

To: San Francisco Mayor Gavin Newsom, San Francisco Supervisors Carmen Chu, Bevan Dufty, Michaela Alioto-Pier, Sean Elsbernd, District Attorney Kamala Harris.

From: Melissa Farley, Ph.D., Prostitution Research & Education, San Francisco  
415-922-4555 mfarley@prostitutionresearch.com  
September 30, 2008 (this document is being revised as new information is generated)

Executive Summary:

**Strongly criminalizing johns is the most effective legal approach to date to the harms of violence and exploitation that prostitution inflicts on those used in it. Many countries, some states, and international law support this approach, which San Francisco could readily adopt, along with other legal and social initiatives building on existing law, policy, and service institutions.**

**Women, men, and the transgendered who are selling sex should be the only persons in the prostitution transaction who are decriminalized. Johns, pimps, and traffickers (buyers and sellers) should be criminalized.**

**1. Introduction to social and legal responses to trafficking for prostitution that San Francisco might implement in the near future.**

Prostitution today has moved from the street to the Internet and other offstreet locations. Street prostitution, although the most visible to outside observers, is only a small percentage of prostitution today. In San Francisco, trafficking for the purpose of prostitution primarily occurs in massage parlors that function as brothels, in private homes that are brothels (for example, in the Sunset and Pacific Heights neighborhoods), in champagne rooms and VIP rooms of strip clubs, and via escort prostitution advertising on the Internet, newspapers, and telephone directories. The most egregiously harmed individuals in prostitution are now indoors, not on the street: children, victims of international trafficking (who are often women of color), mentally and physically coerced women, children and transgendered people.

Much of San Francisco's prostitution, as in other US cities, is controlled by organized criminals. Korean, Vietnamese, Chinese, and other Asian gangs cooperate with local thugs to control women in massage parlor prostitution. US based motorcycle gangs--Hell's Angels, Banditos, and Outlaws--have connections to prostitution in Australia and the Netherlands and are involved in domestic trafficking of women into San Francisco and other California strip club prostitution. The Deja-Vu strip club chain has recently acquired control of 51% of the strip clubs in North Beach, according to a source close to organized crime. Attempts to make strip clubs safer for women have failed. See Farley, Melissa (2005) Prostitution Harms Women Even if Indoors, *Violence Against Women* 11 (7): 950-964.

Organized crime is rampant under legal as well as illegal prostitution. Amsterdam Councillor and survivor of prostitution Karina Schaapman said,

There are people who are really proud of the red light district as a tourist attraction. It's supposed to be such a wonderful, cheery place that shows just what a free city we are. But I think it's a

cesspit. There's a lot of serious criminality. There's a lot of exploitation of women, and a lot of social distress. That's nothing to be proud of. See

<http://www.radionetherlands.nl/currentaffairs/ams070921mc>

Amsterdam's Mayor Job Cohen has closed a number of the legal prostitution zones in that city, stating that the system of legal prostitution did not reduce crime as they had hoped it would. Instead, crime increased and women in prostitution were no safer than when prostitution was illegal. In 2006, an Amsterdam Green Party member sought to abolish not only legal but also illegal prostitution there. See <http://www.radionetherlands.nl/currentaffairs/ned061031mc>.

A 2008 Radio Netherlands report noted that an Amsterdam real estate developer rejected an offer to develop escort prostitution in the former red light district because "there was no way to ensure that the women were not exploited..." See <http://www.radionetherlands.nl/currentaffairs/080717-amsterdam-prostitution>.

## **2. There are four legal approaches to prostitution.**

Prostitution can be criminalized, legalized, decriminalized, or abolished. Under *criminalized prostitution*, all parties to the transaction are arrested: the woman who is selling or being sold as sex in prostitution, the buyer or john, the pimp and/or trafficker. *Legalized prostitution*, as in Nevada, specifies where prostitution is permitted to take place. It is regulated via zoning. Legalized prostitution can also include municipal *tolerance zones or red-light zones*. *Decriminalized prostitution* removes all laws against pimping, pandering, and buying women in prostitution, in addition to decriminalizing the person who is prostituted. *Abolition of prostitution* is a human rights-based legal approach that aims to stop the buying, selling and trafficking of women in prostitution while at the same time supporting those in it to escape prostitution instead of arresting them. The abolitionist perspective considers the sexual harassment, sexual exploitation, and sexual violence that is intrinsic to prostitution to be human rights violations. Those used in prostitution in this fourth legal approach are the only ones decriminalized.

## **3. The 1999 Swedish law prohibiting purchase of sexual services is a practical abolitionist approach to prostitution.**

Sweden has recognized that prostitution exists because of demand for it. Seeing prostitution as a form of violence against women, the Swedish Parliament decided to criminalize those who create and profit from systems of prostitution: not only the pimps and traffickers, but those who purchase and exploit all who are used in prostitution: the buyers or johns. The woman or man in prostitution is not criminalized. Sweden has recognized that she is a victim, not a criminal. The official history of the Swedish law states that "*in the majority of cases... [the woman in prostitution] is a weaker partner who is exploited,*" and the Swedish government has allocated funding for social services to "*motivate prostitutes to seek help to leave their way of life.*"

The 1999 law on prostitution is a tangible expression of the belief that in Sweden women and children are not for sale. A majority of men and women in Sweden support the law. Today, the number of newly recruited women in Swedish prostitution is low, and the overall number of women used in prostitution in Sweden has not increased, as has

occurred in many European countries where the sex industry is rapidly expanding. The Swedish National Board of Health and Welfare reported a 50% decrease in the number of women prostituting and a 75% decrease in the number men who bought sex. Sex trafficking into Sweden has dramatically decreased since the law went into effect. In 2007 Sweden has the lowest number of victims of trafficking in the European Union. The law has also effectively reduced organized crime networks in Sweden. Key to these outcomes has been education of police that prostitution is not victimless, and that those who seek to buy human beings for sex are committing a serious crime. Prosecutors have brought cases against johns, and courts have convicted and sentenced many of them. who bought sex.

**All that is necessary to adapt the Swedish model to California law is to decriminalize prostituted people entirely and strengthen and extend the laws against their use, both statutorily and through law enforcement initiatives.**

#### **4. Enforcement of California's Red Light Abatement Law would attack some of the roots of trafficking for prostitution: the current effective impunity of landlords who house pimps and traffickers.**

Acknowledging the damage resulting from prostitution and trafficking, this law would prosecute owners of properties in which prostitution and trafficking occur. For details of this law see <http://law.justia.com/california/codes/pen/11225-11235.html>

A similar law has been used successfully in Nassau County, New York. Researcher Donna Hughes reported in a 2005 paper *The Demand for Victims of Sex Trafficking*:

Nassau County police in New York devised a strategy to close down massage parlors by targeting the owners of the buildings. Most sex industry establishments are not owned by the pimps or traffickers... Although the owners of the buildings may not have been aware of the prostitution going on in the establishments, they were profiting from it.

In 1994, massage parlors, which were fronts for prostitution, had proliferated. Police knew that the lease agreements with the operators of the massage parlors were executed under false representation by the parlor operators who said they were running physical therapy centers or other legitimate sounding services. Police found that the people who originally signed the leases were usually difficult to find. Massage parlor operators also frequently altered the buildings' physical structures resulting in violations of building and fire codes. The property owners usually ignored the violations.

There were a number of official departments, such as the attorney general's office, the health department, and state education department that had regulatory enforcement over the massage parlors, but efforts to regulate the businesses were "stalled" in court or bureaucracies. Consequently, the police decided to target the owners of the buildings, and force them to shut down the businesses. They notified the owners of code violations and fraudulent lease agreements, and told them that they were going to be charged. When the property owners did not cooperate, the police, fire marshals, and building inspectors cited the owners. Fines

for building code violations ranged from \$200 to \$1000 a day; fire code violations were \$5000.

The fines put pressure on the property owners to evict the unlawful tenants. The district attorney was asked to file criminal charges for permitting prostitution and criminal nuisance against owners who refused to evict the exploiters. In addition, the police notified the property owners' mortgage holders of the illegal activity taking place on the premises.

The police also targeted the men who purchased sex acts at the massage parlors by stopping them for interviews and traffic violations. The police department asked the major regional newspaper to stop running ads from the massage parlors. The newspaper complied after several requests. They also got local gym owner to remove business cards from bulletin boards. They did interviews about the problem on local radio stations.

In addition, the Internal Revenue Service opened a criminal investigation for income tax evasion on one person.

As a result of this pressure on property owners, *all* known illegal county massage parlors were closed or vacated.

In most cities in the United States, prostitution operates under the euphemism "massage." Laws about therapeutic massage are exploited by traffickers and pimps who inform police or public health inspectors that the trafficked women who are prostituting in massage parlors are "massage-therapists-in-training." In addition to concealing prostitution and trafficking, these massage brothels are disruptive of legitimate massage therapists' practices. The City of Clarkstown, New York has a massage establishment ordinance (Chapter 126 of the Clarkstown Code) that when enforced in 2007 resulted in the closure of 11 of 16 massage parlors that had sold women who had been trafficked for prostitution.

##### **5. Enforcement of currently existing laws against men who buy sex (johns) and penalty enhancement against both pimps and johns.**

We recommend a focus on enforcement of the prostitution laws against johns in indoor prostitution rather than exclusively arresting johns who solicit prostitution on the street. Educational campaigns that focus on the social undesirability of being a john or a pimp can be helpful but only in conjunction with meaningful law enforcement, including meaningful penalties, against johns.

In addition to imposing meaningful legal consequences on men's purchase of sex, it is essential at the same time to increase the public's understanding of why and how prostitution is harmful in and of itself, and to ensure that prostitution is regarded as predatory and sexually exploitative behavior rather than simply "sex" or a reasonable job for poor women. Educational campaigns are crucial to counteract the myths that prostitution is a victimless crime. The effectiveness of any criminal justice program depends not only upon the willingness of police departments to enforce the laws that the representatives of the people have passed, but on the community's understanding of

the issues, here, upon its commitment to justice for prostituted women and children.

From decades of social and legal attempts to deter batterers, we know that counseling and educating alone are not effective. It is necessary to combine educational approaches with strong legal or social consequences such as jail time or fines that are known to be seriously enforced, rather than the violations ignored with a wink and a nod.

What would deter johns from exploiting prostituted people? In conjunction with research partners Women’s Support Project, Glasgow and Chicago Coalition Against Sexual Exploitation, PRE has released new studies on the motivations and attitudes of johns. Table 1 shows that despite significant cultural differences, there was a similarity in these men’s responses regarding deterrents to prostitution. While all of these 223 men had previously used women in prostitution, only 7% of the Chicago men had been arrested for soliciting prostitution. **Well aware of the non-enforcement of existing laws, men in the U.S. and Scotland assumed, and they were largely correct, that it was unlikely that laws against prostitution would be enforced against them.**

**Table 1. Responses of 113 Chicago Men and 110 Scottish Men To The Question: “What Would Deter You From Buying Sex?”**

<b>Consequence</b>	<b>Chicago</b>	<b>Scotland</b>
Being Added to a “sex offender” registry	92%	89%
Photo and/or name in local newspaper	87%	84%
Jail time	83%	79%
Photo and/or name on a billboard	83%	86%
Photo and/or name on internet	82%	78%
A letter sent to your family saying you were arrested for soliciting a woman in prostitution	79%	77%
Driver’s license suspended	76%	NA
Greater criminal penalty	75%	72%
Car impounded	70%	70%
Higher monetary fine (more than \$2,500 with no sliding scale)	68%	69%
Community service	58%	NA
Required to attend educational program for men who buy prostitutes	41%	56%

In Scotland, in-depth interviews were conducted with 110 Scottish punters, as johns are called there. 80% bought sex indoors, 56% outdoors. One-fourth to one-third of the men interviewed endorsed rape-tolerant attitudes, strongly suggesting that myths that johns are harmless may not be accurate. Scottish interviewees were asked about the extent to which their identity as men was based on valuing psychological and sexual dominance and about their suspiciousness and resentment toward women. Taken together, these constructs constitute hostile masculinity. Respondents were also asked questions about their acceptance of and justification for prostitution. Men who were most accepting of prostitution were those who most strongly identified with hostile masculinity. On a scale that assessed sexually coercive behaviors such as verbally or physically threatening a partner or using physical force in order to obtain sexual intercourse, 54% of the men who frequently used women in prostitution were found to have committed sexually aggressive acts against non-prostitute partners, compared with 30% of the less frequent users. The more frequently a john used women in prostitution, the more likely he was to have committed sexually coercive acts against non-prostituting women in his life. See <http://www.prostitutionresearch.com/c-prostitution-research.html> for the study.

In September 2008, the United Kingdom Home Secretary announced new legal policies to diminish prostitution. These included removing the requirement that only johns who repeatedly persisted in solicitation of prostitution could be prosecuted. Instead, any man soliciting on the street could be prosecuted after a first offense. Police were also given the power to close down a brothel for at least 3 months if a pimp or trafficker was involved in the prostitution. Decisions of local communities were given more weight in determining whether or not a strip club or lap dance club could open in their neighborhood. Finally, the new UK policies included the provision that any john who used a woman who had been pimped or trafficked (“controlled for another person’s gain”) could be prosecuted. (See Nicholas Watt, UK to Tighten Laws & Plan Against Prostitution. *UK Guardian*, September 22, 2008 <http://www.guardian.co.uk:80/politics/2008/sep/22/labourconference.labour1?gusrc=rss&feed=society>).

## **6. Republic of Korea’s laws have been effective in shutting down red light districts and decreasing prostitution**

Korean law criminalizes buying and selling sex acts, levying fines against customers of prostitutes. In 2004, following an educational campaign by women’s and human rights groups, the Korean government enacted two landmark laws against prostitution. The laws provide that victims’ debts to their employers are invalid and punish those who use threats, violence, or debt bondage to force people into prostitution. The laws authorize seizure of assets obtained by trafficking in women, increase penalties for trafficking and prostitution, establish supports and resources for prostituted/trafficked women, and provide funds for public education campaigns about prostitution.

The passage *and subsequent enforcement* of these laws has been credited with a 37% reduction in the number of brothels in Korea, a 30-40% decrease in the number of bars and clubs (which comprise 80% of the sex industry in Korea), and a 52% decrease in the numbers of women prostituted in brothels. See Melissa Farley and Sungjean Seo (2006) Prostitution and Trafficking in Asia. *Harvard Asia Pacific Review* 8(2) 9-12.

**7. New York State's new antitrafficking law protects those in both domestic and internationally-originated prostitution and increases penalties for johns.**

Under New York's 2007 anti-trafficking legislation, sex trafficking is a Class B felony, which could entail up to 25 years in prison. The New York antitrafficking law increases the penalties on patronizing prostitution, which went from a B to an A misdemeanor, and clarifies the existing New York law on sex tourism. The New York law also provides trafficking survivors with a range of comprehensive services such as emergency housing, healthcare, drug addiction treatment, translation services, job training, and services related to immigration protection. It also requires law enforcement to coordinate with the federal government to assist victims in obtaining special visas that allow them to remain in the United States and eventually become eligible for refugee assistance. Finally, this law creates an interagency task force to recommend best practices for training and outreach to the law enforcement community and to service providers, as well as to gather data on the number of victims and effectiveness of the new law.

See, <http://www.stophumantraffickingny.org/about/> and

<http://www.ny.gov/governor/press/0606071.html> and

[http://www.criminaljustice.state.ny.us/legalservices/programbill\\_s5902.htm](http://www.criminaljustice.state.ny.us/legalservices/programbill_s5902.htm).

**8. Targeting social networking sites that are widely used by pimps to sell women and children to johns would reduce trafficking for prostitution.**

Social networking sites include for example FaceBook, MySpace, Craigslist, Flickr, Stickam, Yahoo, and Espin the Bottle. Craigslist is used by johns, pimps and traffickers in San Francisco. Traffickers and slave-traders use live auctions on the world wide web to sell women and children in real time. In any city in the world, organized criminals who sell women and children in prostitution now advertise directly on the Internet.

**9. We recommend a significant increase in the services that are essential for women, men, the transgendered, and children to escape and exit prostitution.**

Ninety percent of people in prostitution want to escape it, regardless of whether they are domestically or internationally trafficked. 75% of those in prostitution are currently or previously homeless, making housing a necessity. Until they have secure housing--which is what pimps and traffickers offer them--other services are less effective. Medical and psychological services, followed by vocational rehabilitation with job placement, are also crucial. The vocational rehabilitation must be provided by staff with expertise in working with chronically sexually traumatized populations.

Funding for, and close coordination with, culturally relevant services, including residential services for those trafficked for prostitution, are critically needed. Asian Women's Shelter, la Casa de Las Madres, Cameron House, Riley House, Safe House and SAGE are examples of local services that already possess expertise in this area.

**10. International agreements provide a basis for law and policy against prostitution and trafficking in San Francisco.**

Two international agreements clearly oppose prostitution and trafficking. Declaring that trafficking and prostitution are incompatible with individual dignity and

worth, the 1949 *UN Convention* addresses the harms of prostitution to adult women whether or not they were transported across national boundaries. “Consent” is not relevant.

A second United Nations document, the 2000 *Palermo Protocol to the Organized Crime Convention*, views trafficked women as victims, not criminals, and declares that consent is irrelevant to whether or not their trafficking has occurred. It defines trafficking to include abuse of power and conditions of vulnerability as well as the use of force, fraud, or coercion. It encourages states to develop legislative responses to men’s demand for prostitution, as Sweden has, and establishes a method of international judicial cooperation that would permit prosecution of traffickers and organized criminals.



