

No. 13-1175

IN THE
Supreme Court of the United States

CITY OF LOS ANGELES,

Petitioner,

v.

NARANJIBHAI PATEL, ET AL.,

Respondents.

**On Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit**

**BRIEF OF *AMICUS CURIAE* LOVE146
IN SUPPORT OF NEITHER PARTY**

KRISTIAN BRYANT ROSE
LOVE146
P.O. Box 66253
Houston, TX 77266

AMANDA R. PARKER
Counsel of Record
LOUIS K. FISHER
JONES DAY
51 Louisiana Ave., NW
Washington, DC 20001
(202) 879-3939
arparker@jonesday.com

JOSHUA L. FUCHS
JONES DAY
717 Texas Street
Suite 3300
Houston, Texas 77002
(832) 239-3719

Counsel for Amicus Curiae

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES.....	ii
INTEREST OF THE <i>AMICUS CURIAE</i>	1
SUMMARY OF THE ARGUMENT.....	2
ARGUMENT	4
I. CHILD SEX TRAFFICKING IS A SERIOUS PROBLEM THROUGHOUT THE UNITED STATES, WITH TRAFFICKERS RELYING ON HOTELS AND MOTELS TO EVADE DETECTION	4
A. Thousands Of Children Are Trafficked For Sex In The United States, And Even More Are At Risk Of Being Trafficked For Sex	5
B. Child Sex Trafficking Persists Because It Is Highly Profitable With Few Risks To Traffickers.....	10
C. Traffickers Use Hotels And Motels To Conduct Their Child Sex Trafficking Operations While Avoiding Detection By Law Enforcement	13
II. SECTION 41.49 DETERS CHILD SEX TRAFFICKING BY REMOVING THE SHIELD OF ANONYMITY THAT THE HOTELS AND MOTELS PROVIDE TO TRAFFICKERS	18

TABLE OF CONTENTS
(continued)

	Page
III. IN ANALYZING § 41.49, THE COURT SHOULD GIVE CONSIDERABLE WEIGHT TO THE INTEREST OF PROTECTING CHILDREN FROM CHILD SEX TRAFFICKING IN HOTELS AND MOTELS.....	20
CONCLUSION	21

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Ashcroft v. Free Speech Coalition</i> , 535 U.S. 234 (2002)	21
<i>Bd. of Educ. of Ind. Sch. Dist. No. 92 of Pottawatomie Cnty. v. Earls</i> , 536 U.S. 822 (2002)	21
<i>Commonwealth v. Halstrom</i> , 996 N.E.2d 892 (Mass. App. Ct. 2013).....	18
<i>Creighton v. State</i> , 761 S.E.2d 373 (Ga. Ct. App. 2014)	18
<i>Maryland v. King</i> , 133 S. Ct. 1958 (2013)	2, 4, 20
<i>Maryland v. Craig</i> , 497 U.S. 836 (1990)	20
<i>Prince v. Massachusetts</i> , 321 U.S. 158 (1944)	20
<i>State v. Monroe</i> , No. 69123-6-I, 2014 Wash. App. LEXIS 1034 (Wash. Ct. App. Apr. 28, 2014)	17
<i>State v. Williams</i> , 329 P.3d 400 (Kan. 2014)	18
STATUTES AND ORDINANCES	
22 U.S.C. § 7102(4).....	4
22 U.S.C. § 7102(10).....	4
Los Angeles Municipal Code § 41.49	<i>passim</i>

TABLE OF AUTHORITIES

(continued)

	Page(s)
Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164, 119 Stat. 3558 (2006).....	5
OTHER AUTHORITIES	
151 Cong. Rec. E270 (Feb. 17, 2005)	8
American Hotel & Lodging Association, <i>About Us</i> , http://www.ahla.com/content.aspx? id=3438	15
American Hotel & Lodging Association, <i>Combat Human Trafficking</i> , http://www.ahla.com/content.aspx?id=30645 &terms=child+trafficking	15
Cheryl Nelson Butler, <i>Making the Grade: The U.S. TIP Report & the Fight Against Domestic Child Sex Trafficking</i> , 67 SMU L. Rev. 341 (2014)	12, 19
Tessa L. Dysart, <i>Child, Victim, or Prostitute? Justice Through Immunity for Prostituted Children</i> , 21 Duke J. Gender L. & Pol’y 255 (2014)	8
ECPAT USA, <i>Corporations</i> , www.ecpatusa.org/corporations	13
Erika R. George & Scarlet R. Smith, <i>In Good Company: How Corporate Social Responsibility Can Protect Rights and Aid Efforts to End Child Sex Trafficking and Modern Slavery</i> , 46 N.Y.U. J. Int’l L. & Pol. 55 (2013)	12, 13

TABLE OF AUTHORITIES

(continued)

	Page(s)
<p>In Our Own Backyard: Child Prostitution and Sex Trafficking in the United States: Hearing Before the Subcomm. on Human Rights and the Law of the S. Judiciary Comm. 4 (2010).....</p>	11
<p>Institute of Medicine, <i>Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States</i> (2013), available at http://www.nap.edu/catalog/18358/confronting-commercial-sexual-exploitation-and-sex-trafficking-of-minors-in-the-united-states.....</p>	6, 7
<p>International Labour Office, <i>Profits and Poverty: The Economics of Forced Labour</i> (2014), available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf.....</p>	10, 11
<p>Just Ask Va, <i>Blake's Story</i>, http://justaskva.org/blog/story/blakes-story/.....</p>	10
<p>Just Ask Va, <i>Jenna's Story</i>, http://justaskva.org/blog/story/jennas-story/.....</p>	9
<p>Siddharth Kara, <i>Attacking the Demand For Child Sex Trafficking</i> (Apr. 14, 2011), http://thecnnfreedomproject.blogs.cnn.com/2011/04/14/attacking-the-demand-for-child-sex-trafficking/.....</p>	11
<p>Siddharth Kara, <i>Sex Trafficking: Inside the Business of Modern Slavery</i> (2009).....</p>	11

TABLE OF AUTHORITIES

(continued)

	Page(s)
Love146, <i>An Abolitionist Walks Into A Hotel</i> (Mar. 14, 2014), http://love146.org/blog/hotels-fight-sex-trafficking	1
Love146, <i>Learn</i> , http://love146.org/slavery	4, 5
National Center for Missing and Exploited Children, <i>Innocence Lost Working Group, Commercial Sexual Exploitation of Children: A Fact Sheet</i> (Mar. 2010), <i>available at</i> http://www.missingkids.com/en_US/documents/CCSE_Fact_Sheet.pdf	11
Polaris Project, <i>Human Trafficking in Hotels and Motels, Victim and Location Indicators</i> (2012), <i>available at</i> http://www.twolittlegirls.org/ufiles/Hotel%20and%20Motel%20Indicators%20AAG.pdf	13
Polaris Project, <i>Human Trafficking Trends in the United States: National Human Trafficking Resource Center 2007-2012</i> (2013), <i>available at</i> http://www.polarisproject.org/human-trafficking/overview/human-trafficking-trends	7
Kristian Bryant Rose, <i>Looking for Love in All the Wrong Places: A Call to Reform State Law on Sex Trafficking</i> , 65 Okla. L. Rev. 303 (2013).	12
Michael S. Schmidt, <i>F.B.I. Cracks Down on Sex Trafficking</i> , N.Y. Times, June 24, 2014.....	6

TABLE OF AUTHORITIES

(continued)

	Page(s)
Linda A. Smith, <i>et al.</i> , <i>Shared Hope Int’l, The National Report on Domestic Minor Sex Trafficking</i> (May 2009), available at http://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf	4, 5, 6, 7, 8, 9
Sup. Ct. R. 37.6.	1
Texas Human Trafficking Prevention Task Force, <i>Introduction to Human Trafficking: A Guide for Texas Education Professionals</i> (July 2014), available at https://www.texasattorneygeneral.gov/AG_Publications/pdfs/HumanTraffick_RPRT2014.pdf	13
The Code, <i>About</i> , http://www.thecode.org/about	15
The Code, <i>Members of the Code</i> , www.thecode.org/who-have-signed	15
UNICEF, United States Fund, <i>Child Trafficking</i> , http://www.unicefusa.org/mission/protect/trafficking	5
U.S. Attorney’s Office, <i>Child Sex Trafficker Sentenced to Nine Years Imprisonment</i> , http://www.justice.gov/usao/lam/news/2014/pr2014002.html	17
U.S. Attorney’s Office, <i>Houston Man Gets 40 Years For Sex Trafficking of Children</i> (Aug. 14, 2014), http://www.justice.gov/usao/txs/1News/Releases/2014%20August/140814%20-%20Harris.html	10

TABLE OF AUTHORITIES

(continued)

	Page(s)
U.S. Attorney’s Office, <i>Jackson Man Convicted of Sex Trafficking By Force</i> (Nov. 26, 2014), http://www.justice.gov/usao/mie/news/2014/2014_11_26_dsmith.html	16
U.S. Attorney’s Office, <i>Los Angeles-Area Gang Member Who Trafficked Teens as Prostitutes Sentenced to 30 Years in Federal Prison</i> (Mar. 31, 2014), http://www.justice.gov/usao/cac/Pressroom/2014/036.html	17
U.S. Attorney’s Office, <i>Leader of Crips Gang Pleads Guilty to Prostituting Eight Juveniles</i> (June 26, 2012), http://www.justice.gov/usao/vae/news/2012/06/20120626stromnr.html	8
U.S. Attorney’s Office, <i>Malden Man Pleads Guilty to Sex Trafficking of a Minor</i> (May 22, 2014), http://www.justice.gov/usao/ma/news/2014/May/MinasianDavidpelaPR.html	17
U.S. Attorney’s Office, <i>Man Convicted of Child Sex Trafficking in Grand Rapids</i> (Apr. 30, 2014), http://www.justice.gov/usao/miw/news/2014/2014_0430_EJackson.html	9
U.S. Attorney’s Office, <i>Recent Child Exploitation Cases: 3 Indictments, One Guilty Plea and One 14-Year Sentence</i> (Aug. 14, 2014), http://www.justice.gov/usao/cae/news/docs/2014/2014_08/08-14-14PSC.html	17

TABLE OF AUTHORITIES

(continued)

	Page(s)
U.S. Attorney’s Office, <i>Security Guard Sentenced to 15 Years in Prison for Coercing and Enticing Minors into Prostitution</i> (May 15, 2014), http://www.justice.gov/usao/flm/press/2014/May/20140515_Lewis.html	16
U.S. Attorney’s Office, <i>South King County Man Convicted of Sex Trafficking Juveniles Across State Lines</i> (Nov. 6, 2014), http://www.justice.gov/usao/waw/press/2014/November/bonds.html	9
U.S. Attorney’s Office, <i>Two Baltimore Pimps Sentenced to Prison for Sex Trafficking of a Minor</i> (Aug. 28, 2014), http://www.justice.gov/usao/md/news/2014/TwoBaltimorePimpsSentencedToPrisonForSexTraffickingOfAMinor.html	17
U.S. Dep’t of Health and Human Services, <i>Human Trafficking Into and Within The United States: A Review of the Literature</i> (2009)	7
U.S. Dep’t of Justice, <i>Bureau of Justice Statistics, Characteristics of Suspected Human Trafficking Incidents, 2008-2010</i> (2011), available at http://www.bjs.gov/index.cfm?ty=pbdetail&iid=2372	7
U.S. Dep’t of Justice, <i>Defendant Pleads Guilty to Federal Offense of Sex Trafficking of a Child</i> (Mar. 28, 2014), http://www.justice.gov/usao/nyn/news/1981-3902-1106492672.pdf	17

TABLE OF AUTHORITIES

(continued)

	Page(s)
U.S. Dep't of State, <i>Trafficking in Persons Report 2014</i> (June 2014), available at http://www.state.gov/j/tip/rls/tiprpt/2014/?utm_source=NEW+RESOURCE:+Trafficking+in+Persons+R	4
Urban Institute, <i>Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major US Cities</i> (March 2014), available at www.urban.org/uploadedpdf/413047-underground-commercial-sex-economy.pdf	14, 16
Press Release, Wyndham Worldwide, <i>Wyndham Hotel Group Partners with Polaris to Help Prevent Human Trafficking</i> (Nov. 17, 2014), http://www.wyndhamworldwide.com/news-media/press-releases/wyndham-hotel-group-partners-polaris-help-prevent-human-trafficking	15
Matt Zapotosky, <i>More Gangs Entering Child Sex Trade, Prosecutors Say</i> , Washington Post, Sept. 30, 2013.	11, 16

INTEREST OF THE *AMICUS CURIAE*¹

Love146 is a nonprofit international human rights organization working to end child trafficking and exploitation. Through caring for survivors, educating youth to prevent trafficking, training professionals who work with children, and empowering an abolition movement, Love146 works to abolish child trafficking and restore survivors to their communities. Among its many initiatives, Love146 has educated owners and operators of hotels and motels, which traffickers often use as places of exploitation, about identifying and reporting child sex trafficking. *See Love146, An Abolitionist Walks Into A Hotel* (Mar. 14, 2014).²

In light of its work to end child trafficking and exploitation, Love146 has a strong interest in this case. Love146 does not take a position on whether Los Angeles Municipal Code § 41.49 violates the Fourth Amendment or whether hotel and motel owners have an expectation of privacy in guest registries. Instead, Love146 seeks to bring to the Court's attention the serious problem of child sex trafficking in the United States and, in particular, traffickers' reliance on hotels and motels to conduct business. Love146's expertise in this area can inform the Court as to the balance of interests underlying

¹ All parties have consented to the filing of this brief. As required by Rule 37.6, Love146 states that no counsel for a party authored this brief in whole or in part, and no person other than Love146, its members, and its counsel made any monetary contribution intended to fund the preparation or submission of this brief.

² <http://love146.org/blog/hotels-fight-sex-trafficking>.

§ 41.49, including how § 41.49 deters child sex trafficking by eliminating the shield of anonymity hotels and motels otherwise could provide to traffickers.

SUMMARY OF THE ARGUMENT

Child sex trafficking occurs in the United States, and traffickers conduct business in the same hotels and motels regulated by § 41.49. Thus, given that the constitutionality of § 41.49 may depend in part on a balancing of interests, *see Maryland v. King*, 133 S. Ct. 1958, 1977 (2013), understanding the role of § 41.49 in deterring child sex trafficking can inform the Court's analysis by highlighting the relevant interests at stake.

I. This brief explains that child sex trafficking is a serious problem in the United States that is compounded by traffickers' use of hotels and motels to traffic and house their child victims. Child sex trafficking is the sexual exploitation of children for profit, and often involves force, fraud, or coercion—it is modern-day slavery. And contrary to common assumptions, child sex trafficking occurs in the United States—it is not something that happens only in other countries. Although the number of victims of child sex trafficking is inherently difficult to measure, experts estimate that at least 100,000 children are trafficked for sex in the United States each year, with more than 200,000 children at risk of being trafficked. Moreover, child sex trafficking is a hugely profitable enterprise, with a net profit margin of approximately 70% worldwide, and an average net profit of \$130,000 per victim in North America. Its profitability stems in part from the fact that a trafficker can sell a child repeatedly for sex, while a

trafficker's "acquisition" costs, whether through manipulation or purchase, often are only a few hundred dollars. Operating costs and the risk of arrest are likewise low.

Hotels and motels are critical elements of a child sex trafficking operation. Not only do children perform commercial sex acts at hotels and motels, but traffickers often house children there. Hotels and motels also are key to traffickers' efforts to avoid law enforcement. These establishments offer privacy and anonymity and, in some cases, their employees may conceal the presence of sex workers and traffickers, particularly if the hotel or motel depends on traffickers for business. Confirming the importance of hotels and motels to child sex traffickers, numerous recent criminal cases involved victims trafficked or housed in hotels or motels. Various hospitality industry groups, moreover, have acknowledged the pervasiveness of child sex trafficking at hotels and motels and have implemented programs to raise awareness and prevent trafficking.

II. Los Angeles Municipal Code § 41.49 deters child sex trafficking by removing the shield of anonymity that hotels and motels provide, making them less attractive places to traffic children for sex. Absent these low-cost and anonymous locations in which to house and traffic their victims, child sex trafficking becomes less lucrative, which serves to further deter its prevalence in the United States. Thus, § 41.49 and similar laws are invaluable in the fight against child sex trafficking.

III. Given that hotels and motels are critical elements of child sex trafficking operations, the

Court should give considerable weight to the well-being of child victims in its evaluation of § 41.49. To the extent the Fourth Amendment analysis here may at some point require a balancing of interests, *see King*, 133 S. Ct. at 1977, the interest of vulnerable children should be paramount. Indeed, this Court has repeatedly emphasized the importance of protecting children, even when doing so intrudes on constitutional rights.

ARGUMENT

I. CHILD SEX TRAFFICKING IS A SERIOUS PROBLEM THROUGHOUT THE UNITED STATES, WITH TRAFFICKERS RELYING ON HOTELS AND MOTELS TO EVADE DETECTION.

Child sex trafficking involves “the recruitment, harboring, transportation, provision, or obtaining of a [minor] for the purpose of a commercial sex act,” defined as “any sex act on account of which anything of value is given to or received by any person.” 22 U.S.C. § 7102(4), (10). Child sex trafficking, like all forms of human trafficking, is “the exploitation of human beings for profit”—it is modern-day slavery. U.S. Dep’t of State, *Trafficking in Persons Report 2014* at 28 (June 2014) (“2014 TIP Report”);³ Love146, *Learn*, love146.org/slavery (“Human trafficking is slavery.”). Such exploitation is devastating to children; victims suffer severe psychological trauma and experience significant health complications, including drug dependence and sexually transmitted diseases. Linda A. Smith, *et*

³http://www.state.gov/j/tip/rls/tiprpt/2014/?utm_source=NEW+RESOURCE:+Trafficking+in+Persons+R.

al., Shared Hope Int'l, *The National Report on Domestic Minor Sex Trafficking* at 41-42 (May 2009) (hereinafter "Shared Hope Report");⁴ Love 146, *Learn*, love146.org/slavery.

Three facts highlight why child sex trafficking is relevant to the Court's analysis in this case. *First*, child sex trafficking "is not just an issue that happens to people in other countries. The United States is a source and transit country, and is also considered one of the top destination points for victims of child trafficking and exploitation." UNICEF, United States Fund, *Child Trafficking*.⁵ *Second*, child sex trafficking persists because it is highly profitable with low costs—including a low likelihood of prosecution. *Third*, hotels and motels play a critical (even if often unwilling) role in child sex trafficking because they minimize the risk of detection by law enforcement.

A. Thousands Of Children Are Trafficked For Sex In The United States Each Year, And Even More Are At Risk Of Being Trafficked For Sex.

"No known studies exist that quantify the problem of trafficking in children for the purpose of commercial sexual exploitation in the United States." Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164, 119 Stat. 3558, 3559 (2006). Nonetheless, experts' estimates and

⁴ http://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf.

⁵ <http://www.unicefusa.org/mission/protect/trafficking> (last visited Dec. 15, 2014).

anecdotal evidence, even viewed conservatively, reflect that child sex trafficking is a serious problem in the United States.

Experts estimate that at least 100,000 American children are victims of child sex trafficking each year. Shared Hope Report, *supra* at iv. According to “[o]ne of the most widely cited estimates,” moreover, “between 244,000 and 325,000 children are at risk of commercial sexual exploitation in the United States” at any given time. Institute of Medicine, *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States* (2013) at 42⁶ (hereinafter “Confronting Commercial Sexual Exploitation”).

Anecdotal data from anti-trafficking organizations and law-enforcement agencies offer additional insight regarding the prevalence of child sex trafficking in the United States. Earlier this year, for example, “law enforcement authorities . . . arrested 281 pimps and recovered 168 child [victims] in a nationwide sex trafficking sting . . . in 106 cities.” Michael S. Schmidt, *F.B.I. Cracks Down on*

⁶ <http://www.nap.edu/catalog/18358/confronting-commercial-sexual-exploitation-and-sex-trafficking-of-minors-in-the-united-states>.

The study underlying these estimates has significant methodological limitations, as “clearly acknowledged by the [study’s] authors.” *Confronting Commercial Sexual Exploitation*, *supra* at 42-43. That it nonetheless remains one of the most widely cited and comprehensively conducted studies—despite the authors’ call for deeper and more well-funded analysis by others, *id.* at 43—only underscores the difficulty of identifying and quantifying child sex trafficking victims.

Sex Trafficking, N.Y. Times, June 24, 2014, at A17. And between January 2008 and June 2010, of the 2,515 incidents investigated by federally funded human trafficking task forces, 40% “involved prostitution of a child or child sexual exploitation.” U.S. Dep’t of Justice, Bureau of Justice Statistics, *Characteristics of Suspected Human Trafficking Incidents, 2008-2010* at 3 (2011).⁷ More recently, the National Human Trafficking Resource Center reported that between 2007 and 2012 it received 9,298 reports of potential human trafficking, approximately 1,975 of which reported child sex trafficking. Polaris Project, *Human Trafficking Trends in the United States: National Human Trafficking Resource Center 2007-2012* at 5 (2013).⁸ In short, “[t]here is substantial and compelling evidence that . . . sex trafficking of minors in the United States” is a “serious problem[.]” *Confronting Commercial Sexual Exploitation*, *supra* at 5.

In particular, children are vulnerable to sex trafficking because their young age renders them susceptible to the various manipulative tactics that traffickers use to recruit victims. *See Shared Hope Report*, *supra* at 31. The average age at which girls first are exploited through sex trafficking is between 12 and 14 years old; for boys and transgender youth, the average age is even younger, between 11 and 13 years old. U.S. Dep’t of Health and Human Services, *Human Trafficking Into and Within The United States: A Review of the Literature* at 9 (2009); *Shared*

⁷ <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=2372>.

⁸ <http://www.polarisproject.org/human-trafficking/overview/human-trafficking-trends>.

Hope Report, *supra* at 30. Victims of child sex trafficking “come from a variety of socio-economic backgrounds, geographic areas, and ethnicities.” Shared Hope Report, *supra* at 9. Children who have run away from home, foster homes, or group homes—in many cases to escape physical, sexual, or psychological abuse—are particularly vulnerable. *Id.*; Tessa L. Dysart, *Child, Victim, or Prostitute? Justice Through Immunity for Prostituted Children*, 21 Duke J. Gender L. & Pol’y 255, 260 (2014); see also 151 Cong. Rec. E270 (Feb. 17, 2005) (statement of Rep. Smith) (“It is well documented . . . that runaway and homeless children are highly susceptible to trafficking for commercial sexual exploitation.”).

Traffickers approach children at schools, malls, parks, and public transportation stations. See Shared Hope Report, *supra* at 31. They also contact children online through social networking sites like Facebook. *E.g.*, U.S. Attorney’s Office, *Leader of Crips Gang Pleads Guilty to Prostituting Eight Juveniles* (June 26, 2012)⁹(defendant used “online social networking sites . . . [to] entice[] the girls to use their good looks to earn money through prostitution”). To recruit children, traffickers identify a child’s vulnerabilities—for instance, low self-esteem, a need for shelter or food, or the absence of a parent figure—and exploit them to gain the child’s trust and dependency. Shared Hope Report, *supra* at 38. A “primary method of manipulation is to secure a seemingly loving and caring relationship,” acting as

⁹<http://www.justice.gov/usao/vae/news/2012/06/20120626stromnr.html> (last visited Dec. 15, 2014).

the child's boyfriend or girlfriend. Shared Hope Report, *supra* at 31. Jenna, a 14-year-old girl in Northern Virginia, for example, "met an attractive boy" at Target after school. Just Ask Va, *Jenna's Story*.¹⁰ He told her that she "was pretty and [that] he would be happy to call [her] his girlfriend." *Id.* After they had been dating for over a month, "he said that he was having money problems," and asked her to help him pay his bills by having sex with other men. *Id.* She agreed, but when she tried to stop, "[h]e yelled and screamed and then hit [her]." *Id.*

Recent convictions for child sex trafficking reflect that Jenna's situation is unfortunately not unique. In Michigan, a trafficker "targeted vulnerable girls with troubled backgrounds, . . . and controlled his victims by making them feel like he loved and cared about them, interspersed with threats and violence." U.S. Attorney's Office, *Man Convicted of Child Sex Trafficking in Grand Rapids* (Apr. 30, 2014).¹¹ A Seattle-area man "befriended" a 15-year-old girl who had run away from home by "let[ting] the girl borrow his cell phone . . . and sit in his car, out of the rain." U.S. Attorney's Office, *South King County Man Convicted of Sex Trafficking Juveniles Across State Lines* (Nov. 6, 2014).¹² He then "manipulated the girl into accompanying him to a hotel room where he

¹⁰ justaskva.org/blog/story/jennas-story (last visited Dec. 15, 2014).

¹¹ http://www.justice.gov/usao/miw/news/2014/2014_0430_EJackson.html (last visited Dec. 15, 2014).

¹² <http://www.justice.gov/usao/waw/press/2014/November/bonds.html> (last visited Dec. 15, 2014).

raped her. Over the next few days, [he] coerced the girl into working for him as a prostitute.” *Id.*

Traffickers also might tell a young girl that they will help her secure a modeling or other job in the entertainment industry. *E.g.*, U.S. Attorney’s Office, *Houston Man Gets 40 Years For Sex Trafficking of Children* (Aug. 14, 2014) (defendant told victims that “he was going to help them become models”).¹³ Other traffickers have created false online profiles to lure children. For example, a trafficker contacted 15-year-old Blake over Facebook, pretending to be a teenage girl. Just Ask Va, *Blake’s Story*.¹⁴ After talking with Blake for several weeks, “she” invited him to her house. *Id.* When Blake arrived, the man who had been posing as the teenage girl hit and raped Blake, and “convinced [him] to have sex with [the man’s] friends” for money, telling Blake that it would help him “learn about [his] sexuality.” *Id.*

B. Child Sex Trafficking Persists Because It Is Highly Profitable With Few Risks To Traffickers.

A key reason that child sex trafficking continues is its profitability, including the low risk of detection by law enforcement. According to the International Labour Organization, a specialized agency of the United Nations, sex trafficking generates \$99 billion in illegal profits each year. International Labour Office, *Profits and Poverty: The Economics of Forced*

¹³<http://www.justice.gov/usao/txs/1News/Releases/2014%20August/140814%20-%20Harris.html> (last visited Dec. 15, 2014).

¹⁴ <http://justaskva.org/blog/story/blakes-story/> (last visited Dec. 16, 2014).

Labour at 13 (2014).¹⁵ Measured on a per-victim basis, a leading expert estimates that the global weighted average net profit is over \$29,000, and over \$130,000 in North America. Siddharth Kara, *Attacking the Demand For Child Sex Trafficking* (Apr. 14, 2011).¹⁶ Thus, a trafficker in the United States can expect to earn at least \$100,000 from trafficking just one victim. National Center for Missing and Exploited Children, *Innocence Lost Working Group, Commercial Sexual Exploitation of Children: A Fact Sheet* (Mar. 2010)¹⁷; see also In Our Own Backyard: Child Prostitution and Sex Trafficking in the United States: Hearing Before the Subcomm. on Human Rights and the Law of the S. Judiciary Comm. 4 (2010) (statement of Sen. Ron Wyden) (remarking that “a pimp can make \$200,000 a year trafficking just one victim”). The profit margin for sex trafficking, moreover, is approximately 70%. Siddharth Kara, *Sex Trafficking: Inside the Business of Modern Slavery* 19 (2009). In fact, recent reports indicate that “[m]ore and more gangs are [trafficking] teens, finding it a bigger moneymaker than drugs or weapons.” Matt Zapotosky, *More Gangs Entering Child Sex Trade, Prosecutors Say*, *Washington Post*, Sept. 30, 2013, at B1.

¹⁵ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf.

¹⁶ <http://thecnnfreedomproject.blogs.cnn.com/2011/04/14/attacking-the-demand-for-child-sex-trafficking/> (last visited Dec. 16, 2014).

¹⁷ http://www.missingkids.com/en_US/documents/CCSE_Fact_Sheet.pdf.

The profitability of child sex trafficking stems from both the nature of the “product” and the low costs associated with such trafficking. To start, from the trafficker’s perspective, a child is “the ideal durable asset.” Kristian Bryant Rose, *Looking for Love in All the Wrong Places: A Call to Reform State Law on Sex Trafficking*, 65 Okla. L. Rev. 303, 326-27 (2013). Unlike drugs, which can be sold only once, “a sex trafficker can sell a person repeatedly.” *Id.* With respect to costs, both acquiring children to traffic and running a child sex trafficking operation require only limited resources. For example, traffickers that recruit young girls by pretending to be their boyfriend might spend a few hundred dollars on gifts and dates over the recruitment period. Traffickers that purchase children have similarly low acquisition costs—“a marketable slave is often only ‘a few hundred dollars.’” *Id.* at 325. As to operating expenses, traffickers “rarely pay for anything more than the child’s most basic needs, such as food and clothes”—“the only significant costs” are housing and travel. Erika R. George & Scarlet R. Smith, *In Good Company: How Corporate Social Responsibility Can Protect Rights and Aid Efforts to End Child Sex Trafficking and Modern Slavery*, 46 N.Y.U. J. Int’l L. & Pol. 55, 71-72 (2013).

Notably, the “cost” of criminal penalties is also relatively low. The “weak criminal penalties” and the fact that child sex trafficking is difficult for law enforcement to discover mean that the cost associated with “getting caught” is minimal. Cheryl Nelson Butler, *Making the Grade: The U.S. TIP Report & the Fight Against Domestic Child Sex Trafficking*, 67 SMU L. Rev. 341, 343 (2014). As experts have estimated, while a trafficker earns on

average \$30 per sex act, “the average cost of getting caught” is only a small fraction of those earnings. George, *In Good Company*, 46 N.Y. U. J. Int’l L. & Pol. at 72 (citing Kara, *Sex Trafficking* at 214).

C. Traffickers Use Hotels And Motels To Conduct Their Child Sex Trafficking Operations While Avoiding Detection By Law Enforcement.

Child sex trafficking could not operate so easily in the United States without the availability of hotels and motels. They are, in short, integral to modern child sex trafficking operations. “With the use of online classified ads, child trafficking is moving off the streets and behind the closed doors of local hotel rooms.” ECPAT USA, *Corporations*, www.ecpatusa.org/corporations (last visited Dec. 19, 2014). Indeed, anti-trafficking advocates have indicated that “hotels are the primary scene of commercial sexual exploitation of children, ‘accounting for 93.3% of incidences.’” George, *In Good Company*, 46 N.Y. U. J. Int’l L. & Pol. at 66-67; *see also* Texas Human Trafficking Prevention Task Force, *Introduction to Human Trafficking: A Guide for Texas Education Professionals* at 12 (July 2014)¹⁸ (identifying hotels and motels as places where youth are trafficked).

Traffickers use hotels and motels both as sites where children engage in commercial sex acts and as places to house their child victims. Polaris Project, *Human Trafficking in Hotels and Motels, Victim and*

¹⁸https://www.texasattorneygeneral.gov/AG_Publications/pdfs/HumanTraffick_RPRT2014.pdf.

Location Indicators at 1 (2012).¹⁹ Hotels and motels are used by traffickers because they minimize the risk of detection by law enforcement. Traffickers thus “take advantage of the privacy and anonymity offered by hotels and motels.” *Id.* For instance, traffickers often target motels “with outside room entrances, so that front desk staff cannot easily monitor their guests.” Urban Institute, *Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major US Cities* at 107 (March 2014)²⁰ (hereinafter “Urban Institute”). Moreover, according to a recent study, a lower-end motel may have an incentive to protect traffickers because traffickers are in some instances the motel’s “main customer,” and the motel “would go broke” without their business. *Id.* Thus, hotel employees sometimes “tip[] off pimps to law enforcement inquiries” or “intentionally conceal[] the presence of sex workers and pimps” from law enforcement. *Id.* at 187. In these and other instances, hotel employees “might be receiving money from the pimp to keep quiet.” *Id.* at 107.

Child sex traffickers depend on hotels and motels to such a great extent that the hospitality industry has developed “The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.” “The Code” is “an industry-driven responsible tourism initiative with a mission to provide awareness, tools and support to the

¹⁹<http://www.twolittlegirls.org/ufiles/Hotel%20and%20Motel%20Indicators%20AAG.pdf>.

²⁰ www.urban.org/uploadedpdf/413047-underground-commercial-sex-economy.pdf.

tourism industry in order to prevent the sexual exploitation of children.” The Code, *About*, <http://www.thecode.org/about> (last visited Dec. 17, 2014). Member companies “commit to taking six essential steps to help protect children,” including adopting a “zero tolerance” policy of sexual exploitation of children. *Id.* Numerous hotel companies, including Hilton Worldwide and Wyndham Worldwide, the world’s largest hotel company, have joined The Code. The Code, *Members of the Code*, www.thecode.org/who-have-signed (last visited Dec. 17, 2014). The Wyndam Hotel Group also has partnered with anti-trafficking advocate Polaris to develop “comprehensive training and educational tools” for hotel owners, franchisees, staff, and call-center employees “to educate them about all aspects of human trafficking.” Press Release, Wyndham Worldwide, *Wyndham Hotel Group Partners with Polaris to Help Prevent Human Trafficking* (Nov. 17, 2014).²¹ And the American Hotel & Lodging Association, “the sole national association representing all segments” of the U.S. lodging industry, American Hotel & Lodging Association, *About Us*,²² encourages its members to view a Child Trafficking Webinar to combat trafficking in hotels and motels, American Hotel & Lodging Association, *Combat Human Trafficking*.²³

²¹ <http://www.wyndhamworldwide.com/news-media/press-releases/wyndham-hotel-group-partners-polaris-help-prevent-human-trafficking> (last visited Dec. 16, 2014).

²² <http://www.ahla.com/content.aspx?id=3438> (last visited Dec. 19, 2014).

²³<http://www.ahla.com/content.aspx?id=30645&terms=child+trafficking> (last visited Dec. 16, 2014).

While these worldwide, higher-end hotels have implemented programs to fight child sex trafficking, local and lower-end hotels and motels, where child sex traffickers often conduct business, generally have not. See Urban Institute, *supra* at 107 (“[H]igher-end hotels are more willing and eager to assist with investigations,” while “lower end hotels and motels [do] not always cooperate with law enforcement.”).

Recent cases involving child sex trafficking further underscore that children are regularly trafficked for sex and housed in hotels and motels. A pimp in Tampa, for example, “facilitate[d] [his] crimes” by “rent[ing] two hotel rooms One room was used for [the pimp] and the minors to sleep, while the other room was designated for prostitution.” U.S. Attorney’s Office, *Security Guard Sentenced to 15 Years in Prison for Coercing and Enticing Minors into Prostitution* (May 15, 2014).²⁴ Similarly, a Michigan trafficker arranged for “teenage girls, ages 14, 15, and 16,” in his sex trafficking operation to meet customers at local hotels. U.S. Attorney’s Office, *Jackson Man Convicted of Sex Trafficking By Force* (Nov. 26, 2014).²⁵ And in “one of the largest underage prostitution rings in the Washington area’s history,” traffickers “advertised services on the Web and had girls meet clients at hotels.” Zapotosky, *supra* at B1.

²⁴http://www.justice.gov/usao/flm/press/2014/May/20140515_Lewis.html (last visited Dec. 19, 2014).

²⁵http://www.justice.gov/usao/mie/news/2014/2014_11_26_dsmith.html (last visited Dec. 19, 2014).

There are countless additional cases involving child sex trafficking at hotels and motels.²⁶

²⁶ See, e.g., U.S. Attorney's Office, *Two Baltimore Pimps Sentenced to Prison for Sex Trafficking of a Minor* (Aug. 28, 2014), <http://www.justice.gov/usao/md/news/2014/TwoBaltimorePimpsSentencedToPrisonForSexTraffickingOfAMinor.html> (last visited Dec. 16, 2014) (task force members "recovered a 14 year old girl from a motel on Joppa Road in Baltimore," where "the victim . . . had been performing commercial sex acts from that hotel for approximately four days"); U.S. Attorney's Office, *Recent Child Exploitation Cases: 3 Indictments, One Guilty Plea and One 14-Year Sentence* (Aug. 14, 2014), http://www.justice.gov/usao/cae/news/docs/2014/2014_08/08-14-14PSC.html (last visited Dec. 16, 2014) (thirty-year-old trafficker "posted online prostitution ads for a 16-year-old girl in Sacramento and Anaheim," and "managed the victim by providing directions on when and where she should work [and] transporting her to hotels"); U.S. Attorney's Office, *Malden Man Pleads Guilty to Sex Trafficking of a Minor* (May 22, 2014), <http://www.justice.gov/usao/ma/news/2014/May/MinasianDavidpelaPR.html> (last visited Dec. 16, 2014) (minor victim was prostituted in area hotels); U.S. Attorney's Office, *Los Angeles-Area Gang Member Who Trafficked Teens as Prostitutes Sentenced to 30 Years in Federal Prison* (Mar. 31, 2014), <http://www.justice.gov/usao/cac/Pressroom/2014/036.html> (last visited Dec. 16, 2014) (noting that the sex-trafficking victims were housed at hotels or motels); U.S. Dep't of Justice, *Defendant Pleads Guilty to Federal Offense of Sex Trafficking of a Child* (Mar. 28, 2014), <http://www.justice.gov/usao/nyn/news/1981-3902-1106492672.pdf> (last visited Dec. 16, 2014) (victim was transported "to various locations including hotels where [the minor] was instructed and caused to engage in commercial sex acts"); U.S. Attorney's Office, *Child Sex Trafficker Sentenced to Nine Years Imprisonment*, <http://www.justice.gov/usao/lam/news/2014/pr2014002.html> (last visited Dec. 16, 2014) (reporting that all of the victim's commercial sex transactions were "coordinated by [the trafficker] and occurred in a hotel in Baton Rouge"); *State v. Monroe*, No. 69123-6-I, 2014 Wash. App. LEXIS 1034, at *3

II. SECTION 41.49 DETERS CHILD SEX TRAFFICKING BY REMOVING THE SHIELD OF ANONYMITY THAT THE HOTELS AND MOTELS PROVIDE TO TRAFFICKERS.

Given that hotels and motels are a primary site for child sex trafficking, laws that give law enforcement access to hotel and motel guest registries, like § 41.49, can significantly reduce this horrendous crime. Section 41.49’s record-keeping and inspection provisions seek to deter crime at hotels and motels “on the theory that those who would be inclined to use hotels to facilitate their illicit activities will be less inclined to do so if they know that hotel operators must collect—and make available to the police—information identifying each of their guests.” (Pet. App. 10.) That rationale is particularly applicable to child sex trafficking. For example, the ordinance would prevent a trafficker from using cash to maintain anonymity—hotels must

(continued...)

(Wash. Ct. App. Apr. 28, 2014) (noting that the trafficker and his victim “moved to [a hotel] where [the victim] continued to work” for the trafficker as a prostitute); *State v. Williams*, 329 P.3d 400, 406 (Kan. 2014) (minor trafficking victim and pimp “stayed in three hotels over . . . several days,” where the pimp waited while the victim “walk[ed] the streets”); *Creighton v. State*, 761 S.E.2d 373, 374 (Ga. Ct. App. 2014) (“T.S.,” a 14-year-old girl, “met men through the advertisements” posted by the trafficker, and “told them to come to Room 330 at . . . [a] motel,” where “T.S. performed sexual activities in exchange for money.”); *Commonwealth v. Halstrom*, 996 N.E.2d 892, 895 (Mass. App. Ct. 2013) (“Halstrom provided the girls with hotel names and keys, gave them drugs, took them to the hotels, paid for the rooms, and took \$100 of the \$300 charged per hour by each girl.”).

record identification information for guests paying in cash. (*Id.* at 64.) A guest registry, moreover, would reflect that a teenage girl checked into a motel room for only a few hours. (*Id.* at 60, 64.)

By all accounts in the record, § 41.49 has achieved its goal of deterring crime at hotels and motels. According to Detective Eric Moore, “the motel registration card requirement deters prostitution and/or other criminal activities at motels,” because “criminals are reluctant to provide true identifying information” or might “falsify such information.” (JA 116.) Statistics compiled by the Los Angeles Police Department confirm the deterrent effect; once police lost authority to conduct surprise inspections, criminal activity at various motels increased 82% over a six-month period. (*See* Pet. App. 120-172.)

By deterring child sex trafficking at hotels and motels, § 41.49 also can deter child sex trafficking generally. As discussed above, a substantial portion of child sex trafficking occurs at hotels and motels. And if low-cost and anonymous hotels are no longer available to house and traffic victims, child sex traffickers would be forced to find alternative—and potentially riskier and more expensive—locations to conduct business. *See* Butler, *Making the Grade*, 67 SMU L. Rev. at 343. By increasing the risk of detection, then, § 41.49 increases the “cost” of child sex trafficking, making it a less lucrative criminal enterprise and ultimately reducing its prevalence in the United States.

III. IN ANALYZING § 41.49, THE COURT SHOULD GIVE CONSIDERABLE WEIGHT TO THE INTEREST OF PROTECTING CHILDREN FROM CHILD SEX TRAFFICKING IN HOTELS AND MOTELS.

As noted above, Love146 does not take a position on whether hotel and motel owners have an expectation of privacy in guest registries, or whether § 41.49 is constitutional. Instead, to the extent that the Court balances the interests in analyzing § 41.49, *see King*, 133 S. Ct. at 1977, Love146 urges the Court to give significant weight to the interest of protecting children from victimization through sex trafficking.

This Court, in balancing legitimate government interests against the intrusion on constitutional rights, repeatedly has given considerable weight to the interest in protecting children. For example, emphasizing “the interests of society to protect the welfare of children” from “the crippling effects of child employment,” the Court upheld child labor laws despite their infringement on a parent’s “freedom of conscience and religious practice” and “authority in her own household and in the rearing of her children.” *Prince v. Massachusetts*, 321 U.S. 158, 165 (1944). This Court also has held that “a State’s interest in the physical and psychological well-being of child abuse victims may be sufficiently important to outweigh, at least in some cases, a defendant’s right to face his or her accusers in court.” *Maryland v. Craig*, 497 U.S. 836, 853 (1990). Additionally, the Court has upheld against First Amendment challenge laws that prohibit the production, distribution, sale, and possession of child pornography, invoking “the importance of the State’s

interest in protecting” the children abused in the creation of child pornography. *Ashcroft v. Free Speech Coalition*, 535 U.S. 234, 249-50 (2002). And in the Fourth Amendment context, the Court has validated mandatory drug testing for students in light of the “important interest in detecting and preventing drug use” by children. *Bd. of Educ. of Ind. Sch. Dist. No. 92 of Pottawatomie Cnty. v. Earls*, 536 U.S. 822, 825 (2002).

Consistent with these precedents, in considering the constitutionality of Los Angeles Municipal Code § 41.49, the Court here should give significant consideration to protecting children who are trafficked in hotels and motels governed by the ordinance. Although child sex trafficking is often hidden behind closed doors, it is a serious problem in the hotels and motels in this country. It should not be hidden in the Court’s analysis.

CONCLUSION

Love146 respectfully requests that the Court consider, in its evaluation of the constitutionality of § 41.49, the interest in protecting the thousands of children who are trafficked for sex in hotels and motels across the United States.

Respectfully submitted,

KRISTIAN BRYANT ROSE
LOVE146
P.O. Box 66253
Houston, TX 77266

AMANDA R. PARKER
Counsel of Record
LOUIS K. FISHER
JONES DAY
51 Louisiana Ave., NW
Washington, DC 20001
(202) 879-3939
arparker@jonesday.com

JOSHUA L. FUCHS
JONES DAY
717 Texas Street
Suite 3300
Houston, Texas 77002
(832) 239-3719

DECEMBER 22, 2014