

SNAPSHOT – PROSECUTING IMI NETWORKS MORE EFFECTIVELY

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Prosecutors often face unappealing options when trying to bring illicit massage business (IMB) owners to justice for their involvement in sex trafficking. Combatting IMBs using prostitution cases can be perceived as not being worth the time and effort because of light penalties and the speed at which these businesses reopen; in addition, there is a growing realization that this method penalizes victims more than traffickers. Sex trafficking cases, while carrying harsher penalties, are often difficult to prove,¹ in large part because they rely heavily on the testimony of victims who are often reluctant to testify. Heyrick Research and Street Grace have interviewed law enforcement officers and prosecutors around the country to identify underutilized means of building successful multi-charge cases against illicit massage industry (IMI) networks, and how doing so can lead to highly impactful prosecutions against traffickers in a manner that is less traumatic for those who have been victimized.

THE LIMITATIONS OF PROSTITUTION CHARGES

While prostitution charges are easier to prove than human trafficking and related financial crimes, even successful prosecutions can leave much to be desired in terms of impact. Penalties for prostitution are usually not severe, and often focus on lower-level employees/those potentially being victimized instead of the beneficial owners of IMBs, leaving the owners free to simply find more workers and continue operations with little pause. Even more problematic, approaching IMI networks in this way leaves the proceeds from exploitation in criminal hands. Prostitution, pimping, pandering, promotion and other names are used differently in different states to describe the acts associated with being sold, buying, and managing commercial sex acts. Here we are particularly speaking about charges aimed at those being sold or low-level managers who in some cases are also being exploited. IMI networks and operational plans are often set up in a way to ensure that those being victimized will plead guilty rather than speak out. In recent press articles, the ethics around investigations that center around Vice officers engaging in sexual acts with individuals that are likely being victimized have been called into question.²

CHARGE OUTSIDE THE BOX

Heyrick Research and Street Grace assess that very few IMBs are the stand-alone “mom and pop” businesses they are commonly perceived to be. Our research indicates that more often, there are groups of criminals behind business networks that can include not only IMB storefronts, but other types of commercial sex venues as well as legitimate businesses used to help launder illegal proceeds.³ Because of the number and range of crimes that IMI networks commit, there are myriad options for pressing both criminal and civil charges apart from—or in addition to—sex trafficking and/or prostitution. Pursuing more comprehensive cases against these criminal networks increases the possibility of successful prosecutions, increases potential penalties—including asset seizures—for traffickers, and moves away from reliance on victim testimony to focus more on financial and other paper trails.

- **Tax evasion:** Checking for the filing and payment of taxes and comparing claimed income against bank records, real estate, and other assets is less labor-intensive than investigating the laundering of proceeds, does not depend on witness testimony, and can help boost a case with charges that are likely to meet with success even if trafficking charges do not.⁴⁵⁶ Anecdotal reports suggest that it is common for IMB owners to substantially underreport their income, frequently claiming to make \$15,000 or less per year, possibly to stay below thresholds required to claim tax credits and other benefits.
- **Money laundering:** In demand studies conducted by academics and non-profits, IMB storefront revenue estimates ranged from \$277,000 to \$1.2M a year. Traffickers use myriad ways to hide, move, and launder illegal proceeds. Some, such as underground money remitters, money orders, and the use of casinos are difficult to track. However,

traffickers also tend to keep numerous accounts and safety deposit boxes in U.S. financial institutions, leaving auditable trails of at least some earnings as well as red flags such as Suspicious Activity Reports (SARs).

- **Promotion of prostitution:** Unlike many other types of criminals, traffickers in Chinese-owned IMBs⁷ tend to keep the same phone number for years because it is attached to their WeChat ID. Because of this, it is often easy to connect phone numbers from sites advertising commercial sex to IMB owners and managers, aiding in pressing these charges, which are felonies in most states.^{8,9}
- **Pimping/Deriving support from proceeds of prostitution¹⁰:** In part because of its increased association with sex trafficking, some jurisdictions have made this a felony and/or implemented minimum sentences.¹¹ For example, in Massachusetts a conviction on this charge has a minimum jail sentence of two years without possibility of probation, parole, or deduction for good conduct. A woman convicted there in 2018 of operating IMBs in 6 different towns was charged with 6 counts of deriving support from prostitution; 5 of which resulted in conviction.^{12,13}
- **Pandering/Purchasing sex:** Operations that focus on the demand that fuels the exploitation within IMBs often garner a lot of attention aimed at buyers that can have an impact on the flow of money into the IMBs.^{14,15,16} Surveillance coupled with traffic stops and interviews has led to arrests of buyers.
- **Labor law violations:** While trafficking can be difficult to prove, especially without witnesses willing to testify, it is often possible to demonstrate labor law violations without testimony. IMB owners frequently fail to file I9s and other employee tax documents or obtain required insurance for workers or businesses, and deliberately misclassify employees to avoid paying withholdings. One state prosecutor called pursuing labor violations “an extremely promising avenue” against the IMI. Victims may also be more willing to testify about wage and hour violations, and the use of force, fraud, or coercion to compel their massage work as well as substandard working conditions if they do not have to discuss the sexual aspects, which often carry a strong cultural stigma and feelings of shame.
- **RICO/Racketeering:** IMBs are a perfect example of repeated, related crimes linked to a business. Several states detailed below have used state-level or federal racketeering laws against IMI networks, linking several of the aforementioned crime types for greater accountability.
- **Conspiracy:** In cases in Minnesota¹⁷ and Kansas¹⁸, charges of conspiracy were added to IMI network cases to include crimes that defendants were working toward but had not yet completed.
- **Invasion of Privacy:** Many states have laws forbidding the video recording people without consent where they have a reasonable expectation of privacy; 19 states specifically have laws against non-consensual recording of the intimate parts of nudity of another person. Fifteen states explicitly forbid recording without consent on private property. Yet, it is common practice for IMBs to have cameras installed in massage rooms.
- **Unlicensed health and medical services:** Some states classify Licensed Massage Therapists (LMTs) as healthcare providers, meaning that offering massage services without correct licensing carries potentially serious penalties. King County, Washington and Delaware County, Ohio have both used these laws in an IMI context: in Ohio, twin sisters who owned multiple IMBs were convicted of 3 felony counts each of practicing medicine without a license.¹⁹
- **Consumer Protection:** Where applicable, charges under states’ deceptive trade practice statutes can be brought by agencies such as the office of the attorney general. Texas has a specific deceptive trade practice provision that covers both unlicensed massage and massage establishments that operate in violation of local laws and ordinances. When brought by the Texas Attorney General, these actions carry very significant civil penalties. In addition, 21 states have statutes requiring a massage license to advertise “massage” and 18 others require a license to advertise “massage therapy.” Only a handful (KS, NE, NJ, OH, VA, WY) of states do not regulate massage advertisements. These statutes can be used to seek civil penalties and, because in many states false advertisement ties into consumer protection, it may be possible to leverage these statutes to obtain even higher fines and penalties.²⁰

OVERCOMING COMMON CHALLENGES

To successfully move towards a more holistic model of IMI network prosecutions, some rethinking of how trafficking cases are delegated, investigated, and prosecuted is necessary. Human trafficking police units and prosecutors do not always have experience building financial cases; while those focused on organized or “white collar” crime may lack

experience with interacting with victims in culturally sensitive, trauma-informed ways. Both skill sets are essential. The idea of having a choice between—or both to apply—may seem like a luxury outside of major cities. Nonetheless, our interviewees reported that a broad case approach can be highly successful anywhere with effective collaboration, even if some scoping is needed. Policies that encourage collaboration between local, state and federal entities, and between white collar and sex crimes experts, with victim service professionals with appropriate cultural aptitude and linguistic support, can help move the needle towards more victim-centered, impactful prosecutions.

- IMI networks, unless very small, rarely heed jurisdictional boundaries. This can present challenges, particularly when different jurisdictions take different approaches to IMBs. However, among our interviewees were multiple examples of cities working with state authorities, state authorities working with federal agencies, and local authorities collaborating across county or state lines. Most interviewees emphasized simple principles of respect and courtesy when reaching out and working across these boundaries as laying the foundation for successful outcomes.
- We heard repeatedly from interviewees that two types of experts were in particularly short supply: financial investigators and interpreters, and how they navigated local limitations in these areas.
 - Multiple state prosecutors said that federal involvement was essential for specialized financial skill sets: assistance from DOJ, the IRS, etc. provided additional staffing and expertise when pursuing money laundering charges. Other state-level prosecutors emphasized that they are an available resource for smaller cities or counties. All stressed that creating a larger network was a key to success.
 - Interpreters can be hard to come by, particularly in smaller or less diverse jurisdictions. In some states, interpreters must be certified, further shrinking the pool. In addition, in two cases where victims provided testimony, maintaining contact and looking after their needs was as important as language fluency. Successful prosecutors tapped community groups, service providers outside their immediate area, and even academics to provide extra assistance with linguistic and cultural understanding.
- We would be remiss if we did not speak directly to concerns about the expense of large, long-term cases. The IMI, like drug trafficking, is a cash-heavy industry where large amounts of currency are often found onsite at storefronts and at associated residences. Network leaders often stash bulk cash to later send overseas via legitimate or underground remitters, launder at other cash-based businesses like casinos, and/or purchase real estate and luxury goods. New laws, as well as training regarding existing forfeiture and seizure laws²¹ can help agencies offset the costs of complex cases, in addition to hitting these organizations where it hurts their operations most: in the bank account.
 - According to the National Conference of State Legislatures, between 50% and 100% of asset seizures go to law enforcement; though in some cases there are further stipulations regarding how the money may be used.²² In applicable jurisdictions, this may help defray the costs associated with long-term anti-trafficking investigations and cases.
 - An online review of press regarding cash seizure amounts from IMI networks easily found a number of seizures in the tens or hundreds of thousands of dollars.^{23,24,25,26,27,28} In the Massachusetts case, \$300,000 was found at the defendant’s residence.

EXAMPLES OF SUCCESS

Here are examples of successful multi-charge prosecutions of IMI networks, many of which included use of state or federal racketeering statutes. Prosecutors in several states noted that federal involvement was essential for additional bandwidth in areas where in-demand expertise like financial analysts/ forensic accountants or additional linguists were needed.

- In **Ohio** in 2015, two sisters who owned 3 IMBs were sentenced to 10 years each after state prosecutors charged them with corruption, promoting prostitution, money laundering, and practicing medicine without a license.²⁹

- **Denver** successfully prosecuted a state-level RICO case named “Bad Apple” in 2020, ultimately bringing 33 charges against 7 defendants that included racketeering, conspiracy, tax evasion, filing false tax returns, money laundering, pimping, pandering, and keeping a place of prostitution.³⁰
- **Delaware, in coordination with DOJ, brought** charges against trafficker Da Zhong Wang, who was found guilty on 3 racketeering counts under Delaware’s Organized Crime and Racketeering Act in 2019.³¹
- **Florida and Pennsylvania** partnered with several federal agencies to bring multiple charges against a Pensacola trafficker with IMBs in at least 3 states,^{32, 33} as did **Minnesota** in a very large case against a Thai network that eventually resulted in the indictments and sentencing of 36 defendants with the help of HSI, DOJ, the IRS and Diplomatic Security as well as various state and local authorities.³⁴
- In **Ventura County, California**, information uncovered during the 2019 execution of an arrest warrant led police from a single arrest to a 5-person IMI network takedown. The subject of the original arrest warrant was sentenced to 11 years in jail in May 2021 on charges of human trafficking, tax evasion, and money laundering. In addition to large amounts of cash, investigators seized 36,000 condoms from a storage unit³⁵, which helped prove commercial sex activity as well as indicate the scale and profitability of the group’s enterprise.

The IMI is a densely-layered, multi-faceted problem that—at present—is growing rather than shrinking. Significant progress can be made, however, by stepping away from conventional approaches, and examining the vulnerabilities that are exposed once we begin thinking of individual IMBs as parts of much larger criminal networks whose goal is maximizing illicit profits. The overall goal is to stop the IMI; in some cases this may mean foregoing seeking trafficking cases to focus on civil or financial violations. Doing so can reap big rewards, both in asset seizure (which in turn can fuel additional operations) and reduced victimization overall.

¹ Philip Marcelo. “State prosecutors struggle with human trafficking cases.” *Associated Press*, May 26, 2019.

<https://www.boston.com/news/local-news/2019/05/26/state-prosecutors-struggle-with-human-trafficking-cases/>

² Cara Kelly, Erin Mansfield, Brenna Smith. “The Atlanta shooting put a spotlight on the vulnerability of spa workers.” *USA Today*, March 31, 2021. <https://www.usatoday.com/story/news/investigations/2021/03/31/georgia-spa-shootings-highlight-worker-vulnerability-threat-arrest/4802368001/>

³ Robert Wilonsky. “How vice cops linked Southlake’s popular Dragon House to a Dallas massage parlor and beyond.” *The Dallas Morning News*, November 7, 2019. <https://www.dallasnews.com/news/commentary/2019/11/07/following-the-money-trail-cops-used-to-link-dallas-jade-spa-to-southlakes-dragon-house-and-beyond/>

⁴ Ryan Brown. “Hawley couple charged with multiple tax crimes.” Minnesota Dept. of Revenue, May 7, 2021.

<https://www.revenue.state.mn.us/press-release/2021-05-07/hawley-couple-charged-multiple-tax-crimes>

⁵ Gretchen Frazee. “Two Columbus massage parlors shut down for tax evasion.” *Indiana Public Media*, March 2, 2012.

<https://indianapublicmedia.org/news/columbus-massage-parlors-shut-tax-evasion-27460.php>

⁶ Ron Russel. “Professor faces prostitution count, 2 charges of evading state taxes.” *Los Angeles Times*, April 30, 1988.

<https://www.latimes.com/archives/la-xpm-1988-04-30-mn-2087-story.html>

⁷ Heyrick’s research suggests that the majority of IMBs are owned and operated by Chinese nationals, though there are also examples of South Korean, Thai, Vietnamese and Latin American IMI networks.

⁸ Pimping and Pandering Laws. *FindLaw*, last updated March 20, 2019. <https://www.findlaw.com/criminal/criminal-charges/pimping-and-pandering-laws.html>

⁹ In some states, like Arkansas, the degree of the charge makes a difference; e.g. a 1st-degree charge is a felony while a 2nd degree charge is a misdemeanor.

¹⁰ Amanda Batchelor. “‘Good Massage’ couple arrested on prostitution, money laundering charges.” *Local10.com*, February 19, 2020. <https://www.local10.com/news/local/2020/02/19/good-massage-couple-arrested-on-prostitution-money-laundering-charges/>

¹¹ DOJ published model state legislation on this as part of the 2008 update of the Trafficking Victims Protection Reauthorization Act: <https://www.justice.gov/olp/model-state-provisions-pimping-pandering-and-prostitution>; see also, Georgia, OCGA § 16-6-13

¹² Press release. “2 arrested in connection with extensive criminal enterprise involving human trafficking.” U.S. Immigration and Customs Enforcement, May 14, 2013. <https://www.ice.gov/news/releases/2-arrested-connection-extensive-criminal-enterprise-involving-human-trafficking>

¹³ According to local press, the defendant was also convicted of six counts of Trafficking of Persons for Sexual Servitude; six counts of Conspiracy to Traffic Persons for Sexual Servitude; five counts of Deriving Support from Prostitution; five counts for Keeping a House of Ill Fame and four counts of Money Laundering. <https://medford.wickedlocal.com/news/20181220/medford-woman-found-guilty-in-human-trafficking-scheme>

¹⁴ Tom Winter. "Robert Kraft prostitution charges dropped by Florida prosecutors." *NBC News*, September 24, 2020. <https://www.nbcnews.com/news/crime-courts/robert-kraft-prostitution-charges-dropped-florida-prosecutors-n1240964>

¹⁵ Sara Jane Green. "Seattle police set up massage parlor in sex-sting operation, arrest 204 men." *Seattle Times*, July 14, 2016. <https://www.seattletimes.com/seattle-news/crime/seattle-pd-arrests-155-men-in-massage-parlor-sting-operation/>

¹⁶ Brian Rogers. "HPD prostitution sting nets Houston cop among 139 clients." *Houston Chronicle*, October 26, 2017. <https://www.chron.com/news/houston-texas/houston/article/HPD-prostitution-stings-includes-Houston-cop-and-12308727.php>

¹⁷ Press release. "Thirty-Six Defendants Sentenced for Their Roles in International Thai Sex Trafficking Organization." Department of Justice, June 10, 2021. <https://www.justice.gov/usao-mn/pr/thirty-six-defendants-sentenced-their-roles-international-thai-sex-trafficking>

¹⁸ Luke Ranker. "Topeka massage parlor bust typical of trafficking investigations." *The Topeka Capital-Journal*, July 10, 2018. <https://www.cjonline.com/news/20180710/topeka-massage-parlor-bust-typical-of-trafficking-investigations>

¹⁹ Glenn Batishill. "Women convicted in massage parlor case sentenced on trafficking charges." *Delaware Gazette*, October 17, 2015. <https://www.delgazette.com/news/3498/women-convicted-in-massage-parlor-case-sentenced-on-trafficking-charges>

²⁰ Tex. Bus. & Comm. Code Sec. 17.46(b)(33)

²¹ "Asset Forfeiture Laws by State." *FindLaw*, last updated February 26, 2019. <https://www.findlaw.com/criminal/criminal-rights/asset-forfeiture-laws-by-state.html>

²² Anne Teiger, Lucia Bragg. "Evolving Civil Asset Forfeiture Laws." *Legis Brief*, Vol. 26, No. 5, National Conference of State Legislatures, February 2018. <https://www.ncsl.org/research/civil-and-criminal-justice/evolving-civil-asset-forfeiture-laws.aspx>

²³ Ron Balaskovitz. "More than \$300k seized in massage parlor raids." *Amarillo Globe-News*, November 18, 2016. <https://www.amarillo.com/article/20161118/NEWS/311189882>

²⁴ Sara Jean Green. "Major prostitution bust: Seattle police raid 11 massage parlors, freeing 26 women." *Seattle Times*, March 7, 2019. <https://www.seattletimes.com/seattle-news/crime/a-crazy-amount-of-money-seattle-police-raid-prostitution-network-in-massage-parlors/>

²⁵ Pat Reavy. "Masseuse told undercover officer if he didn't want sex to go elsewhere, charges say." *Deseret News*, February 10, 2021. <https://www.deseret.com/utah/2021/2/10/22276938/masseuse-told-undercover-officer-if-he-didnt-want-sex-to-go-elsewhere-charges-say>

²⁶ Marc Freeman, Lisa Huriash. "Here's how cops got video cameras into massage parlor for sex sting." *South Florida Sun Sentinel*, March 11, 2019. <https://www.sun-sentinel.com/local/palm-beach/fl-ne-search-warrants-unsealed-day-spa-20190311-story.html>

²⁷ Press release. U.S. Immigration and Customs Enforcement, March 7, 2014. <https://www.ice.gov/news/releases/hsi-dallas-pd-serve-search-warrants-10-dallas-massage-parlors>

²⁸ Jim Green. "DA: Takedown of alleged prostitution and money laundering enterprise in Centereach." *On Town Media*, November 25, 2020. https://www.ontownmedia.com/beyond_sachem/da-takedown-of-alleged-prostitution-and-money-laundering-enterprise-in-centereach/article_76a8d264-2f6f-11eb-81aa-9b02771a4c4d.html

²⁹ "Sisters Sentenced to 10 Years in Prison Following Human Trafficking Investigation." Ohio Attorney General, October 16, 2016. <https://www.ohioattorneygeneral.gov/Media/News-Releases/October-2015/Sisters-Sentenced-to-10-Years-in-Prison-Following>

³⁰ Redacted version of Operation Bad Apple indictment. <https://www.denverda.org/wp-content/uploads/news-release/2020/082020-Bad-Apple-Indictment-Final-REDACTED.pdf>

³¹ DI-140 Memorandum Opinion. <https://news.delaware.gov/files/2019/11/DI-140-Memorandum-Opinion.pdf>

³² Press release. "Pensacola Man Pleads Guilty to Federal Charges Related to Human Trafficking in Multiple States." Department of Justice, November 14, 2019. <https://www.justice.gov/usao-ndfl/pr/pensacola-man-pleads-guilty-federal-charges-related-human-trafficking-multiple-states>

³³ Press release. "Federal Charges for Pensacola Man Related to Allegations of Human Trafficking in Multiple States." Department of Justice, August 16, 2019. <https://www.justice.gov/usao-ndfl/pr/federal-charges-pensacola-man-related-allegations-human-trafficking-multiple-states>

³⁴ Press release. “Thirty-Six Defendants Sentenced for Their Roles in International Thai Sex Trafficking Organization.” Department of Justice, June 10, 2021. <https://www.justice.gov/usao-mn/pr/thirty-six-defendants-sentenced-their-roles-international-thai-sex-trafficking>

³⁵ Gretchen Wenner. “T.O. bust brings down an alleged sex trafficking empire.” *VC Star*, September 18, 2019. <https://www.vcstar.com/story/news/local/communities/county/2019/09/18/ventura-county-sheriff-detectives-bust-human-trafficking-ring/2348327001/>