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To Whom it May Concern:

We are writing as a group of organizations where leadership, membership and clients accessing services are people who are currently or formerly trading sex. This includes individuals who have experienced trafficking or are currently looking to extricate themselves from trafficking situations. Every organization involved works to support the health, wellbeing and lives of people who trade sex in all circumstances, including ending and preventing exploitation and trafficking. We are writing to offer insight into the challenges of doing that work, and how many of those challenges have been exacerbated over the last year. We are also writing to share the direct and collateral impact of “anti-trafficking” work on our community, and its contribution to addressing vulnerability to trafficking. As the government considers *prevention* of human trafficking is a core tenant of its anti-trafficking work, this impact is equally as relevant as prosecution or protection.

We urge the government to remember that when people who trade sex are more vulnerable to victimization, this includes victims of trafficking. When people who trade sex experience increased violence, trafficking victims face higher rates of violence. When sex workers are made more vulnerable to victimization, everyone who trades sex is more vulnerable to exploitation and trafficking. Over the last year, people who trade sex have seen increases in those abuses as a direct result of government actions. Without question, the most significant actor promoting the trafficking and exploitation for people trading sex in 2018 has been the United States government.

We want to applaud the ways in which remedying root causes such as lack of economic development and unfair labor practices have been highlighted as effective ways to fight trafficking. In the recently passed “Trafficking Victims Protection Reauthorization Act of 2017” (S. 1862), Section four expands the prohibition on recruitment fees for workers, a valuable step in protecting against vulnerabilities such as debt bondage. We also commend the maintenance of the Department of Labor’s List of Goods Produced by Child Labor or Forced Labor for international products. This can be a valuable tool in attempting to understand the role that forced labor, including prison labor, plays in addressing exploitation. Currently this list is only applicable to overseas industries, and it is essential for the United States to take these values and apply them domestically as well.

The most significant events in the lives of people trading sex in 2018 were **the passage of the Fighting Online Sex Trafficking Act (Public Law No: 115-164)**¹ and **the Department of Justice's seizure of Backpage.com**.² Across the country and globe, including in countries where the sex trade is legal or decriminalized, this removal of online platforms has increased the risks of violence, criminalization and reliance on third parties - all contributing to human trafficking. Of all actions taken this year by the Federal government, these events have directly caused people in the sex trades to suffer greater exposure to trafficking, exploitation, violence and HIV/STI transmission.

Several groups who work with people in the sex trades have reported that **community members are being contacted by more third parties looking to engage in management activities**. This included both sex workers who had always worked independently, as well as those who have previously experienced violence and exploitation by a third party. Because people who trade sex were reliant on internet-based platforms to locate and screen clients, the closure of these venues made individuals more economically precarious. For those reliant on the sex trade to stay housed and fed, the closure of internet platforms destabilized lives and created and increased their vulnerabilities for exploitation. It is the direct actions of the government, both the Administration and Congress, which created these conditions which increased risk for trafficking and exploitation. Knowing this widespread precarity, individuals looking to prey on that increased vulnerability reached out to people trading sex, possibly for the purpose of exploitation.

Internet platforms provided an unprecedented new level of safety for people who trade sex.³ Without access to platforms, many who were able to work in safer spaces or independently were forced to move to street-based or outdoor work, where sex workers experience higher rates of policing and violence.^{4 5}

Sex workers have also moved to working in other areas of the sex industry, which have been flooded by new workers competing for the same number of resources. One organization which has been working with individuals in strip clubs who have reported that since the closure of internet platforms, there has been a marked increase in dancers locally. This has meant employees are treated as disposable, and clubs are firing "outspoken" employees who attempt to organize for better working conditions. Additionally, many new workers are feeling heightened pressure to offer additional sexual services in competition to make money.

¹ H.R.1865 - Allow States and Victims to Fight Online Sex Trafficking Act of 2017, text available at <https://www.congress.gov/bill/115th-congress/house-bill/1865/text>.

² It is important to note that despite years of investigations, both federal and state, into the website *Backpage*, the charges were not for human trafficking but instead for money laundering related to the promotion of prostitution.

³ Cunningham, Et al. Craigslist's Effect on Violence Against Women. Baylor University. November 2017. <http://gregoryjdeangelo.com/workingpapers/Craigslist5.0.pdf>

⁴ Church S, Henderson M, Barnard M, Hart G. Violence by clients towards female prostitutes in different work setting: questionnaire survey. *BMJ*. 2001;322:524–5. pmid:11230067

⁵ Jeal N, Salisbury C. Health needs and service use of parlour-based prostitutes compared with street-based prostitutes: a cross-sectional survey. *BJOG*. 2007;114(7):875–81. pmid:17567420

There has also been an increase in people who previously worked online moving to street-based work, facing higher rates of violence, policing, and subsequent criminal justice involvement. Multiple organizations across the country reported that immediately after the closure of Backpage, there was a significant increase in the number of sex workers who had moved into public spaces to meet their needs. While sex work is not inherently violent or exploitative, the conditions in street based work exacerbate the vulnerabilities which increase incidences of violence and exploitation. Workers directly reported that it was because of these closures that they were forced into street-based work to meet their needs.

Members of the community have also noted that the **policing of the sex trade** in various venues, referred to as anti-trafficking operations, have increased their vulnerability to violence and exploitation, resulting in more prostitution-related arrests and charges. This has happened in various jurisdictions across the country, executed by both local authorities, and sometimes involving federal partners. After the increases in street-based sex work, some jurisdictions have increased their policing of these communities, putting people at higher risk. When policing increases, people attempting to engage in sex work move to more isolated locations where violence is more likely. In San Francisco, a “sex worker abatement unit” began to conduct extra sweeps of areas known for sex work in the last year. Alameda County, the Oakland City Council, and various actors in Los Angeles County⁶ have continued to engage in extensive sweeps to police and arrest people engaged in the sex trade throughout the year, all of which have been guised as “anti-trafficking efforts.” Multiple cities have also reported increased attention, criminalization and policing of massage parlors, often targeting Asian women, including sting operations and passing policies which allow more arms of the governments to police these venues.

These efforts increase policing and arrest of people engaged in sex work, including people experiencing trafficking and exploitation. Policing of the sex trade increases vulnerability to violence, victimization, exploitation and STI/HIV transmission.⁷ Criminal justice involvement increases stigma and isolation, creates a target population for victimizers, and creates additional distrust for law enforcement. Arrest and incarceration is a traumatizing experience which destroys lives, families and communities, as well as directly harms the individuals being arrested and incarcerated. In certain areas, such as Virginia, those trading sex are now being charged with arbitrary associated charges such as “maintaining a bawdy house” and held on bail from \$15,000 - \$20,000. Certain jurisdictions release mugshots of those arrested for prostitution-related crimes, which increases stigma, isolation and vulnerability through public shaming attempts for those trading sex. This year, it was revealed that the conditions of the bail

⁶ Los Angeles County Sheriff's Department Information Bureau, *33 Arrested in #LASD Human Trafficking Operation, Lynwood and Compton*, August 22, 2018. Available at: <http://nixle.us/ACEY2>.

⁷ Platt, Lucy, et al. Associations between sex work laws and sex workers' health: A systematic review and meta-analysis of quantitative and qualitative studies, *PLOS*, 11 Dec 2018. Available at: <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002680>

bond system surrounding prostitution charges was being used as a mechanisms to target women for exploitation and trafficking.⁸

These increases in policing also decrease negotiation for things like condom use and physical boundaries in two ways. Primarily, to avoid policing, sex workers are more likely to move into isolated locations faster, meaning less dialogue with potential clients. Additionally, negotiation for condom use or services is a criminalized activity in sting operations. When sting operations target clients of the sex trade, those same negotiations are still criminal actions and are less likely to occur. Sting operations show no impact on reducing the sex trade or trafficking into the sex trade, but do show that those in the sex trade are more vulnerable to violence, STI and HIV transmission and victimization. These state actions directly contribute to the victimization of people who trade sex, and state actors at every level continue to promote these actions, despite no evidence that they even achieve the goals of anti-trafficking while putting sex workers in grave danger.

Post-conviction and post-arrest arrest vulnerabilities include loss of housing, inability to get a stable job outside of the sex trade, loss of children and community, and, in some jurisdictions, requirements to enroll on sex offender registries. All of these conditions make people more likely to experience trafficking, and community members have reported that upon re-entry they are left more desperate for resources and less able to make ends meet. One organization reported that a community member who was a victim of trafficking reported that she was unable to access funding to attend trade school because of her arrest record and that even after expungement and two years of vocational training paid for by her working 3 waitressing jobs, she was unable to get a state license because of the arrest record being visible on the internet.

There was also an express concern with the level of **required cooperation with law enforcement**, and how quickly that becomes a relationship of uneven power dynamics, especially for those who are at risk of criminalization themselves. There are reports of arrest with the assumption that an individual is being trafficked, and are pressured by law enforcement while in custody to report others. When this is done under the guise of anti-trafficking, this means that law enforcement is knowingly policing, arresting, restraining and then coercing victims of trafficking for information under the threat of prosecution themselves. There are widespread reports of violence directly experienced at the hands of law enforcement. One community member who was a victim of trafficking reported that she was cooperating with law enforcement after the arrest of her boyfriend for trafficking, and in the two years it took to bring the case to completion, she was repeatedly sexually assaulted and sexually harassed by members of the law enforcements task force.

⁸ Anne Kelly and Mei Ling McNamara, Revealed: how US sex traffickers recruit jailed women for prostitution, The Guardian, June 29 2018. Available at: <https://www.theguardian.com/global-development/2018/jun/29/revealed-how-us-sex-traffickers-recruit-jailed-women-for-prostitution-the-trap>.

For service organizations, there is often a pressure to cooperate with law enforcement. For organizations that are staffed and run by those who trade sex, agencies do not feel comfortable cooperating with law enforcement in any ongoing way. Police are largely experienced as potential purveyors of trauma, criminalization and/or violence and are generally avoided at all costs by staff and participants.

Federal, state and local governments also demonstrate an **inability to distinguish between sex work and trafficking into the sex trade**. Frequently, officials refer to all exchanges of sex for resources as a form of trafficking, especially when justifying ineffective and overly broad policing policies. Due to the fact that anyone around the sex trade can fall under broad interpretations of third party laws such as pimping, pandering or promoting, this means that peers, roommates, community members, partners and family members are often criminalized as well, and prosecuted as such. This includes many of the community-based support organizations who contributed to this report.

In almost no other industry are all third parties criminalized, regardless of whether they have engaged in victimization. In Washington state, the seizure of a website where clients of sex workers was touted as an anti-trafficking investigation, while the only case which went to trial resulted in a conviction of promotion of prostitution, not human trafficking. The action displaced sex workers, increased isolation and conveyed to those who trade sex that they were at risk for higher rates of criminalization and under threat from law enforcement. In Massachusetts, Maine and Maryland, there are trafficking statutes which do not require force, fraud or coercion for anyone in the sex trade which are being used to heavily criminalize the sex trade. In California, the legislature attempted to expand the definition of these third party laws, which would have severely compromised the ability of outreach and community-based organizations to operate and service the community.

This ignorance and conflation is no more evident than in the promotion of “End Demand” policies, which look at patrons of the sex trade writ large as part of trafficking efforts. Across many jurisdictions, many different agents have been promoting “End Demand” policies which focus on increased policing of buyers of sexual services, many times under the name of anti-trafficking. Even when law enforcement is directed not to arrest people who sell sexual services, these policies result in increased policing of the sex trade, and therefore exacerbate the resulting harms. Increased policing of the sex trade, even only for buyers, result in isolation of people trading sex, both in terms of not being able to access peer-based harm reduction techniques like sharing knowledge of known perpetrators of violence, or having a “look out.” Additionally, they often result in arrest and incarceration of those trading sex for similar charges or detainment and forcible involvement in services. As the DOJ notes, criminalization is a site of vulnerability which is easily exploited by traffickers. Despite this acknowledgement, as well as the trauma of policing and arrest, Task Forces, both federally funded and working as independent actors, have continued to be trained and incentivized to do these operations, despite their expense, lack of evidence of effectiveness and expansive evidence of their harm. Legislation passed in December of 2018 (S. 1312, S. 1311, HR. 2200) makes numerous

references to the prosecution of patrons of the sex trade, only furthering this conflation. In a shocking display of ignorance, many of these activities are described as “victim-centered” when in fact they increase victimization and violence.

Sex workers across the country have also reported a **significant lack of material resources including housing, medical care or competent legal services**, even when they are identified in sting operations. While there has been an increase in funding for service providers over the last few years, this is not translating into direct expansion of resources such as housing or unrestricted funds, which can cover things like child care which are not offered by services. Many of the services offered may not be useful to trafficking survivors or inaccessible because a service provider is not competent to work with LGBTQ communities, active drug users, or those with mobility or transportation challenges. Additionally, services do not provide living wage jobs, and may only offer things like counselling for those struggling to meet basic needs. Even when someone is identified, resources are insufficient. One group reported that in the Federal sting operation ‘Operation Human Fright’, law enforcement conducted a sting where women were given snacks, water, and a backpack with a blanket in it after having all of their belongings, including condoms and money, taken from them.⁹ Access to sustainable resources and economic development is essential to fighting trafficking, but is not reflected in the government’s approach to trafficking work as our community has experienced it.

Additionally, contractual requirements that bar service providers from weighing in on issues impacting people who trade sex, known as the anti-prostitution pledge, have resulted in silence on the impact of criminalization and have been exploited via threat by law enforcement. Inclusion of these pledges isolate people who trade sex from service providers and mean advocacy can only come from those who promote criminalization, and therefore violence, against people who trade sex.

In the last year the administration has also rolled back protections and contributed to the isolation and abuse of the LGBTQ community, namely transgender and gender non conforming individuals. Accessing resources and services which are competent is an essential part of addressing vulnerability from exploitation. Individuals within our community of trans experience are now more at risk with less options for services and resources, as well as being at risk of higher policing. In a report from Trans LifeLine, a peer-led suicide hotline, after the closure of Backpage and the passage of FOSTA, there was a 100% increase in calls to the hotline looking for support.¹⁰

Members of our community have also noted **problems finding service providers** who were able to meet their needs. One organization reported that a victim of trafficking was told she was not “the right kind of victim,” because of her self-identification as a sex worker when reporting being victimized, and was denied services. One client who had been declared a “certified victim”

⁹ <https://kbkw.com/washington-state-patrol-operation-human-freight-leads-to-arrests-for-promoting-prostitution/>

¹⁰ Sam Ames, Transgender Suicide Is More Than a Mental Health Issue, The Advocate, 25 Sept 2018. <https://www.advocate.com/commentary/2018/9/25/transgender-suicide-more-mental-health-issue>

left the unsafe environment of the faith-based service organization she had been placed with and returned to her victimizer. She continued to be trafficked and was later charged with crimes that led to a mandatory minimum sentence. Many reported not having adequate support needed during the process of prosecution. Others have expressed not being able to access expungement, or that the remedies available did not go far enough to properly seal arrest records, or mug shots from the internet, a problem made worse when local police departments proactively release this information to local news media. Other reported problems include a that a family of murdered sex worker being denied victims' compensation because of an outstanding warrant for human trafficking.

Our community also has significant **concerns about the National Human Trafficking Hotline**. Most people are directed to call the National Human Trafficking Hotline, operated by Polaris Project and funded entirely by the federal government, in the United States if they are a victim of trafficking or if they suspect they have seen trafficking take place. But many of the people they refer are desperate for resources to help them extricate themselves from exploitative situations. The National Human Trafficking Hotline does not provide services to these victims, only referrals to other organizations that might be local to the area. One of the responding organization operates a 24-hour community support hotline and 40% of received calls are referrals from the National Hotline. This is despite receiving no victim services, anti-trafficking, federal or state funding. Callers are served as best as possible through volunteers, contributions from sex worker community members and broader crowdfunding. Currently the National Human Trafficking Hotline has a budget over a million dollars provided by the federal government for this referral, while the budget of the organization actually providing services and support to individuals is roughly \$3,000 per year and through an all-volunteer staff. Identification is not enough. The volunteers of this organization are working diligently to create a database of service providers who are able to assist those who have been victimized while trading sex which are sensitive to their needs and the complexity of their experiences. It is disheartening the extent to which this has been a challenge.

We appreciate your consideration of these concerns and hope there will be opportunities to address the grave harms we have experienced over the last year. As the community closest to this industry, we bring this expertise to improve the approaches and actions taken to address human trafficking in the sex trade.

Sincerely,

Sex workers, organizers and community members concerns about the impact of government actions on those who trade sex