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District Attorney

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July 25, 2008

Mr. John Arntz
Director of Elections
1 Dr. Carlton B. Goodlett Place, Room 48
San Francisco, CA 94103

Re: *Request for Analysis of Ballot Initiative Entitled "Enforcement of Laws Related to Prostitution and Sex Workers"*

Dear Mr. Arntz:

I am writing in response to your July 9, 2008 letter requesting the Office of the District Attorney's analysis of the above-reference ballot measure. As detailed below, our office believes the measure, if adopted, would encourage the victimization, sexual exploitation and trafficking of women, girls, boys, and transgender individuals.

I. The Measure Wrongfully Assumes that Prostitution is a Victimless Crime

First, the measure is based on the inaccurate and harmful premise that prostitution is a victimless crime. Repeated studies document that the vast majority of prostituted people have been victims of repeated abuse, violence and molestation. Often, they have been coerced, tricked, threatened or beaten into participating in commercial sex. Their "choice" to engage in the commercial sex trade is not meaningful.

In addition, many victims of sexual exploitation and trafficking are children. According to recent studies, the average age that a person enters the commercial sex trade is 13 years old. Our office has encountered prostituted children as young as nine years old. Minors cannot, as a matter of law, consent to molestation. By barring enforcement of laws against prostitution, the measure attempts to place a group of molested children and teens outside the protection of the city's law enforcement system.¹ This would be inhumane and irresponsible.

The measure also inaccurately purports that San Francisco law enforcement fails to prosecute crimes against prostitutes, such as rape and battery. On the contrary, our office consistently works closely and effectively with the San Francisco Police Department to prosecute individuals who assault or abuse prostituted individuals. Those cases involve, among other offenses, serial assaults, rapes, attempted homicide and homicide. In fact, recognizing that prostituted individuals are especially vulnerable to criminal victimization, District Attorney

¹ Our office expresses no view as to whether the ballot measure, if adopted, could diminish the elected District Attorney's inherent power as the state's public prosecutor for our county to enforce violations of state law.

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Kamala D. Harris drafted and sponsored several major pieces of successful state legislation to enact tougher penalties against individuals exploiting prostituted women and children. For example, AB 3042, now Penal Code Section 675, established stronger penalties for sex crimes against minors when those crimes are committed against prostituted children and youth.

II. This Measure Bars Law Enforcement Against Human Trafficking

The proposed measure would expressly bar the investigation and prosecution of human trafficking crimes. Human trafficking is a serious problem in San Francisco. Many people in the commercial sex trade have been trafficked and forced to participate in commercial sex. This measure would attempt to provide safe harbor to their traffickers.

It is well-settled city policy to recognize human trafficking as a serious public safety issue. In 2005, District Attorney Harris sponsored and shepherded passage of Assembly Bill 22, the California Trafficking Victims Protection Act. This measure, supported by San Francisco Mayor Newsom and the Board of Supervisors, made human trafficking a felony crime under state law. It recognizes that women and children are often trafficked from one county to another, within the State of California, with San Francisco being a main stop on that circuit.

III. The Measure Would Ban Vital Programs that Protect Victims and Reduce Recidivism

The measure would ban San Francisco programs that are designed to assist victims of the commercial sex trade and enhance public safety. The City operates several programs that assist women and others who choose to leave the commercial sex trade and rebuild their lives free from victimization and exploitation. Many of these individuals do so at great personal risk and justifiably fear retaliation from pimps and predators.

Our office administers the First Offender Program. This program is proven to reduce demand for prostitution and assist prostituted women and children to transition out of the commercial sex trade. According to a recent, two-year federal evaluation, since 1995, the First Offender Program has reduced prostitution recidivism by 30% among its more than 6,000 participants. It has been replicated in 22 other places in America as well as Canada, Great Britain and other countries. The program works by educating “johns” arrested for soliciting prostitution on the personal risk and impact of their behavior on the community and victims. The participants pay a fee that goes toward police enforcement and services for women and children to assist them in transitioning out of the commercial sex trade.

IV. This Measure Bars Inspections of Brothels

The measure would bar inspections of brothels operating under the guise of massage parlors. These inspections began in 2005 and have successfully shut down more than 20 brothels pretending to be massage parlors. The inspections are conducted by police, health department inspectors and fire department officials. These first-responders have been trained to recognize the signs of human trafficking—evidence that women are being held against their will to participate in commercial sex. Examples include chained doors, women trapped inside 24 hours a day, or the absence of any massage tables in a “massage” parlor.

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In sum, our office strongly believes this measure will compromise public safety, particularly the safety of vulnerable women and children who are trafficked and exploited as part of the commercial sex trade.

Sincerely,

LENORE ANDERSON
Assistant District Attorney

