconsistent with stated income, a trafficker using a victim's account, carefully structured deposits to avoid detection, strange deductions on an employee's paystub, or large sums of money transferred to several banks.

Many traffickers make deposits just under the threshold that would trigger an investigation at a bank. At times, deposits are made to accounts for "massage parlors," creating a seemingly legitimate business and creating a cover for reporting purposes.

Financial institutions are on the front lines monitoring transactions and spending patterns. However, some traffickers avoid financial institution altogether and will only make transactions using cryptocurrency or prepaid credit cards. With the shutdown of Backpack.com and MassageRepublic.com, and because VISA and MasterCard refused to process payments from these sites, cryptocurrency has become more prominent for its unfettered use. Prepaid credit cards are also hard to trace, thereby giving a trafficker a way to use funds without being identified.

Still another way that traffickers avoid scrutiny from financial institutions is to force their victims to use their own accounts for transactions. When this happens, the financial institution may notice red flags such as frequent hotel and gas station payments, or there may be a history of unusual domestic travel expenses. In these cases, traffickers avoid putting his or her name on the victim's account, which ensures that any crime being committed is bared fully by the victim, and that the victim is left to pay off the debts of their trafficker. Handling funds generated from human trafficking is considered money laundering. If money laundering is suspected through not only the victim's account, but regular business accounts, a financial institution may attempt to go after a trafficker via the money-laundering ring. This is a very effective method of obtaining justice for the victim.

Nebraska has taken many steps to combat human trafficking over the last several years. Beginning in 2006 when Nebraska made human trafficking a crime, there have been several updates to our State statutes. Not only has the Nebraska Attorney General created the Human Trafficking Task Force (2015), but Nebraska has increased penalties for traffickers and buyers, including making prison sentences longer. Victims of human trafficking are allowed to sue their traffickers, and trafficked children and adults are provided immunity from prosecution. Victims of sex trafficking can clear their records of prostitution charges and other offenses that are a direct result of them being trafficked. Just this year, with LB 519, the Nebraska Legislature updated its statutes to provide wiretapping powers to law enforcement agencies, extend the statute of limitations for trafficking, and ensure that all children who are victims have the same access to resources for recovery, regardless of the person who trafficked them.

On the Federal level, the Trafficking Victims Protection Act of 2000 was passed in the first positive steps taken to trafficking on the Federal level. This Act has been updated four times, most recently in 2013, to include:

- Establishing a Federal, civil right of action for trafficked victims to sue traffickers
- Adding human trafficking to the list of charges under Racketeering Influenced and Corrupt Organizations Act (RICO)
- Establishing grant programs to State and local law enforcement to combat trafficking
- Expanding efforts to combat trafficking internationally
- Enhancing criminal sanctions against traffickers, and expanded definitions of various types of trafficking
- Establishing and strengthening programs to ensure that U.S. citizens do not purchase products made by victims of human trafficking.

The Federal Government also established the National Defense Authorization Act of 2013 which seeks to limit human trafficking associated with Government contractors. Under this Act, Government agencies have the ability to terminate, without penalty, any contract or grant with any organization that engages in human trafficking. It also establishes methods of reporting and investigating possible instances of human trafficking associated with any Government contract or grant program.

Human trafficking is a growing industry, and make no mistake about it—this form of slavery is not just limited to urban areas. It reaches across our country, even to rural Nebraska. We all have a duty to fight back against this horrible crime, and our financial institutions can take the lead in spotting signs of trafficking.

I thank you for your time today and for your attention to this subject. I'm happy to answer any questions you may have.

PREPARED STATEMENT OF CRYSTA PRICE

DIRECTOR OF THE HUMAN TRAFFICKING INSTITUTE, CREIGHTON UNIVERSITY

SEPTEMBER 3, 2019

Challenges and Opportunities in the Identification of Trafficking

My name is Crysta Price. I am the Founder and CEO of HTI Labs, a research center in the heartland, which has its roots in the Human Trafficking Initiative at Creighton University. I have been studying and working on the issue of trafficking for 7 years, and I have learned that sex trafficking is complex.

The nature of the crime makes it difficult to identify and prosecute. Traffickers, of course, have an incentive to hide their criminal activities. Additionally, many trafficking victims have difficulty coming forward—because they fear prosecution for prostitution (a fear traffickers encourage), because their traffickers often are intimate partners, leading to the complex victim–offender relationships that many domestic violence victims experience, or because of the trauma they have experienced. The hidden nature of the crime is the reason why trafficking estimates are often inconsistent or inaccurate. As an academic community, we do not know the scope of the problem. Furthermore, most conclusions about trafficking are based on a small portion of survivors who have been able to come forward.

We recently hosted the first-ever international conference specifically for human trafficking research. This gathering brought together the best scholars working on this issue from over 19 countries and technology companies working to leverage online commercial sex content for law enforcement. The running theme was that there is a dearth of intellectual rigor and scientific approaches in antitrafficking efforts. You cannot combat something that you do not understand, and you cannot understand something without analyzing it or seeing it. In short, it all comes down to a lack of reliable data, which is caused by the difficulty of identifying trafficking. Well-developed data infrastructure is required to overcome this challenge.

In partnership with frontline agencies across the community, this is exactly what we work toward: developing the infrastructure for ongoing data collection that brings together data from across contexts to identify victims and hold perpetrators accountable. We work to:

- Integrate agency systems to link existing data on known cases to reliably track incidents through the criminal justice system. Currently this data includes domestic violence incidents, but as enforcement actions against trafficking become more common, we will work to include those as well. This data is critical for understanding overlaps between domestic violence and human trafficking and for assessing risk so that we can intervene appropriately to prevent revictimization.

- Create data that does not yet exist to help identify the hidden victim population. This involves leveraging new sources, such as scraping online content to create leads for law enforcement.
- Develop better community-wide processes for more effective victim identification, response, investigation, and support in order to increase the likelihood that survivors come forward and that we recognize a situation as trafficking when we have the chance to do so. For example, we have developed legislation that allows survivors to clear their record for crimes they were forced by their trafficker to commit. We have also built software with screening tools, automatic reporting, and service resources for survivors.

These efforts are united by the understanding that it is nearly impossible to identify trafficking from one source alone. It necessarily requires community partnerships, where financial institutions (FIs) play a key role.

Existing Efforts To Identify Human Trafficking in the Financial Sector

Financial institutions have undertaken praiseworthy efforts to develop indicators and red flags to identify trafficking and to share these indicators throughout the industry. Here I provide a brief overview of some of these actions.

- In 2010, JPMorgan's Financial Intelligence Unit began partnering with the Department of Homeland Security to "create typologies that could identify financial transactions and certain account attributes that were worth investigating."¹ Essentially, they classified certain geographic locations and types of businesses as higher risk for trafficking based on publicly sourced information. When coupled with certain types of transactions—credit card charges at certain hours of the night, for example—this would trigger a suspicious activity report (SAR) being sent to the U.S. Financial Crimes Enforcement Network (FinCEN).
- The Thomson Reuters Foundation established a Banks Alliance in 2013 in partnership with the Manhattan District Attorney, Cyrus R. Vance, Jr. The following year, they published a set of red-flag indicators that provided the basis for a subsequent FinCEN advisory to financial institutions.² This advisory includes examples of red flags worth investigating, such as a business account without normal payroll expenditures (e.g., wages or payroll tax).³
- In 2017, FinCEN announced the addition of human trafficking as a suspicious activity type in the SAR system.⁴ Previously, human trafficking had to be reported by using the "other" box, making it difficult to track trends in reporting. According to publicly available SAR statistics, the earliest trafficking-related SAR was filed in July 2018.⁵ Between July and December, there were 177 human trafficking-related SARs nationwide and two here in Nebraska. This year, 2,119 human trafficking-related SARs have already been filed nationwide as of August 22. Fourteen of these originated in Nebraska.⁶
- Building on the original Banks Alliance, in 2017 Thomson Reuters Foundation created a series of regional multistakeholder working groups that support financial institutions to fight human trafficking using their data. Each regional Banks Alliance working group is dedicated to mapping the financial footprint of human trafficking in the banking system and developing red-flag indicators of suspicious activity, tailored to the region.⁷

¹Bain, C. Metallidis, E. Shelley, L. (2014, December). "Hedging Risk by Combating Human Trafficking: Insights From the Private Sector". Cologny-Geneva, Switzerland: World Economic Forum. Retrieved from <http://www3.weforum.org/docs/WEF-Human-Trafficking-Report-2015.pdf>.

²Thomson Reuters Foundation. (2018, July 19). "Thomson Reuters Foundation Launches Resource To Help Financial Institutions Tackle Human Trafficking" [Press release]. Retrieved from <https://www.trust.org/i/?id=928ac731-8e74-40db-985a-5e5a4464a86b>.

³Financial Crimes Enforcement Network (2014, September 11). "Guidance on Recognizing Activity That May Be Associated With Human Smuggling and Human Trafficking—Financial Red Flags" (Report No. FIN-2014-A008). Washington, DC: U.S. Department of the Treasury. Retrieved from http://www.fincen.gov/statutes_regs/guidance/pdf/FIN2014-A008.pdf.

⁴Bethencourt, D. (2017, March 20). "FinCEN Proposal Draws Attention to Human Traffickers". Retrieved from <http://files.acams.org/pdfs/2017/FinCEN-Proposal-Draws-Attention-to-Human-Traffickers.pdf?ga=2.20548472.1123867303.1567092469-735568195.1567001600>.

⁵Financial Crimes Enforcement Network. (n.d.). "Suspicious Activity Report Statistics" (SAR stats). Retrieved from <https://www.fincen.gov/reports/sarstats>.

⁶Ibid.

⁷Thomson Reuters Foundation. (2018, July 19). "Thomson Reuters Foundation Launches Resource To Help Financial Institutions Tackle Human Trafficking" [Press release]. Retrieved from <https://www.trust.org/i/?id=928ac731-8e74-40db-985a-5e5a4464a86b>.

There is some evidence that the red-flag approaches which have dominated the financial industry's response to trafficking are matching some on-the-ground experiences. For example, Polaris surveyed 99 trafficking survivors who had interacted with the financial system during their victimization and asked them whether they believed FinCEN's indicators of human trafficking occurred during their victimization.⁸ A substantial number of victims felt their traffickers acted in a way that corresponded with a red flag. Fifty-seven percent of respondents felt their traffickers tried to conceal income or its sources. Forty-five percent of respondents felt their traffickers' lifestyles were inconsistent with their stated incomes. And 28 percent of victims reported being escorted to the bank.⁹ In addition, the growth of human trafficking-related SARs reports indicates that financial institutions are observing red flags in their data. However, while the red flag approach may reveal a subset of instances of trafficking, it likely misses many others. Finding these missed instances requires shifting from static red flags to active, ongoing information sharing between financial institutions, data scientists and social scientists who can uncover trafficking, and law enforcement officials who can investigate it.

Limitations to the Red Flag Approach With Financial Data Alone

It is exceptionally difficult to identify trafficking from financial data and general trafficking indicators for at least three reasons. First, traffickers' financial behaviors may be very similar to those laundering other illicit gains. For example, in the previously mentioned Polaris study, 57 percent of the survivor sample felt their traffickers tried to conceal income. This raises the question of how many people who have tried to conceal income are not traffickers.

Second, the crime of trafficking is defined by elements of force, fraud, or coercion which can be difficult to determine from financial data alone. Even if a financial institution identifies transactions associated with commercial sex, that does not necessarily indicate the person selling sex meets the legal definition of a sex trafficking victim. The information necessary to establish trafficking comes from thorough investigations that involve nonfinancial sources.

Third, the commercial sex market in general and specific trafficking organizations in particular have shown themselves to be extremely adaptable in the face of attempts to limit their activity by the financial sector. A few examples illustrate this point.

The first example comes from an investigation we assisted in involving a nationwide trafficking network. I discuss this investigation in more detail later, but one element of it speaks to the adaptability of traffickers. This particular organization had bank accounts flagged as suspicious and shut down by financial institutions. The traffickers continued their operations and simply shifted to using Western Union transfers rather than traditional bank accounts.

The second example comes from the history of the broader commercial sex industry. The now-shuttered website Backpage.com, which was similar in appearance to Craigslist, once accounted for 80 percent of all online commercial sex advertising.¹⁰ While the website was meant to only advertise adult escorts, Backpage itself turned in over 400 potential minors every month, and 71 percent of the child sex trafficking reports received by National Center for Missing and Exploited Children (NCMEC) involved ads posted on the site.^{11 12} Some financial institutions, such as PayPal and First National Bank, therefore attempted to flag transactions to Backpage as a highly relevant risk indicator. In 2015, MasterCard and Visa ceased processing credit card transactions for the website. Backpage responded in two ways. First, it opened up a period of free advertising, which caused online advertising for commercial sex to skyrocket.¹³ More importantly, Backpage assisted customers in transitioning to

⁸ Anthony, B. (2018, July). "On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries To Prevent and Disrupt Human Trafficking". Washington, DC: Polaris Project. Retrieved from <https://polarisproject.org/sites/default/files/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Financial-Industry.pdf>.

⁹ Ibid, 23.

¹⁰ AIMGroup. (2013, July 10). "Online Prostitution-Ad Revenue Crosses Craigslist Benchmark" [Press release]. Retrieved from <https://aimgroup.com/2013/07/10/online-prostitution-ad-revenue-crosses-craigslist-benchmark/>.

¹¹ McPherson, J. (2011, September 16). "Backpage.com's Ongoing Failure To Effectively Limit Prostitution and Sexual Trafficking Activity on Its Website" [Open letter]. Retrieved from <https://atg.sd.gov/docs/Joint-AG-Letter-to-Backpage.com.pdf>.

¹² Shesgreen, D. (2015, November 19). "Senators Threaten Sex Ad Website CEO With Contempt". *USA Today*. Retrieved from <https://www.usatoday.com/story/news/politics/2015/11/19/senators-threaten-sex-ad-website-ceo-contempt/76066726/>.

¹³ HTI Labs' automated daily collection of Backpage ads showed a dramatic spike in the number of ads posted during this period. Evidence indicates that some in the industry took advantage of the free ads to test new markets by posting ads in new locations.

alternative forms of payment. As a result, the industry started using Bitcoin and cash, making the transactions far more difficult to trace. These examples demonstrate that anti-trafficking efforts must be as adaptable as criminal trafficking networks.

Data-Sharing Partnerships To Combat Trafficking

Efforts to detect human trafficking within the financial sector are laudable. They demonstrate the commitment of many within the industry to helping victims and limiting the ability of traffickers to profit off their victimizations. However, the most effective response to trafficking requires networked data across multiple sources coming together to predict whether trafficking is taking place, and then receiving an actual answer so that algorithms can be updated. Algorithms require feedback to improve, and the unfortunate reality is that while financial institutions may attempt to detect and report trafficking via a SAR, it is exceedingly unlikely that they will ever know if the situation actually constituted trafficking. To build even more effective efforts, we must encourage ongoing and sustainable data sharing between antitrafficking actors from many sectors (including the financial sector, law enforcement, and research centers). This will allow for thorough investigations that stop trafficking as opposed to merely displacing it, identify victims and connect them with needed resources, and effectively respond to adaptations by traffickers.

Financial data must be linked directly to ongoing and actionable data reflecting the risky industries that trafficking takes place within. However, generating data on these broader industries is quite complex—it involves web scraping and artificial intelligence, neither of which is a small investment. Partnerships between financial institutions and entities already doing this work such as Memex, Thorn, or HTI Labs are therefore the most feasible way to connect financial and commercial sex industry data.

At HTI Labs we have engaged in serious conversations with local financial institutions about accessing our data to use as an additional red flag. Issues for consideration have included:

- *Volume:* How many accounts would our data link to? Would the financial institution have the internal capacity to investigate such a rapid increase in accounts being flagged? Would law enforcement have the capacity to investigate such a rapid increase in SARs?
- *Effect:* Would the increase in investigations actually lead to an increase in prosecutable cases? Put another way, would this data sharing create good leads for human trafficking? Would it help distinguish voluntary commercial sex activity from trafficking?
- *FI Response:* Would the financial institution respond by closing the accounts, and if so on what timeline? If law enforcement quickly determines that a certain account is connected with a prosecutable trafficking case, then they will often ask the financial institution to keep the account open throughout the course of the investigation. However, if law enforcement needs more time to determine whether trafficking is occurring, from an investigatory standpoint it could be ideal for accounts to remain open. If the volume of such accounts is high, this would constitute a major shift in the way that FIs usually handle SARs.

Given the uncertainty, we recently decided to do a controlled experiment with Homeland Security Investigations (HSI) and PayPal. We provided high-risk leads to our HSI partners, who then passed the information to PayPal to determine the degree to which our data could be linked to their financial data to identify individuals in the network. While this pilot project is still ongoing, many of the leads were able to be linked to PayPal accounts. This pilot test illustrates the promise of greater cooperation and information sharing between law enforcement, financial institutions, and research centers.

Collaborative Strategies To Identify Human Trafficking

Information sharing across Government and other sectors is not a new challenge. Overcoming this challenge requires partnerships, sustained focus, and the resources to build the infrastructure that makes it possible. Over the past few years, our community has been piloting a vision here in the heartland showcasing exactly how it can work. As a community, we have leveraged research and technology in partnership with law enforcement, nonprofits, and financial institutions to identify and respond to trafficking in a smarter, more sustainable way.

We take a two-pronged approach to understanding trafficking. On one hand, we conduct basic research to map as much as possible of the larger commercial sex market. On the other hand, we work with law enforcement and service providers

to identify specific instances of trafficking within that industry. This allows us to estimate and study the portion of commercial sex that involves trafficking. The more feedback we get from our community partners, the better the estimates and the research become.

We identify traffickers by first identifying sex providers who might be trafficked and then investigating their potential traffickers. We do it this way because traffickers are far less visible than sex providers—sex providers need to advertise or communicate with buyers in some way and therefore cannot be completely underground. We use web crawling to automatically detect and scrape this communication at scale and then we use data science to generate accurate reflections of individual sex providers and their networks in the industry.

To assess the likelihood that a given sex provider might be trafficked, we engineer information that helps us predict their market segment, because trafficking works differently in different segments of the market. For example, in the escort service segment, recruitment tends to involve fraudulent job offers or feigned romantic interest, and most victims are U.S. citizen women and girls. On the other hand, in illicit massage parlor networks, most victims are women in their thirties to fifties from East Asian countries who are either recruited by larger operators in their home country or who are immigrants with limited English looking for work in the U.S.¹⁴ We also look for signs of exploitation, whether through age, nationality, or having a facilitator or manager. This is another reason we need more than red flags; indicators of risk differ depending on traffickers' business models. Put another way, there are almost no shared risk factors across all of these sex trafficking cases that could serve as a useful filter. Based on this incomplete online information, we predict trafficking risk and push the high-risk leads to our law enforcement partners via an online platform that we developed.

Next, we facilitate turning those leads into investigations and ultimately prosecutions. Investigations center on the questions of “who is this sex provider in real life” and “who is the common person between the providers in the network?” Most importantly, we ask, “is this situation trafficking?” To answer these questions, our community seeks to avoid the classic tactic of engaging in sting operations, because these operations place a burden on victims to instantly trust law enforcement more than they fear their traffickers. When victims do not immediately disclose their status, sting operations can result in victims being arrested for crimes they were forced to commit. Instead, we conduct long-term data-driven investigations, shifting the focus away from relying so heavily on victims.

Thorough investigations involving offline sources of data are critical to understanding when a situation is more likely to be trafficking than voluntary commercial sex activity. For example, classic “push” factors to trafficking include a history of childhood sexual abuse, domestic violence, or system involvement. The utility of this information has informed our strategy in working with our law enforcement and service providers to make use of this existing information and leverage it at scale to dramatically improve the accuracy of our trafficking algorithm, creating better leads.

This whole process is characterized by information exchange throughout the investigation. Afterward, we debrief with partners in law enforcement and among service providers to make sure we learn as much as possible to improve not only our algorithms, but also our overall response. The examples detailed below demonstrate the importance of integrating our data with data from other sources.

Case Study #1: Dismantling an International Asian Network and Using Financial Data

The utility of financial data is highlighted by our largest case to date, which involved the unmasking of an international Asian commercial sex network.

We provided an initial lead to HSI of a large-scale network trafficking young Asian women across the country, which included a heavy presence in Omaha. Many of these women did not speak English and were required to see more than 10 sex buyers in a single day.

The lead resulted in the dismantling of the two largest domestic and international sex trafficking organizations identified in the U.S. to date. These investigations resulted in numerous arrests of organizational leaders and the seizure of over three million dollars of illicit funds. Most importantly, many victims have been offered services to rebuild their lives.

¹⁴Polaris. (2017, March). “The Typology of Modern Slavery: Defining Sex and Labor Trafficking in the United States”. Washington, DC: Polaris. Retrieved from <https://polarisproject.org/sites/default/files/Polaris-Typology-of-Modern-Slavery.pdf>.

Working off of the lead we provided, law enforcement was able to find a receipt for a bank transaction, which led to the identification of an email address. Sharing this email address with our research center allowed us to identify additional ads that belonged to the network. These additional ads revealed just how widespread the network was as well as potential suspects. HSI used this information to determine which ads to subpoena, and in turn the subpoenaed Backpage data allowed us to understand the organizational structure of the network.

In this network, women were advertised in nearly every State across the country, but the ads were all posted from only three locations. This fact revealed that the network was operating out of call centers that dispatched the victims. When HSI compared our data with account data from financial institutions, they were able to map movement and further uncover the ring leaders. In so doing, they discovered that one of the dispatch center locations belonged to the potential suspect, who regularly received deposits from 30 different financial accounts.

Further investigative work by HSI revealed that sex buyers generally paid cash directly to sex providers, who then paid the dispatcher a certain percentage. As previously mentioned, this network switched from using wire transfers directly into bank accounts to using Western Union. The sex providers also used WeChat to send money to family in China via a bank account to bank account transaction. Beyond proof of concept for the collaborative model, this work greatly advanced our collective understanding of the sex trafficking industry.

Case Study #2: The Need for More Information To Investigate a Russian Organization

While financial data has not always found its way into our efforts, it would have been useful in several cases. In one such case, we brought to law enforcement's attention a lead on a Russian sex provider that we believed to be trafficked. On the same day we provided the lead, law enforcement recovered the sex provider and determined that she had been trafficked by an international organization based in Russia.

The organization sent women to the U.S. on visitor visas. For the 90 days covered by the visas, they dispatched the women from city to city, to include Omaha, on preplanned "dates." The organization falsely promised the women autonomy and the ability to keep all of their earnings. In reality, the organization took nearly all of their earnings and forced them to do far more than they agreed to. While the traffickers worked hard to ensure that the women did not have contact with one another, the young woman identified in our lead stated that the organization had threatened that the victims' families would be informed about their engagement in commercial sex if they did not show up for a "date."

This is a case that likely would have benefited from further investigation that incorporated financial data. Without financial data or a cooperative witness, local law enforcement was unable to identify the individual perpetrators and move forward with the case.

Case Study #3: Connecting the Dots To Identify a Legally Low-Functioning Victim

Apart from financial data, the integration of data from several sources has almost always proven important. The identification and recovery of a legally low-functioning victim of trafficking highlight the value of bringing together Government data from several different sources with open-source data.

In this case, we noticed one woman who was frequently identified in "two-girl" ads with a second woman. Pursuing the possibility that either of them might be trafficking victims, we found that sex buyers had reviewed the primary victim as "slow," "sleepy," or "shy."

In response to our lead, law enforcement set up an operation to provide outreach, where they responded to the first woman's online advertisement and set up a "date" with her. While waiting for her to show up, we worked with law enforcement to investigate the lead more deeply. We discovered that 6 months earlier, an Adult Protective Services investigation determined that she was very low functioning and that she lived with a man, her trafficker, who sold her for sex and from whom she stated she was unable to escape.

Other law enforcement records indicated the man was a repeat perpetrator of domestic violence against both of the women advertised in the two-girl ads in our database. A report on the second woman in the two-girl special revealed that she had been in the process of disclosing that she was being trafficked during a visit to the ER when the trafficker appeared. The victim instantly shut down and the two of them left.

Because of this contextual information, when the first woman showed up to the law enforcement operation with a script from her trafficker telling her what to say and do for her “date,” she was immediately connected to services.

Case Study #4: The Role of Community Partnerships in Combating a Large-Scale Trafficking Network Operating out of Omaha

The most long-term investigation we have been involved with to date is one that could not have occurred without trusting relationships with local service providers.

We uncovered a large-scale trafficking network in the heart of Omaha. After developing an initial lead for law enforcement, a local service provider reached out to ask if I would be willing to sit down with a trafficking victim who wanted to see if there was anything I could do to leverage her information and turn it into a lead for law enforcement to investigate. It turned out that the survivor was one of the key victims in this large-scale network we had already uncovered. She was sold from trafficker to trafficker and was only able to run from the situation when her trafficker was arrested for domestic violence after nearly beating her to death. Even then, he sent sex buyers to the shelter she was staying at, causing her to move out of the State. Her disclosure helped propel our lead to the forefront of law enforcement’s attention.

After more than 2 years of providing investigative support on this case, it is still ongoing and involves over 40 victims and four traffickers. Many of the victims have been connected to services but are too afraid of their traffickers to cooperate with law enforcement. Unfortunately, the shutdown of Backpage.com around this time made the case more difficult by making it impossible to prove the veracity of digital evidence. Nonetheless, in August, 2019, the first of the traffickers pled guilty. Subsequently, the survivor with whom we originally spoke felt safe enough to return to Omaha.

Incorporating Financial Data for Stronger Identification of Trafficking

Our goal is to continue this work at scale in a way that mimics the back-and-forth investigative process. Integrating Government and financial data with our open-source data would result in more effective algorithms. In fact, even modest information sharing would result in improved trafficking predictions, because it could help incorporate precisely the types of contextual information that are critical to distinguishing trafficking from other related situations.

For example, imagine that four women are regularly sending Jane Doe large chunks of money. There are countless explanations for this pattern in isolation. But criminal justice data could reveal that Jane has a long history of prostitution charges and has been a victim of several domestic violence attacks by her boyfriend. Open-source data could further show that Jane’s boyfriend’s phone number is being used to advertise five women in commercial sex ads online. With insights from these different data sources, it becomes clear that we have probably just identified a trafficker and five potential victims. We also know that Jane is likely the trafficker’s “bottom,” an industry term referring to a victim forced into being a trafficker’s deputy, tasked with keeping the other four women “in line.”

This full scenario would be nearly impossible for a bank or law enforcement to identify on their own. While open-source data and algorithms could identify the network as a lead, they would struggle to identify the trafficker. Unfortunately, without identifying the trafficker, the victim acting as the bottom appears to be the perpetrator in the situation. In this example, data integration allows the identification of the trafficker and makes the difference between an actionable investigation and a dead-end lead. Actionable investigations in turn help hold offenders accountable and allow us to build stronger future trafficking predictions.

Many stakeholders have identified the need for better data sharing to facilitate the identification of trafficking but have also pointed out the significant hurdles to its full implementation.¹⁵ In our experience, long-term, trusting relationships among different institutional actors help overcome these hurdles. The goodwill that exists across the political spectrum to do something about trafficking makes such relationships possible.

Recommendations

I am pleased that the Subcommittee has called this hearing and drawn attention to the crucial issues related to human trafficking and its intersection with the finan-

¹⁵Anthony, B. (2018, July). “On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries To Prevent and Disrupt Human Trafficking”. Washington, DC: Polaris Project. Retrieved from <https://polarisproject.org/sites/default/files/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Financial-Industry.pdf>.

cial sector. Government actions could play a critical role in strengthening the work that is already happening.

Support for public-private investigative partnerships: There are several ways the Government can support the public-private partnerships that can meaningfully combat trafficking.

Government efforts can assist entities to overcome hurdles to data sharing. A challenge that our partners at HSI face is that there is no information-sharing mechanism for investigating trafficking, in contrast to drugs and other crimes. This could be addressed by creating a national center similar to the National Center for Missing and Exploited Children (NCMEC) that can integrate open-source, law enforcement and financial data. More modestly, the Government could provide guidelines for how to structure public-private partnerships and disseminate examples of the data-sharing agreements and memoranda of understanding that underlie them.¹⁶

Even if entities understand how they could establish long-term partnerships, actually doing so requires significant effort. Providing funds for law enforcement to pursue long-term partnerships with researchers and financial institutions can help incentivize and sustain the necessary shift.

Facilitating access to electronic records: Outside of the particular realm of the financial system, the Government can help facilitate the detection and prosecution of trafficking by (1) easing access to past Backpage records and (2) working with other Governments to make it easier to access the data of foreign companies that host advertisements for commercial sex.

- *Accessing Backpage Data in a Post-Backpage Environment:* One particular challenge arises from the shutdown of Backpage.com. Two examples from HTI Labs' work highlight the resulting obstacles. First, a multiyear investigation into a large trafficking network resulted in the main perpetrator being charged with Mann Act violations rather than human trafficking because a key piece of evidence proving that he advertised an underage individual was contained in a Backpage ad. Backpage's servers, and all of the data on them, are in the custody of the FBI, which is not responding to many subpoena requests from law enforcement. A streamlined process for accessing the Backpage data could facilitate prosecutions. Outside of the obvious need for prosecuting cases, this database holds the potential for a wealth of actionable information. For example, by analyzing the subpoenaed Backpage data in our collaboration with HSI on the Asian network, we uncovered the organizational structure of the network. The full Backpage database should be available in raw form to law enforcement and their Memorandum of Understanding (MOU) partners.
- *Accessing Current Commercial Sex Data in a Post-Backpage Environment:* In response to FOSTA/SESTA legislation and the closing of Backpage, many websites currently hosting ads for commercial sex now operate in foreign jurisdictions, increasing the hurdles for law enforcement in obtaining their data. For example, two websites that gained popularity after Backpage's shutdown—List Crawler and Skip the Games—both operate from the Netherlands. The Federal Government could help ameliorate this problem by establishing agreements with relevant Governments for processes to access these data more expeditiously.

PREPARED STATEMENT OF DAVID MURRAY

VICE PRESIDENT FOR PRODUCT DEVELOPMENT AND SERVICES, FINANCIAL INTEGRITY NETWORK

SEPTEMBER 3, 2019

Thank you, Chairman Sasse and Ranking Member Warner, for convening this hearing to discuss human trafficking and its intersection with the financial system. And thank you for the invitation to testify. It is an honor to be before this Subcommittee. Human trafficking is the most heinous form of transnational criminal activity, and we are fortunate for your attention to this threat.

¹⁶For an analogous example in the domain of education research, see Shaw, S.H., Lin, V., and Maxwell, K.L. (2018, June). "Guidelines for Developing Data Sharing Agreements To Use State Administrative Data for Early Care and Education Research" (Report No. 2018-67). Washington, DC: Office of Planning, Research, and Evaluation, "Administration for Children and Families", U.S. Department of Health and Human Services. Retrieved from <https://www.acf.hhs.gov/sites/default/files/opre/guidelines-for-developing-data-sharing-agreements-508-7-16-18-508.pdf>.

Human trafficking is highly profitable, generating \$150.2 billion in annual profits as of 2014, according to the International Labour Organization, a U.N. agency that brings together Governments, employers, and workers in 187 member States.¹ Developed economies are the most profitable for human traffickers, with criminal organizations earning more than \$34,000 annually in profit from each victim in North America.²

Human trafficking interacts extensively with the financial system, in contrast to other types of criminal activity, whose touch points are usually more discrete. Drug trafficking is principally a cash business, and the proceeds of the crime are held as cash well into the money-laundering cycle.³ Fraud typically targets money that is already in the financial system through transactions that are designed to appear legitimate.⁴ Human traffickers may receive money from buyers either in cash or through electronic means, and the transactions that are vital to operating their businesses may be small or large.⁵

As a result, human trafficking has many intersections with the financial system. At lower levels of human trafficking organizations, human traffickers have used cash, retail payment systems, online payment systems, and cryptocurrencies.⁶ At higher levels of human trafficking organizations, human traffickers have exploited anonymous companies to conceal their activities.⁷

Federal, State, and local officials have worked with the financial industry to disrupt human trafficking organizations and push them out of the financial system.⁸ But human trafficking is difficult to combat, because the financial transactions associated with human trafficking dwell in parts of our financial system where transparency may be poor: small payments carried out through retail payment systems, online payment systems, and cryptocurrencies, and large payments carried out through anonymous companies.⁹

I make three recommendations to disrupt human trafficking organizations by increasing financial transparency:

- *Pass legislation that bans anonymous companies.* The Improving Laundering Laws and Increasing Comprehensive Information Tracking of Criminal Activity in Shell Holdings (ILLICIT CASH) Act is one legislative initiative under consideration that would ban anonymous companies.¹⁰
- *Strengthen cryptocurrency regulations by creating a new class of financial institution: virtual asset transaction validators.* For these essential actors in cryptocurrency transactions, such a regulatory regime would emphasize counterparty financial institution due diligence. The lack of systemwide financial crimes compliance (FCC) governance for some existing cryptocurrencies allows criminals space to operate and makes it difficult for the United States to isolate rogue service providers from the U.S. financial system.¹¹
- *Improve transparency of retail and other consumer payments.* Changes in the payments industry are reducing transparency of retail and other consumer payments throughout the value chain, making it difficult for downstream financial institutions to understand their customers' sources of funds and the illicit finance risk that each customer poses to the financial institution.¹²

Human Trafficking's Intersection With the Financial System

Nearly three-quarters of human trafficking victims brought to North America are trafficked for the purpose of sexual exploitation.¹³ The predominant business model for human trafficking therefore requires human trafficking organizations to manage three primary funds flows in the United States: money for logistics such as transportation and lodging, money paid by purchasers of sex to low-level operatives, and money transferred from low-level operatives to the larger organization.¹⁴

Paying for logistics leaves a financial trail. Financial transactions may be most readily associated with human trafficking when they are carried out by victims and low level operatives, according to the Financial Action Task Force (FATF).¹⁵ Victims have been identified when they incurred unusually high lodging, sustenance, or transportation charges.¹⁶ Low-level operatives have been identified by connecting them to the purchase of advertisements for prostitution.¹⁷ The amounts paid for lodging, transportation, and advertisements tend to be small, well under the \$3,000 recordkeeping threshold and the \$5,000 suspicious activity report (SAR) threshold. Traffickers also are now turning to payment tools that allow them to remain anonymous, such as prepaid cards and cryptocurrencies, for purchases of advertisements and websites.¹⁸

Purchasers of sex tend to pay in cash, which means that human trafficking for sexual exploitation generates high volumes of cash, according to the FATF.¹⁹ Purchasers of sex may also use cryptocurrencies to pay for premium memberships on

websites that they use to review services.²⁰ When human trafficking organizations use fronts such as massage parlors, they may accept credit cards.²¹

At higher levels, human trafficking organizations are sophisticated transnational criminal organizations that prey upon vulnerable people.²² As money moves from lower levels of an organization to higher levels of an organization, techniques for moving funds are consistent with those employed by other dangerous transnational criminal organizations. Human traffickers have used money transmitters, shell companies, and unregulated money services businesses to send money upstream.²³ The large profits suggest that human trafficking organizations' funds flows may have a strong signal in the international financial system, but, according to the FATF, they are not readily distinguishable as the proceeds of human trafficking once they move upstream.²⁴

The U.S. Policy Response

Federal, State, and local authorities are working closely with the financial sector to detect human trafficking networks operating in the U.S. financial system.²⁵ Visa and MasterCard have banned customers whose businesses are at high risk for human trafficking from their networks,²⁶ as have leading FinTech firms such as PayPal²⁷ and Stripe.²⁸ Iowa-based MetaBank developed a prepaid card monitoring effort that enables identification of suspicious activity with resulting referrals to law enforcement.²⁹

Regulators have been active in warning financial institutions about illicit finance risks related to human trafficking. In 2014, the Treasury Department's Financial Crimes Enforcement Network (FinCEN) issued guidance to financial institutions that included more than a dozen red flags for human trafficking.³⁰ In 2018, the FATF issued its second report on human trafficking, which also included red flags.³¹

In 2017, FinCEN announced the FinCEN Exchange program.³² The FinCEN Exchange program is a public-private sector partnership in which FinCEN, in close coordination with law enforcement, convenes regular briefings with financial institutions to exchange information on priority illicit finance threats, including human trafficking.³³ In August 2019, FinCEN announced a new division, the Global Investigations Division, focused on "identifying primary foreign money-laundering threats."³⁴ The new division will be dedicated to strategic use of FinCEN's Section 311 authority and to FinCEN's targeted information collection authorities.³⁵

Nonetheless, gaps in our financial transparency regime make investigating human trafficking difficult for both financial institutions and law enforcement. Payments involving human trafficking victims and low-level operatives tend to involve small amounts, well below the \$5,000 SAR threshold,³⁶ challenging financial institutions' anti-money-laundering (AML) programs, which are geared primarily toward detecting larger payments.³⁷ At higher levels of human trafficking organizations, criminal organizations employ sophisticated money-laundering techniques to evade detection, including by exploiting anonymous shell companies to conceal their activities.³⁸ As a result, investigations can be lengthy.

Strengthening Financial Transparency To Combat Human Trafficking

The heinousness of human trafficking demands a swift response that enables financial institutions to prevent financial transactions related to human trafficking or to detect them quickly once they have occurred. We can better protect our financial system by banning anonymous companies, strengthening cryptocurrency regulation, and improving transparency of retail and other consumer payments.

Anonymous Companies

Congress should ban anonymous companies.

The ILLICIT CASH Act that U.S. Senators Tom Cotton, Mark R. Warner, Doug Jones, and Mike Rounds released in June is one of several legislative efforts to eliminate the leading vulnerability in the U.S. financial transparency regime: anonymous companies. Such companies have been a persistent weak spot in our efforts to prevent money laundering and disrupt criminal organizations. They were mentioned in the first-ever National Money Laundering Strategy in 1999³⁹ and highlighted as a major vulnerability in the National Money Laundering Risk Assessment in 2015⁴⁰ and again in the National Money Laundering Risk Assessment in 2018.⁴¹

Anonymous companies may present themselves in one of two forms: Anonymous shell companies or anonymous front companies. Shell companies are legal entities without active business operations or a physical presence.⁴² They often lack employees.⁴³ They have some legitimate business purposes because they can be formed cheaply and have little or no overhead.⁴⁴ But those same characteristics make them very attractive for illicit actors.

Alternatively, anonymous companies may take the form of front companies. Front companies have real, licit business operations that provide cover for illicit activity.⁴⁵ Front companies' licit business operations makes illicit activity even more difficult to detect and investigate.⁴⁶

Regardless of whether they are established as shell companies or front companies, anonymous companies are the ultimate utility player in a money-laundering operation. Their primary role is to conceal criminals' identities. But they can do much more. Anonymous companies can conceal relationships among the parties to a transaction, as in the case of the Russian Laundromat scandal,⁴⁷ to defeat financial institutions' anti-money laundering detection systems. They also can conceal sanctions evasion, as in the case of ZTE⁴⁸ or North Korea.⁴⁹ And they can hide a politically exposed person's interest in a transaction, as seen in the behavior of corrupt officials in Venezuela⁵⁰ and throughout the world.⁵¹

Human trafficking organizations and other transnational criminal organizations have exploited anonymous companies for decades.⁵² In many places in the United States, obtaining a library card requires more documentation than forming a legal entity.⁵³ The ease with which anonymous companies can be formed makes identifying criminals more difficult, lengthening the time that it takes law enforcement to disrupt human trafficking networks if they can disrupt them at all.⁵⁴ In 2016, the FATF took the United States to task for failing to ensure that accurate ownership information is available for legal entities formed in the United States.⁵⁵

Convertible Virtual Currencies

Congress should create a new class of financial institution under the BSA to cover firms involved in convertible virtual currency transactions: virtual asset service providers (VASPs), which are firms involved in convertible virtual currency transactions. VASPs should include cryptocurrency service providers that are already covered by the BSA as well as virtual asset services that currently fall outside the scope of the BSA.

A convertible virtual currency is a "medium of exchange that can operate like currency but does not have all the attributes of 'real' currency."⁵⁶ Bitcoin is a convertible virtual currency. Virtual assets are a class of financial assets that includes convertible virtual currencies.⁵⁷ They have proved vulnerable to criminal exploitation. According to one study, illicit Bitcoin transactions are on a pace to top \$1 billion this year.⁵⁸ Protecting virtual assets from illicit finance will become even more important as virtual assets become more credible challengers to existing consumer payment tools.

Virtual assets are vulnerable to illicit finance because they offer rapid and irrevocable settlement and the potential for anonymity. Importantly, some virtual assets are traded through decentralized networks, with no central oversight body.⁵⁹ In other words, there is no entity performing a governance function and controlling admission to the payment system. In practice, the lack of a central oversight body means that anyone can create a VASP and begin facilitating transactions. As this Committee considers how best to regulate VASPs, it should ensure that when U.S. authorities identify a rogue VASP, they can effectively prevent that VASP from exposing the U.S. financial system to illicit finance risk, because the trend toward decentralized and autonomous systems threatens our ability to control access to the U.S. financial system.

Effectively safeguarding virtual assets requires a regime that acknowledges that VASPs are not a unitary class of financial institutions and instead recognizes that VASPs play different roles in facilitating virtual asset transactions. Some VASPs are currently regulated as money transmitters under the BSA. Others are not regulated at all. Even for those VASPs currently regulated as money transmitters, the regulations are insufficient to protect virtual assets from exploitation. VASPs should be regulated based on the particular service or services that they provide, with an emphasis on promoting systemwide governance to prevent bad actors from establishing VASPs and connections to the international financial system.

- *Virtual Asset Exchangers:* Virtual asset exchangers dealing in convertible virtual currencies are currently regulated as money services businesses (MSBs) under the BSA. Virtual asset exchangers exchange fiat currencies for virtual assets and are the gateways for people and businesses who seek to transact in virtual assets. Virtual asset exchangers are required to keep records, maintain effective AML programs, and file SARs. They also should be required to establish risk-based customer identification programs and to conduct customer due diligence (CDD), because the transaction-based customer identification requirements currently in place under the existing MSB regime are insufficient to mitigate risk for account-based products and services.

- *Virtual Asset Issuers:* The initial issuance of virtual assets, including the initial offering of a virtual coin, is money transmission under the BSA when an asset issuer sells a convertible virtual currency.⁶⁰ Virtual asset issuers should be subject to the same requirements as virtual asset exchangers, with a special emphasis on conducting enhanced due diligence on virtual asset buyers that are financial institutions, because virtual asset issuers are well positioned to play a strong governance role when creating new virtual assets.
- *Virtual Asset Custody Services:* Virtual asset custody services hold funds on behalf of customers and are currently MSBs under the BSA.⁶¹ Virtual asset custody services are required to keep records, maintain effective AML programs, and file SARs. They also should be required to establish risk-based customer identification programs and to conduct CDD, because the transaction-based customer identification requirements currently in place under the existing MSB regime are insufficient to mitigate risk for account-based products and services.
- *Virtual Asset Transaction Validators:* Individuals and entities that validate virtual asset transactions are as critical to the success of virtual assets as credit card system operators are to credit cards because without transaction validation, the custody of a virtual asset cannot be assigned from one person to another. Virtual asset transaction validation—known alternatively as mining⁶²—is not currently regulated under the BSA,⁶³ but virtual asset transaction validators could be gatekeepers for virtual asset systems if they are brought into the scope of the BSA. At minimum, virtual asset transaction validators should be required to govern participation in their validation systems, with well-designed programs for vetting the issuers, exchangers, and custodians that they serve.
- *Noncustodial Virtual Asset Wallets:* Noncustodial virtual asset wallets allow virtual asset users to store their assets on a personal device rather than in a financial institution. Personal ownership and use of noncustodial wallets are not currently regulated under the BSA.⁶⁴ Strong consideration should be given to prohibiting virtual asset transaction validators from allowing noncustodial wallets to transact through their systems. Noncustodial wallets also should be subject to border declaration requirements, just as cash and other bearer instruments are. However, even with those safeguards in place, noncustodial virtual asset wallets would remain very attractive to people engaged in illicit activity.

Imposing regulations on people and entities who perform these functions almost certainly would make it difficult for some existing implementations of blockchain-based payments to continue operating as they do today. But it is not the purpose of the BSA or the global financial transparency regime to enable or accommodate all manner of financial products and services, regardless of the threat that they pose to financial transparency. Indeed, some financial products services have been deemed so risky that they have been banned.

- *Bearer Shares:* All 50 States prohibit the issuance of bearer shares,⁶⁵ and the ILLICIT CASH Act would ban bearer shares at the national level.⁶⁶ The FATF has recommended that countries ban bearer shares and convert any outstanding bearer shares into registered shares or immobilize them.⁶⁷
- *Shell Banks:* The FATF recommends that regulators not license shell banks, and U.S. financial institutions are prohibited from entering into correspondent banking relationships with shell banks.⁶⁸
- *Anonymous Accounts:* The FATF recommends that financial institutions should be prohibited from keeping “anonymous accounts or accounts in obviously fictitious names,”⁶⁹ and U.S. financial institutions that are covered by a customer identification program rule are prohibited from offering anonymous accounts.⁷⁰

New York County District Attorney Cyrus Vance last year told the House Committee on Financial Services that some VASPs “appear to cater to traffickers who are trying to post advertisements.”⁷¹ Because of their potential for anonymity, virtual assets pose challenges for investigators. Even when a virtual asset has a public ledger that allows for transactions to be traced, connecting a transaction to an individual is difficult, unless that individual has been identified by a financial institution or has associated himself or herself with a wallet address through other means. Transaction data alone is of limited value, which is why anonymous accounts have been banned elsewhere in the financial system.

Consumer Payment Systems

Money transmission regulations should be revised to require that money transmitters that maintain accounts for their customers implement risk-based customer

identification and CDD programs, and exclusions to the definition of money transmission should be narrowed.

The payments landscape has changed considerably during the past two decades, starting with the founding of PayPal in December 1998.⁷² As Bank of England Governor Mark Carney recently said, “Retail transactions are taking place increasingly online rather than on the high street, and through electronic payments over cash. And the relatively high costs of domestic and cross border electronic payments are encouraging innovation, with new entrants applying new technologies to offer lower cost, more convenient retail payment services.”⁷³

As payments evolve, the BSA must evolve with them. The BSA regulations for money transmitters are insufficient to address the risk resulting from the evolution of consumer payments, because they do not adequately cover customer identification for account holders and because exclusions to the definition of money transmission under the BSA leave our payment systems exposed to illicit activity.

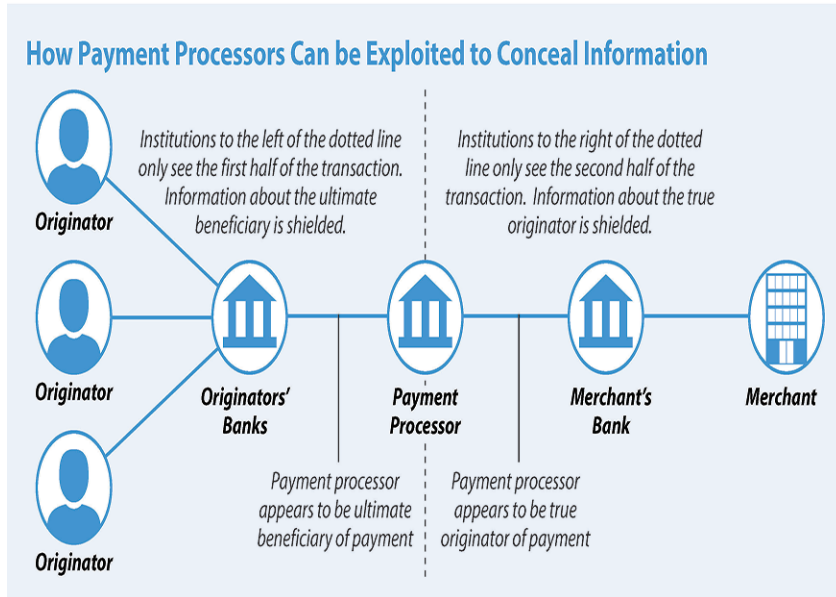
The first deficiency in our money transmission regulations arises from customer identification and CDD requirements. The money transmission regulations that cover an increasing number of consumer payments are geared toward financial institutions that serve occasional customers. This is most clear in the lack of customer identification and CDD rules governing account relationships with MSBs, even though many MSBs maintain accounts for their customers, especially in the online consumer payments and virtual assets segments. Instead, MSBs are only required to identify customers who carry out transactions worth \$3,000 or more.⁷⁴ In contrast, banks must perform customer identification and CDD at account opening.⁷⁵ The opportunity for regulatory arbitrage is clear. Although many MSBs have implemented risk-based customer identification and CDD programs with thresholds below \$3,000 that mirror those of banks, the lack of a legal requirement leaves bad actors space to operate.

The second deficiency in our money transmission regulations arises from exclusions from the definition of money transmission. In 2011, FinCEN issued a rule that added facts and circumstances limitations to the definition of money transmission.⁷⁶ One such limit on this definition is particularly noteworthy: Firms that act as a payment processor to facilitate payments through a clearance and settlement system by written agreement with the seller are excluded from the definition of money transmission and thus are not subject to the BSA.⁷⁷ FinCEN refers to this exclusion as “the payment processor exemption.”⁷⁸

The 2011 rulemaking codified administrative rulings that FinCEN had issued since the early 2000s.⁷⁹ The payment processor exemption was initially intended to apply to payments that posed little illicit finance risk,⁸⁰ such as utility payments,⁸¹ so the exemption made sense when FinCEN developed it.

But the effect of the payment processor exemption has outgrown its original rationale. The payment processor exemption is now being relied upon by FinTech firms with more diverse and higher risk business models.⁸² Moreover, the types of payments handled by payment processors have more explanatory power than was believed when the exemption was created, judging from the red flags published by FinCEN and the FATF. But the payment processor exemption allows payment processors to act as unregulated financial cutouts between buyers and sellers,⁸³ impairing visibility into merchant behavior and risk.⁸⁴

In practice, this means that when a bank’s merchant customer receives money through a payment processor that aggregates incoming payments and sweeps those funds into the merchant customer’s account on a periodic basis, the merchant’s bank has reduced visibility into that merchant’s source of funds. The merchant’s bank only sees large transactions coming from the payment processor to the merchant’s account at the bank. In other words, the end-to-end payment chain, which includes the originator, intermediaries and ultimate beneficiary of the payment, is not seen by a single party with a transaction monitoring obligation, and the financial institution at the end of the payment chain may not be able to determine the source of funds for sanctions screening purposes.



The merchant's bank does not know whether its merchant customer is receiving funds from U.S. or foreign buyers, it does not know its customer's average retail transaction amount, and it does not know its customer's rate of returned or reversed transactions. These are key factors that banks use to risk rate their customers and to determine whether to file a SAR.

When payment chains become longer and banks lose visibility, they are not as well positioned to manage risk or assist law enforcement efforts to disrupt criminal activity. And as payment chains become longer, the payment processor, which may be excluded from the definition of money transmitter under the BSA, becomes the party with the best insight into a merchant's risk. It is therefore vital that payment processors be covered by appropriate financial transparency measures when they have the best insight into merchants' activities and risk.

Money launderers acting as payment processors have gained access to U.S. clearance and settlement networks, and the exclusions to the definition of money transmission probably gave the bad actors space to operate within the U.S. financial system for long periods of time. In 2016, the Treasury Department's Office of Foreign Assets Control (OFAC) sanctioned the PacNet Group, which was "the third-party payment processor of choice for perpetrators of a wide range of mail fraud schemes."⁸⁵ In 2019, OFAC sanctioned the Smile Group, which funneled drug proceeds to an Argentina-based online pharmacy.⁸⁶ The Smile Group offered international credit card payments, point-of-sale terminals, prepaid cards, and Bitcoin trading.⁸⁷ The Smile Group claimed to have relationships with major U.S.-based credit card system operators and online payment systems.⁸⁸ It courted customers engaged in high-risk businesses such as adult content, online gaming, health and wellness products, dating, and call centers.⁸⁹

Many of the human trafficking red flags identified by FinCEN⁹⁰ and the FATF⁹¹ rely on visibility into consumer payments. Therefore, maintaining and improving visibility into these payments is critical to detecting human trafficking activity. The gaps in the regulatory regime governing consumer payments should be closed, particularly the gaps in customer identification and the gaps in the definition of money transmission that allow some higher risk businesses to operate outside the BSA framework.

ENDNOTES



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**RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN SASSE
FROM DOUGLAS PETERSON**

Q.1. As we as a Nation get serious about confronting human trafficking and modern-day slavery as the scourge it is, we've seen just how crucial it is to leverage the resources and expertise of various Federal, State, and local law enforcement agencies as well as partners in civil society ranging from data analytics experts to victim advocates in this fight. General Peterson, you've played a crucial role in standing up a task force to do just that, and I want to recognize and pay tribute to your leadership.

Moving forward, what are the most immediate challenges to the effective cooperation of your task force's various members?

What can be done to integrate the frontline investigation and prosecution of human trafficking with what capabilities that are out there to go after traffickers' money laundering and other illicit financial activities?

A.1. The two most immediate challenges to the effective cooperation of NHTTF's various members are communication and data management. There exist a high level of buy-in from local and State law enforcement agencies. Nebraska is wonderful that way. They want to work together on this issue and do so when they can. However, there are well over 200 law enforcement agencies in Nebraska, most stretched thin and many covering massive geographic areas with few officers; it is difficult to maximize each law enforcement agency's contribution—expertise, personnel, relevant data—without some comprehensive communication mechanism that is also user-friendly. The related challenge is the lack of a more robust data-gathering, -storing, and -analyzing system. The good news is that we have momentum on two fronts: first, the human trafficking component of our statewide fusion center just went live. This is a portal through which law enforcement agencies can now upload human trafficking data for analysis and cross-referencing. Second, a close NHTTF partner, HTI Labs, is working on developing an updated version of its Leads Platform—a mechanism whereby it alerted relevant law enforcement agencies to every Nebraska-based ad on Backpage that had high risk factors for sex trafficking. HTI Labs is now writing code to gather and analyze such data on dozens of other websites, those to whom Backpage's customers migrated. This will help all law enforcement find and stop online sex trafficking in Nebraska.

The most important thing that can be done to integrate the frontline investigation and prosecution of human trafficking with the capacities that now exist to go after traffickers' money laundering and other illicit financial activities is, again, communication. There is no lack of desire to use all legitimate means at our disposal to address human trafficking in our State. The capacities that exist to confront the financial aspects are exciting and hold a lot of potential for success in uncovering and dismantling human trafficking enterprises. But the capacities need to be known and understood and accessible before they are used. That, I believe, is the greatest obstacle to tapping the synergy that is possible between law enforcement fighting human trafficking and the experts on exposing financial aspects of illicit businesses.

**RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN SASSE
FROM JULIE SLAMA**

Q.1. What particular challenges does Nebraska face in the fight against human trafficking as compared to other States?

A.1. When one thinks of human trafficking, it is likely pictured as an “urban” issue. However, human trafficking is a problem across the entire United States. Nebraska is not a very populous State and has many small towns, which also face human trafficking. This creates a mix of more refined trafficking operations, like those found on Backpage, and more low-tech operations, like a meth dealer in a small town using his product to bring girls into the life style. A challenge that is specific to Nebraska is the interconnection between meth use and human trafficking in our small towns. Oftentimes, a dealer operating in a community will offer a girl meth for the first time. Once she’s hooked, the dealer can then pay the victim in drugs. The high addiction rate for the drug all but ensures that the girl is hooked after the initial high and will do anything it takes for more drugs. She will further isolate herself from those outside of the drug dealer and the addiction becomes all-encompassing. This creates unique challenges for lawmakers, as human trafficking can be effectively addressed in this situation by State lawmakers, while the interstate drug trafficking which brings meth into the small town in the first place is best handled by Federal lawmakers. The State level is a bit more nimble in terms of quickly passing effective legislation to fight human trafficking, but such bills get cut off at the knees because they fail to address the supply issue of meth which is causing women to be drawn into trafficking. If the dealer is taken off the streets, another one will soon replace him, likely using the same methods to victimize women for drugs. To effectively fight human trafficking in our rural areas, Nebraska must both have a strong statutory framework for human trafficking, and Congress must ensure that Federal law enforcement has the tools necessary to crack down on interstate drug trafficking.

Q.2. What populations should we be particularly worried for their vulnerability to traffickers?

A.2. The biggest population sets vulnerable to human trafficking are teenagers who are female and come from homes that are broken or unsafe, teens who are bullied in school by peers, adult women who are being abused, and those who are addicted to controlled substances.

**RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN SASSE
FROM CRYSTA PRICE**

Q.1. HTI Labs works with frontline agencies to develop policy and build tools for better identification, response, investigation, and provision of services that has made a real difference in the fight against the scourge of human trafficking in Nebraska.

How scalable are these tools beyond Nebraska?

A.1. Many of the tools and policies we have produced for Nebraska are scalable and could be exported to other States with minimal or no modification in most cases. For example, we’ve created a na-

tional dataset and trafficking risk algorithms that identify trafficking networks across the country. This work is highly scalable. The data alone could be used right now by financial institutions across the country to better identify potential trafficking. Moreover, since the data are national in scope, there is no reason that our leads and collaborative work with law enforcement cannot be extended nationally as well. At present, we are working with our law enforcement partners to seek funding to create a more export-ready version of our law enforcement platform. The beta tested platform provides leads to law enforcement and permits the exchange of information to develop those leads into prosecutable cases. A more scalable version of this platform would allow law enforcement agencies across the country to access and investigate our leads. As law enforcement uses the platform, their inputs improve the trafficking prediction algorithm that underlies it. (The way artificial intelligence works is that as you get more data, the algorithms become better and more efficient at predicting cases of human trafficking.)

We've also created software, PAVE (Providing Avenues for Victim Empowerment), which permits better systemwide identification and response to trafficking. PAVE allows professionals across the community (hospitals, child welfare, nonprofits, law enforcement, and other "first responders") to screen for and identify trafficking as a community, and then connect the victims to available services in their area. This software is the culmination of a community effort spanning over 3 years that was rooted in the efforts of the Nebraska Human Trafficking Task Force (NHTTF) to study and develop a systemwide screening, reporting, and responding process. For the first time, PAVE gives us the ability to know how many victims of trafficking we have and whether someone is at risk of trafficking based on the totality of their system interactions. As with the law enforcement platform, PAVE allows us to learn as it is used, so we will get increasingly better at knowing which red flags are actually representative of trafficking, and then we can update those indicators so that every agency has near real-time access to the best possible screening tool based on the most current research. Most importantly, the community can hold itself accountable for instances of potential trafficking that aren't acted upon.

While our initial goal with PAVE was to create something that would solve local problems, we quickly realized how generalizable these challenges and solutions are across other communities and other States. Thus, we were able to design PAVE to be purposefully scalable to any locale. PAVE is set up to allow agencies to specify their reporting and referral policies in the onboarding process, allowing different States to have different policies. This allows us to export what we have learned and developed locally to other States in a way that allows different locations to tailor it to work for them. Given the task force model that the Federal Government has enabled in many States, PAVE could be effectively implemented across the country leveraging these existing task forces. As this scales across the country, we will have better national estimates of trafficking and associated risk indicators, and we will be able to conduct applied research on how this differs across the geographic locations and Government agencies. For example, is it true that there is a higher proportion of victims within child welfare system?

We don't know because we don't have comparable data; nationwide adoption of PAVE would create the necessary data to answer these questions. The only potential barrier to scaling of PAVE is that the cost of implementation and maintenance is often too high to pass on directly to potential State Government agencies and nonprofits wishing to use it. So, the key to scaling is to help coordinate and raise funding to subsidize these costs.

Finally, we engaged in the research, design, and drafting of a Nebraska law providing criminal record relief for trafficking victims that can serve as a model for other States. The legislation¹ makes it easier for trafficking victims to escape their situations and rebuild their lives by allowing them to clear criminal records for crimes they were forced to commit. Sex trafficking victims frequently have multiple prostitution charges, and a conviction for prostitution can deny public housing assistance and increase the difficulty of getting a job. Recognizing that our State (like all others) faces challenges with certifying victims, where survivors often repeat their stories without any documentation being created, we prioritized elements of the bill that would avoid relitigating a survivor's status as a victim. To this end, the law allows law enforcement investigators and service providers working with the survivor to generate official documentation of their victimization. States adopting this type of law should seriously consider how this generation of official documentation can be built into existing investigative processes for both minors and adults. We have realized that PAVE can be used to facilitate the implementation of this law, where the screening and identification of a trafficking victim triggers a recommendation to pursue the criminal record relief. The relief provided by the law, and the ability for law enforcement professionals to create the documentation necessary to trigger the law, has been critical to the success of local human trafficking cases.

After the law was adopted by the State Unicameral, we developed a tool that legal advocates are using to create data behind the law's use so that we can understand its use and effects and identify improvements that should be made. This tool is general enough to be useful for any of the 44 States with a criminal record relief law on the books.² The law, NRS 28-902 and 29-3523, was recognized by a recent report from the Polaris Project, the American Bar Association, Brooklyn Law School, and the University of Baltimore Law School as the best of its type in the country.³ Shortly after its passage, we were invited to speak about it at a national conference, resulting in other States reaching out seeking advice for passing a similar bill.

Q.2. As someone who's had a front-row seat to a lot of efforts to coordinate between different Federal, State, and local agencies and outside partners, what have been the keys to the successes of these partnerships, and what are the greatest challenges and pitfalls that can hinder effective cooperation at a task-force level?

¹ The 2018 Nebraska bill, LB 1132, can be accessed here. When passed, the bill amended NRS 28-902 and 29-3523.

² Emerson, J. (2019). "State Report Cards: Grading Criminal Record Relief Laws for Survivors of Human Trafficking". Retrieved from <https://polarisproject.org/sites/default/files/Grading-Criminal-Record-Relief-Laws-for-Survivors-of-Human-Trafficking.pdf>.

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A.2. A number of factors have been critical in the degree to which Nebraska has achieved success in its anti-trafficking efforts. Among the most important is the political will to work together across differing agendas. While trafficking is something everyone wants to do something about, it is important to avoid getting distracted by connected issues on which consensus is not possible. For example, there are many people who want to deal with the larger issue of prostitution, upon which there are starkly differing views. We have found success by focusing on trafficking, the element of the commercial sex industry that involves force, fraud, coercion, and/or minors.

Another important key to success is that there are champions within agencies who are empowered to represent their agencies. These are the individuals on the front lines of the issue within an agency, who are often doing most of the day-to-day work on a task force. In order to be effective, they must have genuine buy-in from agency heads. This gives champions access to agency decision makers and empowers them to have the confidence to try something new and to avoid getting beaten down by cynicism. It also provides an important conduit through which to coordinate task force goals with State agency procedures, policy, and legislative initiatives.

Government funding is not always sufficient. It is important that there be a commitment to the effort from private sector local funders and coordinating agencies. In the Omaha metropolitan area, local philanthropy has funded agents of change, such as the Women's Fund of Omaha, to help sustain the efforts of the task force by acting in a full-time coordination capacity. This has been backed up by funding support to nonprofit service providers to help build capacity. Their involvement has helped to ensure that public and private entities have confidence that the human trafficking effort is going to be a sustained effort in which they can confidently invest their time and resources.

Private funding has also been important in putting in place positions that are funded to solve the specific problems that emerge. While the NHTTF Federal grant funded coordinator positions, local donors funded additional full-time positions. These roles require access to the decision makers, so that solutions can stick. They also need to be viewed as neutral, objective actors in order to avoid the inevitable partisanship wars. And they need to effectively assess and leverage the community's assets. For example, we have ambitious individuals in law enforcement all across the State who are committed to this issue; our task force leadership recognized this and restructured to better empower those assets by asking them to lead important committees. Moreover, these leaders not only brought HTI Labs, a private company, onto the Task Force to help identify and solve problems, they also designated us to lead an important committee.

The inclusion of HTI Labs, a socially responsible AI and tech research company, as an active full-time member of the NHTTF team has been an important key to success as well. It has permitted the Task Force to integrate data, research, and technology in all its initiatives and decisions. This has ensured that the efforts of the task force are data informed, and it has provided data and support to forward-leaning champions within an agency attempting to make

change. Just as importantly, it ensures that new and innovative ideas are put forward and implemented.

For example, our research showing 900 individuals advertised in Nebraska each month on Backpage helped galvanize support needed for State-level policymaking and fundraising efforts. Ultimately, decision makers want to see the data behind what you're trying to do, why it will work, what it will take, and how you will know if it's working or not working. This requires a systematic but phased approach that brings in data and research at every step. Without having data and research as a partner at the table, this can be tough, because task force partners are relying on the scant existing data or research.

Our experience with the NHTTF has also revealed a number of challenges and pitfalls. The most persistent challenge has been sustainability. Structurally, there is a need for a clearly delineated formal organization. Institutional structure needs to be laid out with clear lines delineating responsibilities vested in the task force and clear lines of communication with the decision maker. Organizationally, there needs to be a decision maker or decision-making capacity. Financially, there is a need for sustainable funding levels. Most task forces are hitting walls that span beyond their specific issue. Solving these challenges takes time and a long-term commitment that includes some discretionary funding available to the decision maker.

When the only source of task force funding and efforts comes from a single Federal or State grant, one pitfall that can result is a narrow focus on meeting grant requirements rather than solving problems. This is even more problematic when the grant incentivizes the wrong thing. For example, when a grant encourages a focus on increasing the number of arrests, we have found that this often results in victims being arrested in "low-hanging fruit" sting operations.

Our task force has repeatedly come across challenges created by a lack of information sharing. This results in victims retelling the same story, resharing the same information, and refilling out the same documentation. At the same time, too often, we find that not enough is done with this information. There is simultaneously far too much victim contact and far too many occurrences of victims falling through the cracks. Conversely, the system is completely overburdened and unable to absorb these inefficiencies.

Resolving impediments to information sharing requires a concerted effort to get beyond the inevitable barriers to information sharing across agencies in order to broker a solution that solves the particular need everyone is attempting to address. For example, solving for these issues with our NHTTF screening and reporting process requires addressing the information sharing restrictions contained in VAWA. Brokering solutions across multiple agencies and activities requires that there be champions in each of these agencies and activities. One problem that we face is that we don't have the financial industry represented on the task force, so efforts to partner with banks and financial institutions have been greatly hindered by the inability to take on a proactive approach.

A final major challenge is the issue of cynicism. Most of the people engaged in the effort against human trafficking have sat on

many task forces in their careers. Their experience has been that there is a lot of energy at first, but ultimately little is accomplished before the initiative “flames out.” People need to feel that this time things will work because they have what they didn’t have in previous efforts.

Q.3. My understanding is that if we were having a conversation about your work a few years ago, we’d be spending a lot of time focused on analysis of Backpage.com data, but now we live in a post-Backpage world. I was one of the cosponsors of the legislation we enacted to strip Backpage and other bad actors of the liability exemption in Federal law that they were taking advantage of. Now there’s no doubt in my mind that companies like Backpage should be held accountable for profiting off the exploitation of women and girls, but that doesn’t mean we shouldn’t be grappling with the challenges posed by a post-Backpage world.

Given the nature of the internet, should we expect over time that motivated customers are always going to be able to connect with traffickers? Is there any hope of leveraging policy and technology to disrupt the connection between supply and demand for trafficking victims?

A.3. Policy and technology can help reduce trafficking, but doing so effectively requires understanding the market for commercial sex as a whole. By conceptualizing and measuring the entire market and differential effects within varying segments of sex providers, traffickers, and sex buyers, policies and technology can be adapted over time to reduce the number of trafficking victims. However, policies or technologies which affect only one aspect of the market at once are unlikely to permanently reduce trafficking and have significant risks of unintended consequences.

Within this market, supply is determined by the availability of sex providers’ services. The same services can be provided voluntarily and as a result of coercion. The degrees of agency and exploitation that sex providers experience within the commercial sex market exist along a continuum from those sex providers with full agency who voluntarily participate in the commercial sex industry to those who are victims of sex trafficking and have severely constrained agency. Even among independent sex providers, reasons to enter or stay in the industry are diverse and nuanced. For example, some independent sex providers exchange sex acts for basic survival needs (food, clothing, shelter, etc.).

The supply of sex providers is not fixed. Research has shown supply responds to factors such as the legal framework surrounding prostitution, economic strain, and social stigma.^{4 5 6 7} Importantly, these factors do not uniformly affect all people providing commer-

⁴ Cho, S.Y., Dreher, A., and Neumayer, E. (2013). “Does Legalized Prostitution Increase Human Trafficking?”. *World Development*, 41, 67–82. Retrieved from <https://www.sciencedirect.com/science/article/pii/S0305750X12001453>.

⁵ Jakobsson, N., and Kotsadam, A. (2015). “The Economics of Trafficking for Sexual Exploitation” (No. 7/2015). Memorandum. <https://www.semanticscholar.org/paper/The-Economics-of-Trafficking-for-Sexual-Jakobsson-Kotsadam/08a12aaaf68b897a6248ccd56f5fd21c63999a78>

⁶ Bucher, J., Manasse, M., and Milton, J. (2015). “Soliciting Strain: Examining Both Sides of Street Prostitution Through General Strain Theory”. *Journal of Crime and Justice*, 38(4), 435–453. Retrieved from <https://www.tandfonline.com/doi/abs/10.1080/0735648X.2014.949823>.

⁷ Della Giusta, M., Di Tommaso, M.L., and Strom, S. (2009). “Who Is Watching? The Market for Prostitution Services”. *Journal of Population Economics*, 22(2), 501–516. Retrieved from <https://www.econstor.eu/bitstream/10419/63101/1/502865083.pdf>.

cial sex. Most intuitively, people who are trafficked cannot choose to exit the market; their traffickers must make that choice. Furthermore, traffickers avoid internalizing costs that many sex providers face (e.g., negative health and safety effects, law enforcement responses, and social stigma), meaning that traffickers are relatively overcompensated compared with uncoerced sex providers.⁸

Given this, policies aimed at disrupting the connection between supply and demand have different effects in the voluntary versus trafficked segments. All else equal, policies that make selling sex relatively less attractive (e.g., by increasing the costs internalized by providers through increased enforcement or decreasing revenue by making it harder to find sex buyers) will decrease the supply of voluntary providers (especially those with tolerable outside options) more than the supply of trafficked people. This is so because traffickers do not internalize many of those costs, leading to their continued participation in a market that is no longer “worth it” for someone with other options.

In contrast, demand within the market is determined by the prevalence of exclusively voluntary buyers and associated determinants. As with supply, demand for commercial sex is malleable. Factors affecting it include social stigma, perceived risk of arrest, law enforcement presence, and prevailing attitudes and beliefs concerning commercial sex.^{9 10 11} In one recent survey, the factors active buyers¹² most frequently identified as important in their decisions to buy sex were: (1) certainty that there was no risk of sexually transmitted infection, (2) being sure that friends and family wouldn’t find out, and (3) confidence that they wouldn’t be arrested.¹³

As with many anti-crime efforts, efforts to combat trafficking and/or prostitution run the risk of displacing rather than reducing crime. Displacement can be seen in “not in my backyard” campaigns combating prostitution in particular neighborhoods which led to sex providers simply moving elsewhere, as well as transitions between specific websites facilitating the sale of sex (e.g., the migration of commercial sex ads from Craigslist.com to other advertisement sites such as Backpage.com, and from Backpage to a host

⁸ Lee, S., and Persson, P. (2018). “Human Trafficking and Regulating Prostitution”. Retrieved from <https://web.stanford.edu/perssonp/Prostitution.pdf>.

⁹ Della Giusta, M., Di Tommaso, M.L., and Strom, S. (2009). “Who Is Watching? The Market for Prostitution Services”. *Journal of Population Economics*, 22(2), 501–516. Retrieved from <https://www.econstor.eu/bitstream/10419/63101/1/502865083.pdf>.

¹⁰ Collins, A., and Judge, G. (2010). “Differential Enforcement Across Police Jurisdictions and Client Demand in Paid Sex Markets”. *European Journal of Law and Economics*, 29(1), 43–55. Retrieved from <https://link.springer.com/article/10.1007/s10657-009-9107-9>.

¹¹ Kotsadam, A., and Jakobsson, N. (2014). “Shame on You, John! Laws, Stigmatization, and the Demand for Sex”. *European Journal of Law and Economics*, 37(3), 393–404. Retrieved from <https://link.springer.com/article/10.1007/s10657-012-9339-y>.

¹² Defined in this survey as those who reported purchasing sex multiple times within the last year or just once with the intent to purchase again.

¹³ Demand Abolition. (2018). “Who Buys Sex? Understanding and Disrupting Illicit Market Demand”. Retrieved from <https://www.demandabolition.org/wp-content/uploads/2019/07/Demand-Buyer-Report-July-2019.pdf>.

of commercial sex sites which have sprung up to take its place).^{14 15 16} Given the market framework, it is not surprising that enforcement efforts targeting particular venues (whether in the real world or online) displace rather than reduce crime, because the barriers to shifting venues are low. More broadly, these efforts are not targeted at the fundamental determinants of supply or demand.

While much more research is needed, what we know suggests that policy and technology should be aimed at targeting fundamental determinants related to trafficking and demand for commercial sex. First, enforcement efforts against trafficking raise the risks to traffickers themselves. When traffickers internalize the costs of their illegal activities (instead of forcing those they exploit to take the fall for them), trafficking should become relatively less attractive. Second, evidence indicates that sex buyers are sensitive to the risk of arrest. However, to effectively suppress demand, enforcement efforts would need to change sex buyers' perceptions of risk broadly, not just within particular venues or jurisdictions.

Finally, because of the complex and adaptive nature of the commercial sex market, enforcement efforts should always go hand-in-hand with efforts to identify and bring services to victims of trafficking. Without this comprehensive approach, anti-trafficking policies could unintentionally hurt victims. For example, if reduced demand for commercial sex causes the price of transactions to drop without targeting traffickers, traffickers might respond by forcing trafficked people to engage in more sex acts to bring in equivalent money. Finally, policy actions should be embedded within an evaluation framework that allows us to measure their effects and make adjustments as necessary. This ongoing measurement is critical to responding to innovations and adaptations within the commercial sex market.

Q.4. Are there any lessons that can be drawn from the fight against the online availability of child pornography?

A.4. While HTI Labs' expertise does not lie in the domain of child pornography, I nonetheless believe there are lessons for the anti-trafficking movement to learn from the fight against images of child abuse online. First, the production of child pornography (under some circumstances) constitutes trafficking since by definition the commercial sexual exploitation of a child, through pornography or otherwise, is trafficking. Second, some sex buyers seek out sex with minors, including children. Unfortunately, it is not known how large a share of the sex buying population this is.¹⁷ Further-

¹⁴ Ongoing work by HTI Labs has found that multiple websites were created and used to host commercial sex ads following Backpage's shutdown.

¹⁵ Hubbard, P. (1998). "Community Action and the Displacement of Street Prostitution: Evidence From British Cities". *Geoforum*, 29(3), 269–286. Retrieved from <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.619.6450&rep=rep1&type=pdf>.

¹⁶ Stoeffel, K. (2011, April 26th). "Village Voice Media Getting Down and Dirty With Escort Ads". *The Observer*. Retrieved from <https://observer.com/2011/04/village-voice-media-getting-down-and-dirty-with-escort-ads/>. For example, as noted in Stoeffel's piece, the web traffic analysis company Quantcast estimated that visitors to Backpage jumped by half-a-million visitors following Craigslist.com's closure of its Adult Services section.

¹⁷ Seto, M.C., and Eke, A.W. (2005). "The Criminal Histories and Later Offending of Child Pornography Offenders". *Sexual Abuse: A Journal of Research and Treatment*, 17(2), 201–210. Retrieved from <https://www.researchgate.net/publication/7770076-The-Criminal-Histories-and-Later-Offending-of-Child-Pornography-Offenders>. While it is unknown to what extent the share of the sex buying population explicitly seeks out sex with minors, there is some evidence to sug-

more, pedophilia and consumption of images of child abuse are subject to strong social stigma and legal penalties, making sound research on this population of offenders particularly difficult.

However, certain strands of research make me hesitant to draw tight analogies between those who view images of child sexual abuse online and those who shop for commercial sex with adults online. First, there is strong correlation between viewing child pornography and pedophilia (the persistent sexual interest in pre-pubescent children).¹⁸ There also appears to be increasing evidence that pedophilia's origins are biological.¹⁹ An emerging body of evidence shows that those who commit child pornography offenses also commit "hands on" offenses against children and that these physical offenses sometimes precede the viewing of such images.²⁰ Additionally, child pornography offenders have been documented to have a host of underlying psychological and social issues, such as socio-affective disorders (e.g., depression and anxiety), cognitive distortions (e.g., the internal justification of particular offenses) and other distinct underlying personality traits.^{21 22 23} Relatedly, rehabilitative efforts may take the form of cognitive behavioral therapy or other forms of therapeutic services.²⁴

On the other hand, determinants of purchasing commercial sex from adults seem to involve less deeply rooted factors such as the positive experiences buyers associate with purchasing sex and beliefs that prostitution is a victimless crime.^{25 26 27} These different profiles of offenders suggest that demand for images of child abuse may be less elastic than demand for commercial sex, since it seems

gest there is overlap between these two groups. For instance, Seto and Eke found a significant portion of adult male child pornography offenders had a criminal history involving procuring prostitution.

¹⁸Seto, M.C., Cantor, J.M., and Blanchard, R. (2006). "Child Pornography Offenses Are a Valid Diagnostic Indicator of Pedophilia". *Journal of Abnormal Psychology*, 115(3), 610. Retrieved from <https://www.csaprimaryprevention.org/files/A-Child-Pornography-Offenses-Are-a-Valid-Diagnostic-Indicator-of-Pedophilia.pdf>.

¹⁹Fazio, R.L. (2018). "Toward a Neurodevelopmental Understanding of Pedophilia". *The Journal of Sexual Medicine*, 15(9), 1205–1207. [https://www.jsm.jsexmed.org/article/S1743-6095\(18\)30933-0/fulltext](https://www.jsm.jsexmed.org/article/S1743-6095(18)30933-0/fulltext)

²⁰Bourke, M.L., and Hernandez, A.E. (2009). "The 'Butner Study' Redux: A Report of the Incidence of Hands-on Child Victimization by Child Pornography Offenders". *Journal of Family Violence*, 24(3), 183. Retrieved from <https://link.springer.com/article/10.1007/s10896-008-9219-y>.

²¹Price, M., Lambie, I., and Krynen, A.M. (2015). "New Zealand Adult Internet Child Pornography Offenders". *Journal of Criminal Psychology*, 5(4), 262–278. Retrieved from <https://www.researchgate.net/publication/282151003-New-Zealand-adult-internet-child-pornography-offenders>.

²²Houtepen, J.A., Sijtsma, J.J., and Bogaerts, S. (2014). "From Child Pornography Offending to Child Sexual Abuse: A Review of Child Pornography Offender Characteristics and Risks for Cross-Over". *Aggression and Violent Behavior*, 19(5), 466–473. Retrieved from <https://www.sciencedirect.com/science/article/pii/S1359178914000810>.

²³Niveau, G. (2010). "Cyber-Pedocriminality: Characteristics of a Sample of Internet Child Pornography Offenders". *Child Abuse and Neglect: The International Journal*, 34(8), 570–575. Retrieved from <https://www.researchgate.net/publication/45096626-Cyber-Pedocriminality-Characteristics-of-a-Sample-of-Internet-Child-Pornography-Offenders>.

²⁴Bourke, M.L., and Hernandez, A.E. (2009). "The 'Butner Study' Redux: A Report of the Incidence of Hands-on Child Victimization by Child Pornography Offenders". *Journal of Family Violence*, 24(3), 183. Retrieved from <https://link.springer.com/article/10.1007/s10896-008-9219-y>.

²⁵Bucher, J., Manasse, M., and Milton, J. (2015). "Soliciting Strain: Examining Both Sides of Street Prostitution Through General Strain Theory". *Journal of Crime and Justice*, 38(4), 435–453. <https://www.tandfonline.com/doi/abs/10.1080/0735648X.2014.949823>

²⁶Monto, M.A., and McRee, N. (2005). "A Comparison of the Male Customers of Female Street Prostitutes With National Samples of Men". *International Journal of Offender Therapy and Comparative Criminology*, 49(5), 505–529. Retrieved from <https://www.researchgate.net/publication/313202948-A-comparison-of-the-male-customers-of-female-street-prostitutes-with-national-samples-of-men>.

²⁷Demand Abolition. (2018). "Who Buys Sex? Understanding and Disrupting Illicit Market Demand". Retrieved from <https://www.demandabolition.org/wp-content/uploads/2019/07/Demand-Buyer-Report-July-2019.pdf>.

to derive from deep-seated factors that require intensive therapy to address. Therefore, we ought to be hesitant about the wholesale application of lessons learned from one crime to the other.

Nonetheless, many current and previous efforts to combat the online child pornography have valuable lessons for collaborative anti-trafficking efforts. Early efforts to combat the online availability of child pornography showed the importance of partnerships among a variety of public and private actors. This is evidenced in the integration of reporting hotlines, data, and information sharing between law enforcement of various jurisdictions, and collaboration between agencies of differing Governments.^{28 29 30} The nonprofit National Center for Missing and Exploited Children (NCMEC) serves as a clearinghouse for many efforts by operating its CyberTipline and distributing information to law enforcement. As my earlier testimony highlighted, such collaboration is critical in combating trafficking as well.

Second, recent technological developments require dynamic and adaptive approaches to combat both online child pornography and facilitation of trafficking. Expanded digital child pornography requires law enforcement to proactively gather intelligence on advances in technology in order to combat it.³¹ Efforts to combat the online availability of child pornography have included machine learning and other uses of large and often untapped swaths of data.³² For example, researchers from Oak Ridge National Laboratory and the University of North Carolina–Wilmington have collaborated with the Knoxville, Tennessee, Police Department to develop a digital forensic tool which uses facial analytics and other technologies to scan computers and memory devices for child pornography.³³ A parallel “proactive approach” in combating human trafficking involves investment in infrastructure to measure and respond to the changing landscape of human trafficking related financial transactions.

Unfortunately, the fight against images of child sexual abuse raises notes of caution. Despite high-profile legislation³⁴ and laudable attempts to cooperate across sectors to combat the production and distribution of these images, the scale of this problem has continued to grow. Recent analysis by researchers from Google, NCMEC and Thorn has documented the exponential growth in re-

²⁸ Williams, N. (1999). “The Contribution of Hotlines to Combating Child Pornography on the Internet”. London: Childnet International. Retrieved from <https://www.childnet.com/ufiles/combating-child-pornography.pdf>.

²⁹ Schell, B.H., Martin, M.V., Hung, P.C., and Rueda, L. (2007). “Cyber Child Pornography: A Review Paper of the Social and Legal Issues and Remedies—and a Proposed Technological Solution”. *Aggression and Violent Behavior*, 12(1), 45–63. Retrieved from <https://www.researchgate.net/publication/222417484-Cyber-child-pornography-A-review-paper-of-the-social-and-legal-issues-and-remedies-and-a-proposed-technological-solution>.

³⁰ Akdeniz, Y. (1997). “Governance of Pornography and Child Pornography on the Global Internet: A Multi-Layered Approach”. *Law and the Internet: Regulating Cyberspace*, 223–241. Retrieved from <https://www.cyber-rights.org/governan.htm>.

³¹ Eggestein, J.V., and Knapp, K.J. (2014). “Fighting Child Pornography: A Review of Legal and Technological Developments”. *Journal of Digital Forensics, Security and Law*, 9(4), 3. Retrieved from <https://commons.erau.edu/cgi/viewcontent.cgi?article=1191&context=jdfsl>.

³² Keller, M.H., and Dance, G.J.X. (2019, September 28th). “The Internet Is Overrun With Images of Child Sexual Abuse. What Went Wrong?” *The New York Times*. Retrieved from <https://www.nytimes.com/interactive/2019/09/28/us/child-sex-abuse.html?smid=nytcore-ios-share>.

³³ Ricanek, Jr., K., and Boehnen, C. (2012). “Facial Analytics: From Big Data to Law Enforcement”. *Computer*, 45(9), 95–97. Retrieved from <https://www.researchgate.net/publication/258019814-Facial-Analytics-From-Big-Data-to-Law-Enforcement>.

³⁴ Providing Resources, Officers, and Technology To Eradicate Cyber Threats to Our Children Act of 2008 or the PROTECT Our Children Act of 2008.

ports of these images and the inability of law enforcement to keep up with reports.³⁵ These experiences point to the importance of continuing investment in technology to adapt to a changing landscape. This technology is necessary not only to uncover potential instances of crimes, but also to prioritize law enforcement response to those potential instances.³⁶ Absent this continuing investment and prioritization, the scale of opportunities for exploitation presented by the evolving internet will eclipse law enforcement ability to respond to instances of either child sexual abuse or trafficking.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN FROM CRYSTA PRICE

Q.1. As you mentioned in your written testimony, in 2017 the Financial Crimes Enforcement Network (FinCEN) added a box to indicate suspicion of human trafficking to suspicious activity reports (SARs) filed pursuant to the Bank Secrecy Act

Can you describe how the additional data collected from this change may be used to identify instances of human trafficking that would not otherwise have been uncovered?

A.1. The formal inclusion of a human trafficking suspicion indicator to the FinCEN's SARs has two primary benefits. First, it has allowed for more precise measurements of suspicion of human trafficking. Prior to the addition of the human trafficking box, various free text phrases entered in SARs were often difficult to quantify and interpret. Hundreds of depository institutions used variations of "trafficking" in 2014, but these included references to "cigarette trafficking", "drug trafficking", "sex trafficking", or simply the word "trafficking" alone.¹ Since adding a box to indicate suspicion of human trafficking to SARs, reports are not only more numerous but also more precisely defined.

Second, including an indicator for human trafficking suspicion in SARs could highlight instances of trafficking that otherwise would escape law enforcement attention. For instance, other testimony has indicated that the FBI conducts analysis of SARs on many topics, including human trafficking.² However, I am not personally aware of any human trafficking investigation that began because of a SAR. Because of the absence of consistent mechanisms for feedback from law enforcement on the utility and outcomes of SARs, it is not possible to systematically assess their impact on

³⁵ Bursztein, E., Clarke, E., DeLaune, M., Eliff, D.M., Hsu, N., Olson, L., and Bright, T. (2019, May). "Rethinking the Detection of Child Sexual Abuse Imagery on the Internet". In *The World Wide Web Conference* (pp. 2601–2607). ACM. Retrieved from <https://ai.google/research/pubs/pub48118>.

³⁶ Keller, M.H., and Dance, G.J.X. (2019, September 28th). "The Internet Is Overrun With Images of Child Sexual Abuse. What Went Wrong?" *The New York Times*. Retrieved from <https://www.nytimes.com/interactive/2019/09/28/us/child-sex-abuse.html?smid=nytcore-ios-share>. Without research-based prioritization, resource constraints will necessitate that law enforcement prioritize using other ad hoc rules. For example, Keller and Dance's recent investigative article reported that the FBI focuses only on images of infants and toddlers when reviewing tips from NCMEC.

¹ Financial Crimes Enforcement Network. (2015). "SAR Stats Technical Bulletin October 2015". [Technical Bulletin]. Washington, DC: U.S. Department of the Treasury. Retrieved from <https://www.fincen.gov/sites/default/files/sar-report/SAR-Stats-2-FINAL.pdf>.

² Combating Money Laundering and Other Forms of Illicit Finance: How Criminal Organizations Launder Money and Innovative Techniques for Fighting Them, Hearing before the United States Senate Banking Subcommittee on National Security, International Trade and Finance, Senate, 115th Cong. 4 (2018) (Testimony of Dennis M. Lormel). Retrieved from <https://www.hsdl.org/?abstract&did=825644>.

human trafficking (or other) investigations.³ Additionally, we have no evidence of the degree to which the addition of the checkbox for human trafficking has resulted in accurate assessments by those checking it. It is likely, given the imprecision of any set of red flags for trafficking, that a substantial number of human trafficking SARs are false positives.

Q.2. In addition to removing obstacles to the access and sharing of data, are there any other data points that could be collected by Government agencies that would be helpful in detecting and preventing instances of human trafficking?

A.2. Changes to FinCEN's SAR could enhance detection and prevention of human trafficking. One relatively small tweak would involve including structured fields for users to select the red flags they have observed which led to a suspicion of human trafficking. These fields could directly reflect FinCEN's guidance on red flags, providing more detailed information for investigators looking into a SAR. Our law enforcement partners have told us of the usefulness of their interactions with Bank Secrecy Act/Anti Money Laundering (BSA/AML) investigators with local banks once human trafficking investigations are underway. By collecting additional data within the FinCEN SAR, this useful information would be frontloaded so it could more easily spark investigations. A second, more ambitious change to the SAR system would incorporate data on investigatory outcomes, such as whether an investigation was initiated by a law enforcement agency as a result of a report and whether the investigation discovered further evidence of human trafficking. FinCEN data collection that included specific red flags observed and investigatory outcomes would improve each step of the FinCEN process. Research on this data could improve the efficiency of investigations by revealing new patterns in human trafficking that investigators could pursue. This research also could be used to refine the guidance on red flags that FinCEN provides financial institutions. The benefits of this change would not be limited to combating human trafficking. An incorporation of outcomes has been suggested by policymakers and researchers in order to improve the efficacy of SARs in combating all the crimes they encompass.^{4 5}

Outside of the financial sector, it is also critical that data from law enforcement agencies accurately track the criminal justice response to human trafficking. One step toward this goal was taken by the addition of human trafficking offenses to the FBI's Uniform Crime Reporting (UCR) System. However, UCR statistics underestimate the extent of trafficking offenses because law enforcement

³ Combating Money Laundering and Other Forms of Illicit Finance: How Criminal Organizations Launder Money and Innovative Techniques for Fighting Them, Hearing before the United States Senate Banking Subcommittee on National Security, International Trade and Finance, Senate, 115th Cong. 4 (2018) (Testimony of Dennis M. Lormel). Retrieved from <https://www.hsdl.org/?abstract&did=825644>.

⁴ Combating Money Laundering and Other Forms of Illicit Finance: How Criminal Organizations Launder Money and Innovative Techniques for Fighting Them, Hearing before the United States Senate Banking Subcommittee on National Security, International Trade and Finance, Senate, 115th Cong. 4 (2018) (Testimony of Dennis M. Lormel). Retrieved from <https://www.hsdl.org/?abstract&did=825644>.

⁵ Axelrod, R.M. (2017). "Criminality and Suspicious Activity Reports". *Journal of Financial Crime*, 24(3), 461–471. Retrieved from <https://www.emerald.com/insight/content/doi/10.1108/JFC-03-2017-0019/full/html>.

officers are not trained to recognize it, because other offenses rather than trafficking are tracked in agency records management systems and because specialized human trafficking investigators seek an unusually high bar of evidence before applying the label of human trafficking to an incident.⁶ While each law enforcement agency sets its own policies, Federal grant funds can finance the updates to data systems necessary for tracking trafficking and incentivize States and localities to better track criminal justice responses to human trafficking by rewarding training on human trafficking and increased response documented through records management systems.

Beyond simply tracking the incidence of trafficking within records management systems, law enforcement agencies should collect structured data in the course of the investigation that helps reveal the particulars of this crime. For example, data associated with victims could include the age of initial recruitment, the modes by which they were advertised (e.g., specific websites or locales), relationships to trafficker(s), and geographic locations in which they were compelled to sell sex. Data associated with sex buyers could include the means by which they made contact with a victim and their modes of payment. Data on traffickers should include detailed information on both initial recruitment (how they made contact with and began working with those they trafficked) and continued exploitation (e.g., weapons or threats used, types of fraud). In each case, data systems should allow traffickers to be associated with data from their known victims. Furthermore, by linking data about victims and traffickers with other criminal justice data, the overlap between trafficking and other victimizations could be understood. Researchers working with localities across the country can then begin to use this criminal justice data to systematically understand the correlates of human trafficking, leading to improved ability to detect and prosecute it.

Q.3. Based on your research and the human trafficking cases that you have studied, do you believe that the 2014 red flag guidance publicized by FinCEN is comprehensive? Are there any other red flags that you would recommend be added to the guidance in the future?

A.3. The purpose of FinCEN's red flag guidance is to help financial institutions identify situations of potential trafficking and file a SAR. There are three main areas in which this can be improved by: (1) improving the red flags, (2) using the red flags on a more comprehensive dataset, (3) improving the threshold upon which the combination of red flags generates a SAR.

⁶Farrell, A., Dank, M., Kafafian, M., Lockwood, S., Pfeffer, R., Hughes, A., and United States of America. (2018). "Capturing Human Trafficking Victimization Through Crime Reporting". United States Department of Justice, National Institute of Justice (NCJ-252520, Washington, DC). Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/252520.pdf>.

Improving the Red Flags

Additional observable indicators from existing screening tools that could supplement the red flags include:^{7 8}

- Customer shows signs of physical abuse, confinement, or neglect
- Customer seems to live/sleep at their place of work
- Customer travels frequently or makes frequent use of hotels or housing rentals (e.g., Airbnb) in ways that are unexpected given their employment⁹
- Customer sounds scripted or inconsistent in describing current situation or history

FinCEN’s guidance already explicitly notes that no red flag alone is a clear indicator and that red flags could be used in combination with factors such as the customer’s profile. The same caveats apply to the above.

Expanding the Dataset

A more effective way to improve the FinCEN red flag guidance, however, is not from the inclusion of additional red flags, but from the inclusion of more comprehensive data sources. For example, FinCEN might provide guidance to financial institutions on potential external data sources that have been found to be useful to supplement the financial data they have on a customer. This obviously requires partnerships that FinCEN could consider facilitating.

As David Murray’s testimony notes, trafficking-related transactions tend to be small and below the SARs threshold. Further, trafficking transactions are taking place in arenas that are often outside of the reach of SARs through mechanisms such as prepaid cards and cryptocurrencies.¹⁰ Thus, while incorporating these transactions into the SARs process could help discern between trafficking and other illicit activity, we should be aware of these embedded limitations.

Improving the Threshold

The guidance already explicitly notes that no red flag alone is a clear indicator and that red flags could be used in combination with factors such as the customer’s profile. In other words, it is less important that financial institutions include “frequent travel” as a red flag than that their analytics reflect the fact that this would be more indicative of trafficking for a young person with no apparent means to enable travel than for a person in sales for a legitimate enterprise. FinCEN could consider putting out additional guidance

⁷ HTI Labs. (2019). “Providing Avenues for Victim Empowerment”. Identifying and Responding to Human Trafficking in Nebraska. Retrieved from <https://pave-learn.htilabs.org/>.

⁸ Vera Institute of Justice. (2014). “Screening for Human Trafficking Guidelines for Administering the Trafficking Victim Identification Tool (TVIT)” (Report. No. 246713). Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/246713.pdf>.

⁹ The hospitality industry has been transformed by the convergence of private accommodation and hotels (e.g., Airbnb). Sex trafficking victims often move between numerous cities and must use local lodging where they can set up their operations. To capture this, red flags should not be limited to traditional hotels.

¹⁰ Human Trafficking and Its Intersection with the Financial System, Hearing before the United States Senate Banking Subcommittee on National Security, International Trade and Finance, Senate, 116th Cong. (2019) (Testimony of David Murray). Retrieved from <https://www.banking.senate.gov/imo/media/doc/Murray%20Testimony%209-3-2019.pdf>.

elaborating on this point by showing examples in which financial institutions have used data analysis beyond a simple additive red flag approach or successfully collaborated with law enforcement or researchers to identify suspicious transactions or accounts. FinCEN could also consider directly partnering with financial institutions and researchers to perform analysis to identify appropriate thresholds and then publish these findings to the wider community.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA FROM CRYSTA PRICE

Q.1. As stated in your testimony, the U.S. Financial Crimes Enforcement Network (FinCEN) updated their Suspicious Report Activity (SAR) system in 2017 to include human trafficking as a specific activity type. Are there other types of data that law enforcement is currently lacking that FinCEN can look to include in its SAR system? Are there specific types of data that would help FinCEN discern between trafficking and other illicit activity?

A.1. To understand data that law enforcement is currently lacking, we asked our law enforcement partners for their insights on ways in which FinCEN's SAR system and financial data collection more generally could be improved. Speaking to the current system, current or former representatives of both the Department of Homeland Security and the Federal Bureau of Investigation noted that their working relationships with Bank Secrecy Act investigators have been very helpful in cases which rely on information from local banks. Despite this, our partners noted areas where FinCEN's SAR system and financial data collection efforts more generally could be improved. First, they highlighted the dearth of data on transactions using virtual and cryptocurrency and prepaid gift or debit cards, tools which traffickers utilize for financial transactions.¹ Our own experience shows that combining FinCEN data with data from outside the financial sector (e.g., data from the criminal justice system or commercial sex market) would be a very powerful tool to help distinguish trafficking from other types of crime.

Second, beyond incorporating new types of transactions and currencies, changes to FinCEN's SAR could enhance detection and prevention of human trafficking. Among such changes, FinCEN could expand its guidance on red flags to include additional observable indicators from existing screening tools such as:^{2 3}

- Customer travels frequently or makes frequent use of hotels or housing rentals (e.g., Airbnb) in ways that are unexpected given their employment⁴

¹Following the Money: How Human Traffickers Exploit U.S. Financial Markets, Hearing before the United States House Financial Services Subcommittee on Oversight and Investigations, House, 115th Cong. (2018) (Testimony of Cyrus R. Vance, Jr.). Retrieved from <https://financialservices.house.gov/uploadedfiles/01.30.2018-cyrus-vance-testimony.pdf>.

²HTI Labs. (2019). "Providing Avenues for Victim Empowerment". Identifying and Responding to Human Trafficking in Nebraska. Retrieved from <https://pave-learn.htilabs.org/>.

³Vera Institute of Justice. (2014). "Screening for Human Trafficking Guidelines for Administering the Trafficking Victim Identification Tool (TVIT)" (Report. No. 246713). Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/246713.pdf>.

⁴The hospitality industry has been transformed by the convergence of private accommodation and hotels (e.g., Airbnb). Sex trafficking victims often move between numerous cities and must

- Customer shows signs of physical abuse, confinement, or neglect
- Customer sounds scripted or inconsistent in describing current situation or history
- Customer seems to live/sleep at their place of work

FinCEN also could more strongly emphasize the need to rely on combinations of red flags. The FinCEN guidance already explicitly notes that no red flag alone is a clear indicator and that red flags could be used in combination with factors such as the customer's profile. Pursuing this combinatorial strategy could help to distinguish trafficking from other types of crimes. Moreover, it could help to reduce the number of false positives provided to law enforcement.

A third relatively small tweak would involve including structured fields reflecting the red flags observed which led to a suspicion of human trafficking. These fields could directly reflect FinCEN's guidance on red flags, providing more detailed information for investigators looking into a SAR. By collecting additional data within the FinCEN SAR, communication of this useful information would be frontloaded so it could more easily spark investigations.

A fourth, more ambitious change to the SAR system would incorporate data on investigatory outcomes, such as whether an investigation was initiated by a law enforcement agency as a result of a report and whether the investigation discovered further evidence of human trafficking. FinCEN data collection that included specific red flags observed and investigatory outcomes would improve each step of the FinCEN process. Research on this data could improve the efficiency of investigations by revealing new patterns in human trafficking that investigators could pursue. This research also could be used to refine the guidance on red flags that FinCEN provides financial institutions to increasingly reduce false positives and better generate trafficking leads for law enforcement. The benefits of this change would not be limited to combating human trafficking. An incorporation of outcomes has been suggested by policymakers and researchers in order to improve the efficacy of SARs in combating all the crimes they encompass.^{5 6}

Q.2. If there is consensus that greater data-sharing between different sectors is necessary to combating trafficking, what barriers exist to forging more public-private partnerships?

A.2. Barriers to Effective Public-Private Partnerships—In general, there are numerous barriers to forging effective public-private partnerships. Poor communication, ill-defined roles between

use local lodging where they can set up their operations. To capture this, red flags should not be limited to traditional hotels.

⁵ Combating Money Laundering and Other Forms of Illicit Finance: How Criminal Organizations Launder Money and Innovative Techniques for Fighting Them, Hearing before the United States Senate Banking Subcommittee on National Security, International Trade and Finance, Senate, 115th Cong. 4 (2018) (Testimony of Dennis M. Lormel). Retrieved from <https://www.hsdl.org/?abstract&did=825644>.

⁶ Axelrod, R.M. (2017). "Criminality and Suspicious Activity Reports". *Journal of Financial Crime*, 24(3), 461–471. Retrieved from <https://www.emerald.com/insight/content/doi/10.1108/JFC-03-2017-0019/full/html>.

partners, and a range of logistical and implementational issues can dampen the impact of public-private partnerships.^{7 8 9} Within the context of trafficking, forging effective public-private relationships can require overcoming a number of unique hurdles. Issues surrounding policy effectiveness, definitional confusion, and the scarcity of empirical evaluation of anti-trafficking activities have been demonstrated to be straining relationships with anti-trafficking organizations.¹⁰

Our experience with the Nebraska Human Trafficking Taskforce (NHTTF) has revealed some challenges in forging public-private partnerships. The most persistent challenge has been sustainability. Structurally, there is a need for a clearly delineated formal organization. Institutional structure needs to be laid out with clear lines delineating responsibilities vested in the task force and clear lines of communication with decision maker. Organizationally, there needs to be a decision maker or decision-making capacity. Financially, there is a need for sustainable funding levels. Most task forces are hitting walls that span beyond their specific issue. Solving these challenges takes time and a long-term commitment that includes some discretionary funding available to the decision maker.

When the only source of the task force funding comes from a single Federal or State grant, one potential pitfall is a narrow focus on meeting grant requirements rather than solving problems. This is even more problematic when the grant incentivizes the wrong thing. For example, when a grant encourages a focus on increasing the number of arrests, we have found that this often results in victims being arrested in “low-hanging fruit” sting operations.

Our Task Force has repeatedly encountered challenges created by a lack of information sharing. This results in victims retelling the same story, resharing the same information, and filling out the same documentation multiple times. At the same time, too often, we find that not enough is done with this information. There is simultaneously far too much victim contact and far too many occurrences of victims falling through the cracks. Furthermore, the system is overburdened and unable to absorb these inefficiencies.

Resolving impediments to information sharing requires a concerted effort to get beyond the inevitable barriers to information sharing across agencies in order to broker a solution that solves the particular need everyone is attempting to address. For example, solving for these issues with our screening and reporting process requires addressing the information sharing restrictions contained

⁷Lin, V., King, C., Maxwell, K., and Shaw, S. (2018). “Opportunities Through State Agency Research Partnerships for Using Administrative Data To Support Early Care and Education”. (Report No. 2018-53). Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services. Retrieved from <https://www.acf.hhs.gov/sites/default/files/opre/opportunities-state-agency-research-partnerships-admin-6-18-18-b508.pdf>.

⁸Klijn, E.H., and Teisman, G.R. (2003). “Institutional and Strategic Barriers to Public-Private Partnership: An Analysis of Dutch Cases”. *Public Money and Management*, 23(3), 137–146. Retrieved from <https://www.tandfonline.com/doi/abs/10.1111/1467-9302.00361>.

⁹Roehrich, J.K., Lewis, M.A., and George, G. (2014). “Are Public-Private Partnerships a Healthy Option? A Systematic Literature Review”. *Social Science and Medicine*, 113, 110–119. Retrieved from <https://www.sciencedirect.com/science/article/pii/S0277953614002871>.

¹⁰Davy, D. (2014). “Understanding the Complexities of Responding to Child Sex Trafficking in Thailand and Cambodia”. *International Journal of Sociology and Social Policy*, 34(11/12), 793–816. Retrieved from <https://www.researchgate.net/publication/289696878-Understanding-the-complexities-of-responding-to-child-sex-trafficking-in-Thailand-and-Cambodia>.

in VAWA. Brokering solutions across multiple agencies and activities requires that there be champions in each of these agencies and activities. One problem that we face is that we don't have the financial industry represented on the Task Force, so efforts to partner with banks and financial institutions have been greatly hindered by the inability to take on a proactive approach.

A final major challenge is the issue of cynicism. Most of the people engaged in the effort against human trafficking have sat on many task forces in their careers. Their experience is that there is a lot of energy at first, but ultimately little is accomplished before the initiative "flames out." To overcome this, people need to feel that conditions underlying this particular effort are sufficiently different from past failed attempts at partnership.

Overcoming Barriers to Effective Public-Private Partnerships

None of this is to say that the barriers to public-private partnerships are insurmountable. Barriers to effective public-private partnerships can be overcome when partners have a high degree of trust in one another and the management of the partnership, as well as a mutual understanding of each partner's role and area of expertise within the partnership.^{11 12 13}

In addition to trust, the degree to which Nebraska has achieved success in its anti-trafficking efforts results from a number of factors associated with effective public-private partnerships. Among the most important is the political will to work together across differing agendas. While trafficking is something everyone wants to do something about, it is important to avoid getting distracted by connected issues on which consensus is not possible. For example, there are many people who want to deal with the larger issue of prostitution, upon which there are starkly differing views. We have found success by focusing on trafficking, the element of the commercial sex industry that involves force, fraud, coercion, and/or minors.

Another important key to success is that there are champions within agencies who are empowered to represent their agencies. These are the individuals on the front lines of the issue within an agency, who are often doing most of the day-to-day work on a task force. In order to be effective, they must have genuine buy-in from agency heads. This gives champions access to agency decision makers and empowers them to have the confidence to try something new and to avoid getting beaten down by cynicism. It also provides

¹¹ Warsen, R., Nederhand, J., Klijn, E.H., Grotenbreg, S., and Koppenjan, J. (2018). "What Makes Public-Private Partnerships Work? Survey Research Into the Outcomes and the Quality of Cooperation in PPPs". *Public Management Review*, 20(8), 1165–1185. Retrieved from <https://www.tandfonline.com/doi/pdf/10.1080/14719037.2018.1428415?needAccess=true>.

¹² Shaw, S.H., Lin, V., and Maxwell, K.L. (2018, June). "Guidelines for Developing Data Sharing Agreements To Use State Administrative Data for Early Care and Education Research" (Report No. 2018-67). Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services. Retrieved from <https://www.acf.hhs.gov/sites/default/files/opre/guidelines-for-developing-data-sharing-agreements-508-7-16-18-508.pdf>.

¹³ Lin, V., King, C., Maxwell, K., and Shaw, S. (2018). "Opportunities Through State Agency Research Partnerships for Using Administrative Data To Support Early Care and Education". (Report No. 2018-53). Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services. Retrieved from <https://www.acf.hhs.gov/sites/default/files/opre/opportunities-state-agency-research-partnerships-admin-6-18-18-6508.pdf>.

a important conduit through which to coordinate Task Force goals with State agency procedures, policy, and legislative initiatives.

Government funding is not always sufficient. It is important that there be a commitment to the effort from private sector local funders and coordinating agencies. In the Omaha metropolitan area, local philanthropy has funded agents of change, such as the Women's Fund of Omaha, to help sustain the efforts of the Task Force by acting in a full-time coordination capacity. This has been backed up by funding support to nonprofit service providers to help build capacity. Their involvement has helped to ensure that public and private entities have confidence that the human trafficking effort is going to be a sustained effort in which they can confidently invest their time and resources.

Private funding has also been important in putting in place persons whose positions have been funded to solve the specific problems that emerge. While the NHTTF Federal grant funded coordinator positions, local donors funded additional full-time positions. These persons need access to the decision makers, so that solutions can stick. They also need be viewed as neutral, objective actors in order to avoid the inevitable partisanship wars. And they need to effectively assess and leverage the community's assets. For example, we have ambitious individuals in law enforcement all across the State who are committed to this issue; our Task Force leadership recognized this and restructured to better empower those assets by asking them to lead important committees.

The inclusion of HTI Labs, a socially responsible AI and tech research company, as an active full-time member of the NHTTF team has been an important key to success as well. It has permitted the Task Force to integrate data, research, and technology in all its initiatives and decisions. This has ensured that the efforts of the task force are data informed, and it has provided data and support to forward-leaning champions within an agency attempting to make change. Just as importantly, it has ensured that new and innovative ideas are put forward and implemented.

For example, our research showing 900 individuals advertised in Nebraska each month on Backpage helped galvanize support needed for State-level policymaking and fundraising efforts. Ultimately, decision makers want to see the data behind what you're trying to do, why it will work, what it will take, and how you will know if it's working or not working. This requires a systematic but phased approach that brings in data and research at every step. Without having data and research as a partner at the table, this can be tough, because task force partners are relying on there being some existing data or research out there. Having these capacities on the team also permitted the development and implementation of a number of innovative ideas, to include the tools and policies described above.

PayPal Data Integration Pilot Project as Example of an Effective Public-Private Partnership

As a concrete example of our successes in overcoming barriers to effective collaboration in public-private partnerships involving financial data specifically, we can point to an ongoing pilot test and

controlled experiment undertaken by Homeland Security Investigations (HSI), PayPal, and HTI Labs.

Having developed a solid working relationship, an HSI agent with whom we had worked on a major national case approached us to build an investigative platform that will centralize all known sex trafficking investigative information. At the same time, PayPal approached us to collaborate with their data science team to better identify trafficking for law enforcement. With these new opportunities, we developed a concept for integrating PayPal data and HSI data to better identify the real people connected to the online commercial sex data which we use. The motivation for this project relied on the understanding that data integration and insight from previously disparate data sources allows for the identification of trafficking in a way that any single set of data cannot and makes the difference between an actionable investigation and a dead-end lead.

While the pilot is still ongoing, many of the leads have been able to be linked to PayPal accounts. These initial successes help show how barriers to public-private partnerships can be overcome. HSI, PayPal, and HTI Labs employed a mutual understanding of each partner's role and area of expertise within the partnership. Further, the partnership benefited from the inclusion of data, research, and technology as a driving force of the team, allowing for new and innovative ideas to be put forward and implemented. This pilot test illustrates the promise of greater cooperation and information sharing between law enforcement, financial institutions, and research centers.

RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN SASSE FROM DAVID MURRAY

Q.1. We know that some instances of human trafficking involve sophisticated transnational criminal organizations, while other cases can boil down to exploitation of a victim by a romantic partner.

What's our best understanding of what portion of human trafficking do you feel is carried out by sophisticated criminal networks relative to smaller enterprises?

A.1. Sophisticated criminal networks play a large role in human trafficking, judging from International Labour Organization reporting that estimates that human trafficking generates \$150.2 billion in annual profits,¹ and a report published by the Financial Action Task Force (FATF).²

A.2. How does the U.S. Government's efforts to use its anti-money-laundering regime to target human traffickers compare to the efforts and toolkits of other countries?

A.2. The United States has "highly developed investigative capabilities to identify and investigate" money laundering, according to

¹ International Labour Office, "Profits and Poverty: The Economics of Forced Labour", May 20, 2014, p. 13, https://www.ilo.org/wcmsp5/groups/public/-ed_norm/-declaration/documents/publication/wcms_243391.pdf.

² FATF, "Financial Flows From Human Trafficking", July 2018, <https://www.fatf-gafi.org/media/fatf/content/images/Human-Trafficking-2018.pdf>.

the Financial Action Task Force (FATF).³ On average, the United States charges about 2,500 persons with money laundering and wins more than 1,200 money-laundering convictions each year,⁴ making U.S. investigators and prosecutors much more active than their foreign counterparts.

Our investigators and prosecutors are effective despite critical gaps in our anti-money-laundering regime, most notably surrounding company formation. Anonymous companies are a critical vulnerability in our financial system that Congress should address.

A.3. How has the proliferation of diverse digital currencies changed the nature of money laundering, specifically by large-scale human trafficking networks?

A.3. Digital currencies have not yet been a game changer for money launderers because they are not widely accepted. However, digital currencies' potential for anonymity and near-instantaneous, irrevocable settlement makes them attractive to criminals, and they have also become payment methods of last resort. For example, human traffickers have been forced to use digital currencies to purchase advertisements because banks and other financial institutions refuse to process those payments.⁵

A.4. While there have been reports that finances of the human trafficking business is often handled in cash, what portion of this cash do you think is converted to digital currencies—at least for some period of time?

A.4. Digital currencies have been most often used by human traffickers to purchase advertisements, according to law enforcement,⁶ and advertising probably makes up only a small portion of human trafficking organizations' operating expenses.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN FROM DAVID MURRAY

Q.1. New and emerging financial technologies have created unique challenges in identifying and tracing illicit finance activities. In your testimony, you identified some legislative solutions that the Government can take. Aside from those solutions, how can financial institutions and law enforcement agencies adapt on their own and improve their investigative methods to deal with the transparency issues posed by these technologies?

A.1. Financial institutions should design new products with transparency as a core feature. New payments products that are inherently more transparent than existing payments products will be more efficient than existing payments products because information about the originator, beneficiary, and purpose of the payment will be readily available to each financial institution in a payment chain. When more information about a payment is readily available, fewer payments will be suspended as financial institutions

³ FATF, "United States Mutual Evaluation Report", December 2016, available at <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-United-States-2016.pdf>.

⁴ FATF, "United States Mutual Evaluation Report", December 2016, available at <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-United-States-2016.pdf>.

⁵ Cyrus Vance, House Financial Services Committee, January 30, 2018.

⁶ Cyrus Vance, House Financial Services Committee, January 30, 2018.

seek more information about the parties to a payment or the purpose of a payment.

Law enforcement agencies have been extremely adaptive, but financial products that are inherently nontransparent will continue to pose challenges regardless of how creative our investigators are.

A.2. In your written testimony, you listed three financial products services that were banned due to the level of risk they pose to financial transparency: bearer shares, shell banks, and anonymous accounts. Are there any other types of financial instruments or entities that you believe should be banned due to their riskiness and lack of transparency?

A.2. We should also ban anonymous companies, as many other countries around the world already have. Anonymous companies are a critical vulnerability in our financial system that bad actors can exploit to undermine our financial transparency laws, campaign finance laws, and foreign investment laws.

A.3. Based on your research and the human trafficking cases that you have studied, do you believe that the red flag guidance publicized by FinCEN is comprehensive? Are there any other red flags that you would recommend be added to the guidance in the future?

A.3. FinCEN's human trafficking advisory is very helpful to financial institutions. However, FinCEN must take care in releasing red flags publicly because advisories also alert criminals that FinCEN is aware of patterns in criminal behavior. FinCEN might consider releasing additional red flags in a secure advisory or under the auspices of the FinCEN Exchange Program, which is designed to enhance information sharing with financial institutions and may be targeted to the financial institutions that are most likely to have information that is useful to investigators.¹

¹ FinCEN, "FinCEN Launches 'FinCEN Exchange' To Enhance Public-Private Information Sharing", Dec. 4, 2017, <https://www.fincen.gov/news/news-releases/fincen-launches-fincen-exchange-enhance-public-private-information-sharing>.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

**STATEMENT SUBMITTED BY LOUISE I. SHELLEY, OMER L. AND NANCY
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Human Trafficking and the International Financial System

Statement of Louise I. Shelley¹

Before 2000 and the movement of human trafficking into the cyber world, the profits generated from human trafficking were generally of lesser significance than today. A key element of the interaction of human trafficking with the global economy was through the products generated by trafficked laborers. Some of the major commodities associated with trafficked laborers include: chocolate, clothing and textiles, coltan (an essential element of cellphones), and fish. The profits generated by the sale of these items move into global trade and the proceeds can often not be distinguished from licit flow of goods. This is an element of trade-based money laundering that will be addressed below.

The proceeds of human sex trafficking enter into the global financial system in a variety of ways as investigated cases in the United States and abroad reveal. In the past fifteen years, as human trafficking has moved online, the sums involved are larger and the trade interacts more with the virtual economy including virtual currency. I will discuss these newer methods subsequently and briefly describe the criminal cases that illustrate the disposal of profits. For many years, the proceeds of human trafficking have intersected with the economy in these ways and they continue to be used:

- 1) **Underground banking:** A large Chinese network two decades ago engaged in both human smuggling and human trafficking. The individuals moved by this criminal ring were placed in over 400 legitimate businesses in the Washington, DC area and more in New York City. Therefore, their work contributed to the profits of restaurants, take-outs and other businesses. The combined smuggling-trafficking ring also made money directly from the people they moved and deposited this money in banks. Law enforcement did not move quickly to freeze the accounts of the traffickers after arresting one of their members and \$60 million was moved back to China rapidly through underground banking.² Other smuggling/trafficking operations involving China also use underground banking to repatriate profits.³

¹ Louise Shelley is the Nancy . Part of this analysis on supply chains and networks of human trafficking was done while supported by NSF EAGER grant, EAGER: ISN: A New Multi-Layered Network Approach for Improving the Detection of Human Trafficking, Award.

² Louise Shelley, *Human Trafficking a Global Perspective* (Cambridge and New York: Cambridge University Press, 2010), 106, 117.

³ Illustrative of this is the case of Patrick Radden Keefe, *The Snakehead: An Epic Tale of the Chinatown Underworld and the American Dream* (New York: Doubleday, 2009).

- 2) **Money laundering into Real Estate**—The White Lace Case which was based on a human trafficking ring that generated \$7 million ring annually in Los Angeles had different streams of money. The small money made by the victims was transferred to their homes in the former Soviet Union through wire transfers. The millions in profits made by the manager of the trafficking ring were invested in real estate in Los Angeles area and wired to Switzerland.⁴ Such cases are hard to detect because of the absence of beneficial ownership information in real estate and profits are often disguised. This is particularly the case with the ownership of unquietous massage parlors today where only 28% of businesses had registered owners.⁵
- 3) **Cash Movement** -- In one of the largest Dutch investigations of a trafficking ring operating in the Netherlands with 120 victims, the criminals used the trafficked women as couriers of cash back to Turkey. The money was then invested in nightclubs and bars in the resort community of Antalya, Turkey.⁶
- 4) **Credit Cards** The Financial Coalition Against Child Pornography (FCACP) works with The National Center for Missing & Exploited Children (NCMEC), and its sister agency, the International Centre for Missing & Exploited Children (ICMEC). FCACP is a coalition of credit card issuers and Internet services companies that seeks to eliminate commercial child pornography by taking action on the payment systems that are used to fund these illegal operations. Many of the payments for the purchase of child pornography have been made through credit cards making the work of this coalition important.⁷
- 5) **Money Transfer Businesses**—Money transfer businesses were identified early in human trafficking investigations as helping pay for the transportation costs of trafficking victims. French parliamentary hearings in 2001 identified Western Union's transfer of funds derived from human trafficking.⁸ The problem did not end then. The Department of Financial Services in New York alleged that "senior Western Union executives and managers ignored suspicious transactions to Chinese Western Union locations by several high-volume agents, including money transfers linked to human trafficking." This resulted in a \$60 million fine

⁴ Shelley, 120.

⁵ "Corporate Secrecy Fuels Human Trafficking in the United States," <https://polarisproject.org/news/press-releases/corporate-secrecy-fuels-human-trafficking-united-states>

⁶ Discussion of the Turkish case at an OSCE meeting, Vienna. Report on the case, see https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/us_trafficking_in_persons_report_2011_netherlands_en_1.pdf.

⁷ <https://www.icmec.org/financial-coalitions/>.

⁸ *Les Documents de l'information de l'Assemblée Nationale, "L'esclavage, en France, aujourd'hui," 2001, No. 3459, vol. 2, 31.*

paid by Western Union in 2018.⁹ The problem of wire transfer businesses moving the proceeds of human trafficking is not confined to Western Union.

- 6) **Wire Transfer**—A 2013 case of smuggled rock lobster from South Africa to the United States reflects a combination of environmental crime, prosecuted under the Lacey Act, with human trafficking. Workers were imported illegally from South Africa to Maine and forced to process the rock lobster that was illegally imported. The exploitation of the trafficked laborers increased the high profits of the seafood smugglers. Millions in proceeds from this crime were wired to an offshore locale.¹⁰
- 7) **Banks**—The proceeds of trafficking operations have been located in banks in a range of cases both in the United States and abroad. The cases discussed in points one and six both include some of the funds being placed in accounts. More recently, there are indications that Jeffrey Epstein wired money to an offshore locale through his accounts at Deutsche Bank in connection with his alleged human trafficking activities.¹¹
- 8) **Trade-based money laundering** --In the late 1990s and early 2000s, the London police who were pioneers in following the money found that export-import businesses were key to repatriating the profits of human trafficking for sexual exploitation. One brothel in London was filled with galoshes purchased with the profits of human trafficking. The galoshes would be sold in Ukraine to turn the crime profits into a legitimate economy. More traditional commodities were used such as cars.¹²

In one of the largest labor trafficking cases identified in the United States, profits from a car theft ring, based in Florida, were laundered into a marijuana farm (a form of real estate). In Operation Dual Identity, trafficked workers were then brought to tend the marijuana and the proceeds of this trade then entered the illicit drug economy.¹³

⁹ “Western Union Settles New York Money Laundering Probe for \$60 million,” Jan. 4, 2018, <https://www.reuters.com/article/us-usa-western-union-settlement/western-union-settles-new-york-money-laundering-probe-for-60-million-idUSKBN1ET24Y>.

¹⁰ <https://www.justice.gov/usao-sdny/pr/officers-fishing-and-seafood-corporations-ordered-pay-nearly-225-million-south-africa>; interview with lawyer familiar with the case.

¹¹ “Deutsche Bank Reportedly Flagged Jeffrey Epstein’s overseas Transactions to US Watchdog,” July 23, 2019, <https://www.cnn.com/2019/07/23/deutsche-bank-flagged-jeffrey-epstein-transactions-to-us-watchdog.html>.

¹² Shelley, p.120.

¹³ Louise Shelley, *Dark Commerce: How a New Illicit Economy is Threatening our Future*, (Princeton and Oxford: Princeton University Press, 2018), 115.

Businesses also used over and under invoicing, classic techniques of trade-based money laundering. The galoshes may be a colorful example but this is a much larger and pervasive phenomenon with fictitious or manipulated invoices used to justify large flows of money.

Human Trafficking and the Financial System Post 2000

The scale and the proceeds of human trafficking have changed profoundly since the early 2000s. Evidence of this is provided by a major United States government-funded computer research program on human trafficking conducted by DARPA(Defense Advanced Projects Research Agency), part of the Department of Defense. The computer scientists developed a tool, known as Memex, that mined the deep web for advertisements on sexual services. Their data mining goes back to the early 2000s. In one two year period, between 2014 and 2016, the researchers reported in “Scientific American” that advertisement expenditures of about \$250 million were spent on posting more than 60 million advertisements for commercial sexual services.¹⁴ The size of the advertising budget suggests the scale of the business as advertisements are only a share of a businesses expenses or its profits.

The money from these advertisements went, in part, to the online platforms that posted them. One of the most popular sites was Craigslist whose owners made large sums. Its revenues in 2010 from these ads were estimated at \$36 million.¹⁵ Its adult services section was shut down after mounting pressure from activists and state attorneys general.¹⁶ This led to advertisers of adult services migrating to Backpage, which then became the predominant player in the marketing of sexual services. The public online marketplace, Backpage, differed from Craigslist as most of the website’s money was generated specifically through the posting of escort and massage advertisements, and therefore, it more freely advertised its adult services sections.¹⁷ Backpage was shut down by federal authorities in April 2018 shortly before greater controls were placed on

¹⁴ Larry Greenmeier, “Human Traffickers Caught on Hidden Internet,” February 8, 2015, <https://www.scientificamerican.com/article/human-traffickers-caught-on-hidden-internet/> and also the accompanying visualization that reveals the international links, Scientific American Exclusive: DARPA Memex Data Map, retrieved 7 August 2019, <https://www.scientificamerican.com/slideshow/scientific-american-exclusive-darpa-memex-data-maps/>.

¹⁵ Brad Stone, “Sex Ads seen Adding Revenue to Craigslist,” April 25, 2010, <https://www.nytimes.com/2010/04/26/technology/26craigslist.html>.

¹⁶ W Saletan, ‘Pimp Mobile: Craigslist shuts its “adult” section. Where will the ads go now?’, *Slate*, 7 September 2010, retrieved 5 August 2019, <https://slate.com/news-and-politics/2010/09/craigslist-shuts-its-adult-section-where-will-sex-ads-go-now.html>.

¹⁷ California Attorney General, ‘Attorney General Kamala D. Harris Announces Criminal Charges Against Senior Corporate Officers of Backpage.com for Profiting from Prostitution and Arrest of Carl Ferrer, CEO,’ 6 October 2016, retrieved 5 August 2019, <https://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-announces-criminal-charges-against-senior>.

internet hosting providers as a result of new federal legislation. In the month before it was shut down, Backpage posted over 133,000 advertisements for sexual services.¹⁸

One recent federal case initiated with the examination of a Backpage advertisement in San Francisco and then used Memex to construct the criminal network. This was a lengthy process to construct a networks and supply chain from this initial advertisement. The size of the network reveals the scale and the global reach of the business whose key node was traced to a criminal based in China. In November 2018, seven Chinese nationals were indicted. Their trafficking network had 30,000 customers, 500 web domains that were linked to an additional 350,000 escort advertisements and fifty-five websites. According to the indictments, the “Supermatchescort” network operated in fifty-eight cities throughout the United States, Canada, and Australia including Nebraska where this hearing is held.¹⁹ Money for this vast operation went to Backpage, ISPs and massage parlors on two continents.

The ability to legally place advertisements online for sexual services ended in the Spring of 2018 when the Stop Enabling Sex Traffickers Act (SESTA) and Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA) legislation was passed by Congress with overwhelming support. The recently enacted legislation removed the protections for web hosting services, ISPs, and social media sites in regard to the crime of human trafficking.²⁰

Within a month of the passage of the FOSTA-SESTA legislation and the censoring of Backpage, advertisements for commercial sex plummeted eighty-two percent, according to an organization mining escort advertisements. However, after four months, the numbers of advertisements jumped back to seventy-five percent of their daily volume before Backpage was censored.²¹ Some analysts believe many advertisements have merely shifted since 2018, to platforms hosted on servers outside the reach of the United States and not subject to the new legislation.²² Therefore, the money is going into the global financial system but not to American based advertisers and web-hosting services.

¹⁸ R Tarinelli, ‘Online Sex Ads Rebound, Months After Shutdown of Backpage,’ *Forensic Magazine*, 30 November 2018, retrieved 5 August 2019, <https://www.forensicmag.com/news/2018/11/online-sex-ads-rebound-months-after-shutdown-backpage>.

¹⁹ The inclusion of Nebraska may be the result of the research of the Human Trafficking Initiative at Creighton University.

²⁰ H.R.1865 - Allow States and Victims to Fight Online Sex Trafficking Act of 2017, retrieved 7 August 2019, <https://www.congress.gov/bill/115th-congress/house-bill/1865>.

²¹ C Biederman, ‘Inside Backpage.com’s Vicious Battle with the Feds,’ *Wired*, 18 June 2019, retrieved 5 August 2019, <https://www.wired.com/story/inside-backpage-vicious-battle-feds/>.

²² E Heil and A Nichols, ‘Hot spot trafficking: a theoretical discussion of the potential problems associated with targeted policing and the eradication of sex trafficking in the United States,’ *Contemporary Justice Review*, Vol. 17, No. 4, 2014, p. 424.

The hosting of websites and the placement of advertisements involves many companies. As Cyrus Vance, testified some of these include GoDaddy and T-Mobile.²³ Providers of housing, such as Airbnb are also part of the new online economy that through its vast rental network also includes sites that are rented and then exploited by human traffickers. Therefore, the online economy and communications industry are key to the activities of human trafficking for sexual exploitation. Yet obtaining information from some of the businesses in this sector can be slow or difficult impeding investigations.

Discussing the movement of money related to the businesses, New York City Prosecutor, Cyrus Vance, identified some of the same financial components used prior to 2000. Money service providers are still key. As Vance testified “They pay to arrange transportation for their victims, pay members of their operations, and move their ill-gotten gains abroad to countries like Russia and China in the blink of an eye.” The traditional financial system of banks still plays an important role as Vance noted in a 2018 hearing, “Traffickers also commonly launder money by opening multiple business accounts at different banks, as well as transferring checks and cash between accounts to cover their tracks.”²⁴ Anonymous shell companies and the absence of beneficial ownership make it possible to easily hide and launder their proceeds in the US and the international financial system.

The cyberworld, through cryptocurrency, has assumed an important part of the financial system of human trafficking in the past couple years. This has been documented in both criminal investigative practice as well as cutting edge computer science research.²⁵ Bitcoin is used to help run the human trafficking business. As Vance commented from the investigative perspective cryptocurrency is not used to pay for sexual services. “Instead, the most significant impact of these currencies in sex trafficking investigations has been their role in the online economy. They are used both by traffickers to purchase advertisements and by sex buyers to purchase premium memberships on review board websites. The volume of advertisements and memberships, alongside the drastic increase in the value of digital currencies such as Bitcoin, has caused the profits of those who operate websites that facilitate both the supply and demand side of the sex trafficking economy to skyrocket. Over the last year, the increase in the value of Bitcoin has generated several million dollars in profit for one popular review site.”²⁶

What Policies are Needed to Address Human Trafficking in the Financial System:

²³ Statement of New York County District Attorney, Cyrus Vance, January 30, 2018, <https://republicans-financialservices.house.gov/uploadedfiles/hhrg-115-ba09-wstate-cvance-20180130rv.pdf>.

²⁴ Ibid.

²⁵ Rebecca S. Portnoff et. al., “Backpage and Bitcoin: Uncovering Human Traffickers,” <https://nyuscholars.nyu.edu/en/publications/backpage-and-bitcoin-uncovering-human-traffickers>.

²⁶ Statement of New York County District Attorney, Cyrus Vance, January 30, 2018.

- 1) **Beneficial Ownership Laws** are needed. Traffickers can now hide behind shell companies and anonymous ownership. The largest detected network of human traffickers, discussed above, involved massage parlors in cities across the U.S., Canada and Australia. As mentioned, the vast majority of massage parlors hide their owners identity.
- 2) **Cryptocurrency** is being used to finance human trafficking and many other forms of illicit activity. Greater financial oversight is needed of this fast growing financial instrument.
- 3) **Follow the Money** needs to be a much more central part of investigations of human trafficking. This is difficult as there are a relatively small number of Suspicious Activity Reports (SARS) in the Fincen data base associated with human trafficking. Training and awareness must be raised to not only increase SARS reporting from but to make use of these reported suspected transactions that are presently underutilizes. As the Epstein case indicates, SARS reports on human trafficking are underutilized.
- 4) **Focusing on Supply Chains for Human Trafficking** by looking at transport systems, travel agencies hotels, rental apartments, ride-share services and short-term rental apartments.
- 5) **Enhance regulation and reporting requirements of online businesses** to vet customers and report suspicious transactions. More needs to be done by companies such as Uber and Airbnb in monitoring data for suspicious patterns of financial transactions and how their businesses inadvertently support human trafficking networks. The role of online businesses in human trafficking is broader thn those companies addressed by the FOSTA-SESTA legislation.
- 6) **Address Trade-based Money Laundering.** This underacknowledged form of money laundering is key to the movement of the proceeds of human trafficking into the global financial system as leading bankers discuss its pervasive use as other loopholes are shut. Our understanding of TBML requires greater analysis as to how this is occurring in regards to human trafficking, the red flags associated with it and then a carefully conceived program to counter TBML. This will have enormous positive impacts not only in countering human trafficking but other forms of the illicit economy such as the fentanyl trade and environmental crime, especially related to the fishing industry.