



June 2021

SEX TRAFFICKING

Online Platforms and Federal Prosecutions



A Century of Non-Partisan Fact-Based Work

GAO@100 Highlights

Highlights of [GAO-21-385](#), a report to congressional committees

Why GAO Did This Study

Online marketing and communication platforms can enable sex trafficking—the commercial sexual exploitation of adults through force, fraud or coercion, or children under the age of 18 (with or without force, fraud, or coercion)—by making it easier for traffickers to exploit victims and connect with buyers.

Section 3 of FOSTA established criminal penalties for those who promote or facilitate prostitution and sex trafficking through their control of online platforms. It also allows for those injured by an aggravated violation involving the promotion of prostitution of five or more people or reckless disregard of sex trafficking to recover damages in a federal civil action. It also makes federal criminal restitution mandatory for aggravated offenses contributing to sex trafficking.

FOSTA includes a provision for GAO to provide detailed information on restitution and civil damages. This report examines: (1) DOJ enforcement efforts against online platforms that promote prostitution and sex trafficking, from 2014 through 2020; and (2) the extent to which criminal restitution and civil damages have been sought and awarded for aggravated violations under section 3 of FOSTA.

GAO reviewed federal criminal cases brought against those who controlled platforms in the online commercial sex market from 2014 through 2020; visited a selection of online platforms in this market; and conducted a legal search to identify criminal and civil cases brought pursuant to section 3 of FOSTA. GAO also interviewed DOJ officials and representatives from third parties.

View [GAO-21-385](#). For more information, contact Gretta L. Goodwin at (202) 512-8777 or goodwing@gao.gov.

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What GAO Found

Two events in April 2018 disrupted the landscape of the online commercial sex market. First, federal authorities seized the largest online platform for buying and selling commercial sex, backpage.com. Second, the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (FOSTA) was enacted. These events led many who controlled platforms in this market to relocate their platforms overseas. Additionally, with backpage.com no longer in the market, buyers and sellers moved to other online platforms, and the market became fragmented.

From 2014 through 2020, the Department of Justice (DOJ) brought at least 11 criminal cases against those who control platforms in this market, including three cases against those who control backpage.com, as shown below.

Federal Criminal Cases Brought against Those Who Control Platforms in the Online Commercial Sex Market Under Various Laws Including FOSTA (from 2014 through 2020)

	Backpage.com	All other online platforms
 Criminal cases	3	8
 Case status	All 3 cases filed in spring of 2018, all cases pending	2 cases filed in 2014 and 2015 are closed, resulted in 3 convictions 6 cases filed in or after July 2018 are pending
 Funds targeted by DOJ	At least between \$83.4 and \$91.8 million	At least about \$2.8 million

Source: GAO analysis of court documents and Department of Justice (DOJ) press releases. | GAO-21-385

Note: Funds targeted by DOJ represents funds in accounts that have been seized, are subject to potential forfeiture, or have been ordered to be forfeited. GAO uses the term “at least” because there is an unknown amount of funds in many accounts. Funds in cryptocurrency are expressed in the equivalent of U.S. Dollars.

The current landscape of the online commercial sex market heightens already-existing challenges law enforcement face in gathering tips and evidence. Specifically, gathering tips and evidence to investigate and prosecute those who control or use online platforms has become more difficult due to the relocation of platforms overseas, platforms’ use of complex payment systems, and the increased use of social media platforms.

Criminal restitution has not been sought and civil damages have not been awarded under section 3 of FOSTA. In June 2020, DOJ brought one case under the criminal provision established by section 3 of FOSTA for aggravated violations involving the promotion of prostitution of five or more people or acting in reckless disregard of sex trafficking. As of March 2021, restitution had not been sought or awarded. According to DOJ officials, prosecutors have not brought more cases with charges under section 3 of FOSTA because the law is relatively new and prosecutors have had success using other criminal statutes. Finally, in November 2020 one individual sought civil damages under a number of constitutional and statutory provisions, including section 3 of FOSTA. However, in March 2021, the court dismissed the case without awarding damages after it had granted defendants’ motions to dismiss.

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Abbreviations

CEO	Chief Executive Officer
DOJ	Department of Justice
EOUSA	Executive Office for U.S. Attorneys
FBI	Federal Bureau of Investigation
FOSTA	Allow States and Victims to Fight Online Sex Trafficking Act of 2017
HTI	Human Trafficking Institute

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June 21, 2021

Congressional Committees

Sex trafficking—the commercial sexual exploitation of adults through force, fraud or coercion, or of children under the age of 18 (with or without force, fraud, or coercion)—is occurring in the United States and abroad.¹ A type of human trafficking, sex trafficking deprives countless individuals of their dignity and freedom. Traffickers may seek out those perceived to be vulnerable, such as runaways, those living in poverty, or those with drug addictions.

Online marketing and communication platforms can enable sex trafficking by making it easier for traffickers to exploit victims and connect with buyers. Two events in particular are reported to have altered the landscape of online sex trafficking in recent years. First, federal authorities seized the largest online platform for buying and selling commercial sex, backpage.com, on April 6, 2018. Second, just 5 days later, on April 11, 2018, the “Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (FOSTA),” was enacted.² Section 3 of FOSTA established criminal penalties for those who promote or facilitate prostitution and sex trafficking through their ownership, management, or operation of online platforms.³

Federal investigating agencies, such as the Federal Bureau of Investigation (FBI), bring evidence related to online platforms to Department of Justice (DOJ) components responsible for criminal prosecutions (e.g. U.S. Attorneys’ Offices). These components bring federal criminal charges against those acting in foreign or interstate commerce who own, manage, or operate online platforms (hereafter

¹Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act. 22 U.S.C. § 7102(12). The term “commercial sex act” means any sex act on account of which anything of value is given to or received by any person. See id. § 7102(4). Sex trafficking is one of two “severe forms of trafficking in persons” when it involves force, fraud, or coercion, or where the victim has not attained 18 years of age, in which case force, fraud or coercion are not necessary elements. See id. § 7102(11)(A). The primary definition of the crime of sex trafficking is similarly defined under section 1591 of Title 18, U.S. Code.

²Pub. L. No. 115-164, 132 Stat. 1253.

³Pub. L. No. 115-164, § 3(a), 132 Stat. at 1253-54.

“those who control” online platforms) that promote or facilitate prostitution or sex trafficking. DOJ may also pursue civil law enforcement actions, such as civil forfeiture.⁴ Additionally, victims and their legal representatives may file private civil suits against persons or organizations that promote or facilitate prostitution or sex trafficking.

Section 8 of FOSTA includes a provision for us to report to Congress detailed information on civil suits filed and orders of criminal restitution related to aggravated violations established under section 3 of FOSTA.⁵ Such aggravated violations involve those who control online platforms promoting or facilitating the prostitution of five or more people, or acting in reckless disregard of the fact that their conduct contributed to sex trafficking.⁶ This report examines: (1) DOJ enforcement efforts against online platforms that promote prostitution and sex trafficking, from 2014 through 2020; and (2) the extent to which criminal restitution and civil damages have been sought and awarded for aggravated violations under section 3 of FOSTA.

To examine DOJ enforcement efforts against online platforms that promote prostitution and sex trafficking, we reviewed selected literature, reviewed specific federal criminal cases, reviewed selected online platforms, reviewed data on the use of the internet in sex trafficking cases, and interviewed DOJ officials and representatives from third parties, such as Polaris (a nonprofit organization knowledgeable about human trafficking). For our review of specific federal criminal cases, we reviewed cases that DOJ brought against those who control platforms in the online commercial sex market from January 2014 through December 2020.⁷ We include in our scope cases against those who control platforms that primarily promote commercial interactions between parties

⁴Civil judicial forfeiture is an action brought in court against the property, with or without a corresponding criminal proceeding against the property owner.

⁵Pub. L. No. 115-164, § 8, 132 Stat. at 1255-56.

⁶See id. § 3(a), 132 Stat. at 1253-54 (codified at 18 U.S.C. § 2421A(b)).

⁷We selected January 2014 because during 2014 federal authorities seized myredbook.com in connection with a federal prosecution that resulted in the first federal conviction of an online platform operator for facilitation of prostitution. We concluded our review of criminal cases December 2020.

where in-person sexual services may be expected or implied.⁸ We used a variety of means to identify these cases, including, among other things, utilizing responses compiled from an email sent to all U.S. Attorneys' Offices by DOJ's Executive Office for U.S. Attorneys (EOUSA). For the 11 cases we identified, we reviewed court documentation related to charges brought and assets seized and/or subject to potential forfeiture, among other things.

To examine the extent to which criminal restitution and civil damages have been sought and awarded for aggravated violations under section 3 of FOSTA, we used industry standard legal research tools to identify: (1) all criminal cases including charges under 18 U.S.C. § 2421A(b)(2); and (2) all civil cases brought under subsection 2421A(c), based on a violation of subsection 2421A(b).⁹ To corroborate our results for criminal cases, we compared our results with the results of a search performed by EOUSA of its CaseView system (the case management system for the Offices of the United States Attorneys). This comparison confirmed our initial results, which we updated to be current as of March 2021. To corroborate our results for civil cases, we contacted the Human Trafficking Institute (HTI) and the Human Trafficking Legal Center—both of which are organizations that work with federal civil sex trafficking case data—and they confirmed

⁸In this report, we focus on the online promotion of in-person commercial sex acts, whether through prostitution, which is illegal in all states but Nevada; or sex trafficking, which is a federal crime and with respect to which all 50 states and the District of Columbia have criminal statutes that can be used for anti-trafficking efforts. See GAO, *Human Trafficking: Information on Cases in Indian Country or that Involved Native Americans*, [GAO-17-624](#) (Washington, D.C.: July 24, 2017), page 9. Nevertheless, we recognize that the production and distribution of visual sexual content is subject to regulation or prohibition under state or federal law, depending on the relevant facts and circumstances, including whether such content involves sexual exploitation and abuse of minors (18 U.S.C. ch. 110).

⁹18 U.S.C. § 2421A(d) states that “the court shall order restitution for any violation of subsection (b)(2).” Subsection 2421(A)(b) states that “Whoever, using a facility or means of interstate or foreign commerce or in or affecting interstate or foreign commerce, owns, manages, or operates an interactive computer service . . . or conspires or attempts to do so, with the intent to promote or facilitate the prostitution of another person and—(1) promotes or facilitates the prostitution of 5 or more persons; or (2) acts in reckless disregard of the fact that such conduct contributed to sex trafficking, in violation of [18 U.S.C.] 1591(a), shall be fined under this title, imprisoned for not more than 25 years, or both.” Subsection 2421A(c) states that “Any person injured by reason of a violation of section 2421A(b) may recover damages and reasonable attorneys’ fees in an action before any appropriate United States district court.”

our initial results, which we updated to be current as of March 2021. See appendix I for additional information about our scope and methodology.

We conducted this performance audit from May 2020 to June 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We conducted our related investigative work in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

Background

Online Promotion of Prostitution and Sex Trafficking Defined

While prostitution and sex trafficking both involve commercial sexual activity, sex trafficking is defined under federal law as inherently exploitative in that it generally entails individuals being made to engage in commercial sex acts against their will.¹⁰

- **Prostitution.** Refers to the reciprocal, and in 49 of 50 states, illegal process by which individuals seek to offer or obtain commercial sex acts, which are any sex acts in exchange for which anything of value is given or received.¹¹ There is debate among scholars and advocates as to whether prostitution is a form of sexual exploitation.¹² While prostitution itself is not a specific federal crime, there are some federal provisions addressing prostitution-related conduct, which apply in limited circumstances. For instance, it is a federal crime to knowingly transport (or persuade, induce, entice or coerce to travel) another person in interstate or foreign commerce, or in any U.S. territory or

¹⁰Sex trafficking involves adult victims being forced, defrauded, or coerced into performing commercial sex acts; and child victims being caused to engage in commercial sex, with or without force, fraud, or coercion. 18 U.S.C. § 1591(a).

¹¹In Nevada, prostitution is permitted at certain licensed entities within 10 counties, either on a countywide basis, or in particular municipalities or unincorporated areas.

¹²See, for instance: Gerassi, Lara, *A Heated Debate: Theoretical Perspectives of Sexual Exploitation and Sex Work*, Journal of Sociology & Social Welfare, Volume 42, Issue 4, Pages 79-100, Dec 2015. National Center on Sexual Exploitation, *Nevada's Legalized Prostitution is Still Exploitation*, February 10, 2019, accessed March 10, 2021, <https://endsexualexploitation.org/articles/nevadas-legalized-prostitution-is-still-exploitation/>.

possession, with the intent for such person to engage in prostitution or other criminal sexual activity.¹³

- **Sex trafficking.** Sex trafficking is a form of human trafficking and refers to the exploitative process through which adults (subject to force, fraud or coercion) or children (by any means) are caused to engage in commercial sexual activity.¹⁴ Specifically, the crime of sex trafficking is:
 - **Adults:** Knowingly recruiting, enticing, harboring, transporting, providing, obtaining, advertising, maintaining, patronizing or soliciting by any means, a person, knowing or recklessly disregarding the fact that force, fraud, or coercion will be used to cause an adult to engage in a commercial sex act.¹⁵
 - **Minors:** Knowingly taking any of the same exploitative actions listed above (for adults), but knowing or recklessly disregarding that a minor will be caused to engage in a commercial sex act (whether or not by means of force, fraud, or coercion).¹⁶

¹³18 U.S.C. §§ 2421, 2422(a).

¹⁴Human trafficking refers to the exploitation of adults by force, fraud, or coercion, or of a person under the age of 18 by any means, for such purposes as forced labor, involuntary servitude or commercial sex. Pursuant to the Trafficking Victims Protection Act of 2000, as amended, sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act. 22 U.S.C. § 7102(12). Under section 7102(4), the term “commercial sex act” means any sex act on account of which anything of value is given to or received by any person. Sex trafficking is one of two “severe forms of trafficking in persons,” when it involves force, fraud, or coercion, or where the victim has not attained 18 years of age, in which case force, fraud or coercion are not necessary elements. 22 U.S.C. § 7102(11)(A).

¹⁵When the act is advertising, then reckless disregard of force, threats of force, fraud, coercion, or any combination thereof, is insufficient, and knowledge of such force, fraud or coercion must be proven. 18 U.S.C. § 1591(a)(2).

¹⁶18 U.S.C. §1591(a). Under paragraph (e)(3), the term “commercial sex act” means any sex act on account of which anything of value is given to or received by any person. Except in charges involving advertising (which always require proof of knowledge), it is not necessary to show that a defendant knew or recklessly disregarded that a victim is a minor if such defendant has had a reasonable opportunity to observe the victim. 18 U.S.C. § 1591(c). Knowingly benefitting from participation in a venture that engages in sex trafficking, or attempting or conspiring to engage in sex trafficking, are also criminalized. 18 U.S.C. §§ 1591(a)(2).

Despite the term “trafficking,” the crime of sex trafficking need not involve the defendant or victim crossing state or international lines.¹⁷

The internet can be used to promote prostitution and sex trafficking.¹⁸ Individuals often place online advertisements as a means to locate buyers of commercial sex. Such advertisements may mask the sale of commercial sex behind offerings of “time and company” or a massage service, for example. According to DOJ officials, the advertisements rarely, if ever, indicate that sex trafficking is taking place. That is, they do not suggest that commercial sex acts will be performed by an adult subject to force, fraud, or coercion, or a minor (although advertisements may use insider language to indicate that the person is young, such as “fresh” or “new in town”). Additionally, findings from an exploratory study using a temporally and geographically limited sample lends support to the idea that ads may make use of emojis to communicate the person is a minor.¹⁹

Those who control online platforms can promote prostitution and sex trafficking by how they structure and oversee their platforms, how they allow users to engage with commercial sexual content on their platforms, and how they profit from such activities. This is in contrast to those who use online platforms to promote prostitution and engage in sex trafficking by posting or otherwise engaging with online content (e.g. commercial sex-related advertisements and reviews).

¹⁷The defendant must have knowingly acted in, or affected interstate or foreign commerce, or acted within the special maritime or territorial jurisdiction of the United States. 18 U.S.C. § 1591(a)(1).

¹⁸For purposes of brevity, we use the term “promote” to refer to both “promote” and “facilitate” throughout this report. In instances where we are specifically discussing or referencing statutes that use both “promote” and “facilitate,” we defer to the statutory language.

¹⁹Whitney, Jennex, Elkins, Frost, *Don't Want to Get Caught? Don't Say It: The Use of EMOJIS in Online Human Sex Trafficking Ads*, Proceedings of the 51st Hawaii International Conference on System Sciences, 2018. The sample included ads posted on Backpage between February 2017 and March 2017 for the major cities/counties of San Diego, Los Angeles, and Orange County. The researchers analyzed ads to see if ads using the terms “fresh,” “young,” “new,” “tiny,” “little,” “new in town,” “girl,” and “college,” shown through prior research to be indicative of an underage victim, were more likely to appear in ads that also used certain emojis thought to signify a minor or the movement of a minor.

Federal law makes it a crime to control and use such platforms for purposes of prostitution or sex trafficking, as described below.

- **Controlling an online platform that promotes prostitution and contributes to sex trafficking.** Section 3 of FOSTA amended title 18 of the U.S. Code to add section 2421A, which states that it is a federal crime for those who control online platforms to do so with the intent to promote or facilitate the prostitution of others. Further, subsection (b) of section 2421A establishes enhanced penalties for “aggravated” violations when those who control online platforms (1) promote or facilitate the prostitution of five or more persons, or (2) act with reckless disregard that their conduct contributed to sex trafficking.²⁰ Those who control such platforms may also be held accountable under other federal statutes, as discussed later.
- **Using an online platform to promote prostitution or to engage in sex trafficking.** Using an online platform to promote prostitution, or engage in sex trafficking, are both federal crimes.²¹

²⁰18 U.S.C. § 2421A(a), (b).

²¹Specifically, it is a federal crime to use any facility in interstate or foreign commerce, such as an online platform, to promote, manage, establish, or carry on; or facilitate the promotion, management, establishment, or carrying on of any unlawful activity, such as a prostitution-related violation of state law. 18 U.S.C. § 1952. Regarding the crime of sex trafficking, see 18 U.S.C. § 1591.

Nature of the Online Commercial Sex Market

Online Commercial Sex Market Terminology

Throughout this report, we use the following terms to describe elements of the online commercial sex market:

- The **service** exchanged in this market refers to in-person sexual activity. **Supply** is the amount of services available at a given price.
- **Providers** refers to prostitutes or sex workers who provide in-person sexual services, or sex traffickers who compel victims to provide such services against their will.
- **Victims** refers to individuals who are exploited by human traffickers for the purpose of nonconsensual commercial sexual activity.
- **Sellers** refers to those who solicit buyers of in-person sexual services online. Sellers can be prostitutes or sex workers themselves; or sellers can be third parties, such as pimps or sex traffickers.
- **Buyers** refers to consumers of in-person sexual services promoted online. **Demand** is the amount of services that buyers are willing and able to purchase at a given price.

Source: GAO. | GAO-21-385

The internet has enabled an online market for commercial sex. This market may be used to promote or profit from prostitution, child sex abuse material, and sex trafficking. The services arranged on these platforms may be in-person or could occur online, though this report focuses on in-person commercial sexual activity. According to DOJ officials, anecdotally, nearly all federal cases brought against sex traffickers involve an online dimension, whether that be recruitment of victims, advertisements to solicit buyers, reviews of providers, or communications among parties involved.

Recent data on federal sex trafficking cases, collected by the Human Trafficking Institute (HTI), illustrate the significant role of the internet in the market for commercial sex.²² Specifically, defendants used the internet as their primary means of soliciting buyers of commercial sex in 84 percent (390 of 466) of active federal sex trafficking cases in 2019 for which the primary method of solicitation was available in public sources. Additionally, defendants used the internet to recruit 37 percent (231 of 631) of victims in active federal sex trafficking cases in 2019 for which the method of recruitment was available in public sources.²³

²²HTI is a nonprofit organization that, according to its website, exists to decimate modern slavery at its source by empowering police and prosecutors to stop traffickers. Working inside criminal justice systems, the Institute provides the embedded experts, world-class training, investigative resources, and evidence-based research necessary to free victims.

²³HTI data are taken from federal criminal cases that involved: (1) one or more charges under Chapter 77 of Title 18, U.S. Code, 18 U.S.C. §§ 1581-97 (Peonage, Slavery, and Trafficking in Persons), or (2) one or more charges under statutes outside of Chapter 77 where there was substantial evidence of force, fraud, coercion, commercial sex with a child, or an identified victim of trafficking. HTI data do not reflect the prevalence of sex trafficking in the United States but instead represent key findings and trends in federal sex trafficking prosecutions.

Accessibility of Online Content

Online content is accessible to internet users to varying degrees, as follows:

- Content on the **surface web** has been indexed by traditional search engines (e.g. Google, Bing) and is readily available to the general public. Examples include websites for news, e-commerce, marketing, and social networking.
- Content on the **deep web** has not been indexed by traditional search engines and is not generally accessible. Examples include content on databases, private intranets (e.g. internal networks of corporations or universities), and sites protected by passwords or other restrictions.
- Content on the **dark web** has been intentionally concealed and requires specific software to access. This access is predominately designed to hide the identity and location of the user. Many users access the dark web to conceal criminal or otherwise malicious activities.

Source: GAO analysis based on a Congressional Research Service report, a Federal Bureau of Investigation website, and input from Department of Justice officials. | GAO-21-385

Most online advertisements for commercial sex are posted on the surface web as opposed to the dark web, according to DOJ officials. According to these officials, the success of platforms operating in the commercial online sex market depends on their ability to connect buyers and sellers in a specific geographic region, which is easier to do when the platform is easy to find. Officials further noted that some buyers and providers may not have access to the dark web or the expertise necessary to navigate it.

Platforms in the online commercial sex market have different models of operation that generally fall within three broad categories, as shown in table 1 below. Additional information and details are in appendix II.

Table 1: Models of Operation of Platforms in the Online Commercial Sex Market

Category of platform	Description	How platform monetizes
Advertising	Directory or classified service for escorts ^a or adult entertainers. The majority of the content on these platforms are paid advertisements for individuals or businesses providing commercial sex.	Sell individual ads, advertising packages, or upgrades to feature ads more prominently. Act as affiliate marketers for other platforms. ^b
Hobby board	Allows commercial sex buyers (self-identified “hobbyists”) to review individuals or businesses providing commercial sex and participate in discussion forums on the subject.	Membership/subscription-based model. Act as affiliate marketers for other platforms. ^b
Sugar dating	Connects individuals for romantic relationships under a commercial arrangement in which sexual activity may be expected or implied.	Membership/subscription-based model or pay-per-contact model.

Source: GAO analysis of information from Polaris (a nonprofit organization) and childsafe.ai (a software company) reports and representatives. | GAO-21-385

Note: Categories of advertising, hobby board, and sugar dating are not mutually exclusive as there may be overlap in how these platforms function and monetize. For instance, a hobby board platform may allow membership or advertising options to those who wish to advertise commercial sex.

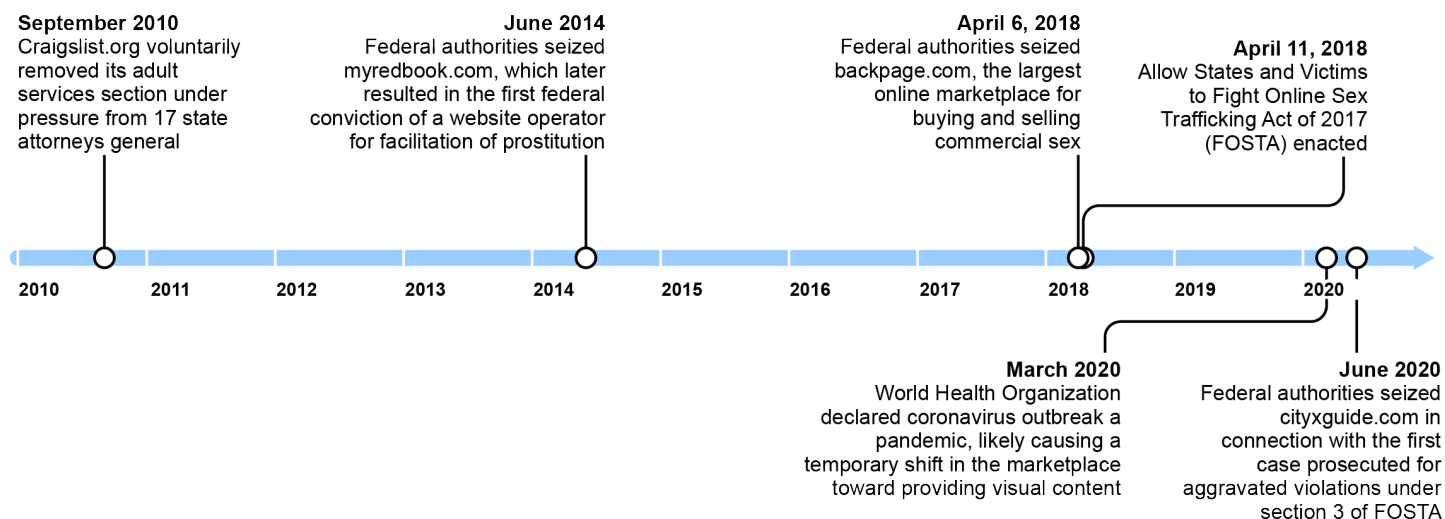
^aAccording to the American Heritage dictionary, an “escort” is a person, often a prostitute, who is hired to spend time with another as a companion.

^bBoth legitimate and illegitimate companies use “affiliate marketing” whereby they offer performance-based commission incentives to third-party promoters, or “affiliates,” who are often employed to direct new web traffic and customers to companies’ platforms, according to a 2020 Polaris report (Polaris is a nonprofit organization).

Timeline of Significant Events in the Online Commercial Sex Market

The online commercial sex market is subject to pressure from law enforcement, enforcement actions, and market conditions. In 2010, craigslist.org was the leading platform in the online commercial sex market. However, under pressure from 17 state attorneys general who were concerned about the use of craigslist.org for purposes of prostitution and sex trafficking, craigslist.org voluntarily removed its “adult” section in September 2010. Afterward, buyers and sellers shifted toward using backpage.com, which then emerged as the market leader. Figure 1 below shows significant events in this market from 2010 through 2020.

Figure 1: Significant Events in the Online Commercial Sex Market from 2010 through 2020



Source: GAO analysis. | GAO-21-385

DOJ’s Approach to Holding Those Who Control Online Platforms Accountable

Under section 3 of FOSTA, it is a crime for those who control online platforms to do so with the intent to promote or facilitate the prostitution of

others.²⁴ DOJ investigates and prosecutes those who control online platforms that promote prostitution when there is an indication that platforms also promote sex trafficking, according to DOJ officials. For instance, DOJ may target a platform that promotes prostitution if it is implicated in multiple sex trafficking cases. Table 2 below shows federal law enforcement roles in sex trafficking cases.

Table 2: Federal Law Enforcement Roles in Sex Trafficking Cases

Agency/component	Role in addressing sex trafficking
Department of Justice's (DOJ) Federal Bureau of Investigation	Conducts investigations. Where appropriate, brings evidence to U.S. Attorney's Offices, the Civil Rights Division (Human Trafficking Prosecution Unit), or the Criminal Division (Child Exploitation and Obscenity Section or Money Laundering and Asset Recovery Section) for prosecution.
Department of Homeland Security's Homeland Security Investigations (part of U.S. Immigration and Customs Enforcement)	Conducts investigations. Where appropriate, brings evidence to U.S. Attorney's Offices, the Civil Rights Division (Human Trafficking Prosecution Unit), or the Criminal Division (Child Exploitation and Obscenity Section or Money Laundering and Asset Recovery Section) for prosecution.
DOJ's U.S. Attorneys' Offices	Prosecutes criminal cases.
DOJ's Civil Rights Division <ul style="list-style-type: none"> <li data-bbox="99 999 526 1026">• Human Trafficking Prosecution Unit 	Prosecutes criminal cases and supports U.S. Attorneys' Offices' efforts to address sex trafficking of adults by force, fraud, or coercion by developing and supporting investigations and prosecutions and providing training and guidance to the field.
DOJ's Criminal Division: <ul style="list-style-type: none"> <li data-bbox="99 1119 581 1146">• Child Exploitation and Obscenity Section 	Prosecutes criminal cases and supports U.S. Attorneys' Offices' efforts to address child sex trafficking by developing and supporting investigations and prosecutions and providing training and guidance to the field.
<ul style="list-style-type: none"> <li data-bbox="99 1186 656 1213">• Money Laundering and Asset Recovery Section 	Prosecutes criminal cases and supports U.S. Attorneys' Offices' efforts to address sex trafficking by developing and supporting investigations and prosecutions and providing training and guidance to the field.

Source: GAO presentation of information from DOJ officials. | GAO-21-385

²⁴Additionally, it is a federal crime to use any facility in interstate or foreign commerce, such as an online platform, to promote, manage, establish, or carry on; or facilitate the promotion, management, establishment, or carrying on of any unlawful activity, such as a prostitution-related violation of state law. See 18 U.S.C. § 1952.

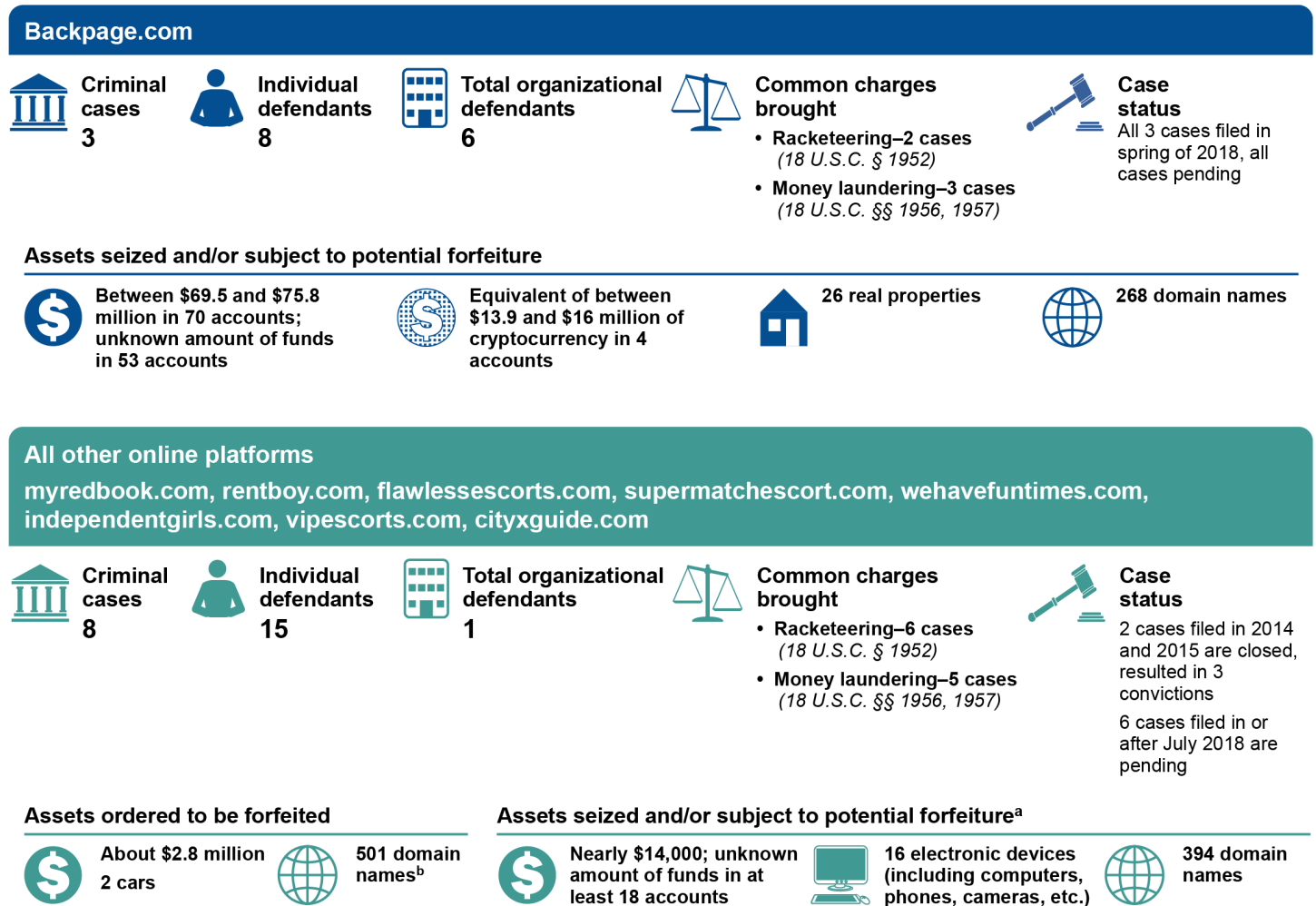
DOJ Enforcement Efforts and FOSTA Disrupted the Online Commercial Sex Market, but Enforcement Challenges Exist

DOJ Has Brought at Least 11 Criminal Cases against Those Who Control Online Platforms from 2014 through 2020

In June 2014, federal prosecutors initiated a case against the owner of myredbook.com. According to DOJ, this case resulted in the first federal conviction of an online platform operator for facilitation of prostitution. From 2014 through 2020, federal prosecutors have brought at least 10 other cases against those who control platforms in the online commercial sex market.²⁵ Figure 2 provides a summary of federal cases brought, and appendix III includes additional information.

²⁵We use the term “at least” because, although we used a variety of means to identify these cases and thus have a reasonable assurance we identified most or all relevant cases, it is possible our search was not exhaustive. See appendix I for more details.

Figure 2: Federal Criminal Cases Brought against Those Who Control Platforms in the Online Commercial Sex Market from 2014 through 2020



Source: GAO analysis of court documents and Department of Justice press releases. | GAO-21-385

Note: Most of the cases in this figure were pending as of the end 2020. As a result, amounts associated with assets seized and/or subject to potential forfeiture may change. In some instances, we used a range because it was not clear whether funds listed in separate cases were duplicative or not. Dollar amounts have not been adjusted for inflation. Dollar equivalency amounts for cryptocurrency are based on July 2018 exchange rates.

^aExcludes assets in closed cases. Assets in those cases are represented under “Assets ordered to be forfeited.”

^bFive-hundred of the 501 domain names were ordered to be forfeited through civil judicial proceedings, which may occur in parallel to criminal proceedings.

As shown by figure 2, cases brought against those who controlled backpage.com have significantly more organizational defendants (e.g.

corporations) and associated assets than cases brought against those who controlled all other platforms combined. This highlights the market dominance backpage.com held until it was seized in April 2018. The figure also shows that federal prosecutors have largely used racketeering and money laundering statutes to hold those who control these platforms accountable.²⁶

The Seizure of Backpage.com and Enactment of FOSTA Disrupted the Landscape of the Online Commercial Sex Market

The seizure of backpage.com and enactment of FOSTA occurred just 5 days apart in April 2018, and disrupted the landscape of the online commercial sex market. Because these events occurred so close together, it is not possible to trace changes to the market to one event or the other. Nevertheless, taken together, these events have led to the relocation of platforms overseas, fragmentation of the market, and increased use of hobby board and sugar dating platforms.

Relocation of Platforms Overseas

In the wake of the events of April 2018, the controllers of many online platforms relocated their platforms overseas in an attempt to shield themselves from U.S. prosecution. More specifically, the controllers of many platforms in the online commercial sex market shut down or suspended operations in the United States while others moved their operations overseas, primarily to Europe, according to a July 2020 Polaris report and supported by a April 2019 childsafe.ai report.²⁷ DOJ officials further clarified that many of those who control these platforms moved their web servers, web hosting services, and the registration of their

²⁶Throughout this report, we use the term “racketeering” to refer to 18 U.S.C. § 1952 - Interstate and foreign travel or transportation in aid of racketeering enterprises. This is not to be confused with a separate set of statutes under chapter 96 of Title 18, U.S. Code (§§ 1961-1968), Racketeer Influenced and Corrupt Organizations.

²⁷Polaris and childsafe.ai are entities with expertise in this area. Polaris’s July 2020 report is titled: *Using an Anti-Money Laundering Framework to Address Sex Trafficking Facilitated by Commercial Sex Advertisement Websites*. This report is comprised of two separate documents: (1) the full report; and (2) an executive summary which is not included in the full report. According to Polaris representatives, Polaris is a nonprofit organization and is leading a data-driven social justice movement to prevent and reduce sex and labor trafficking in the United States and Mexico. Since 2007, Polaris has operated the National Human Trafficking Hotline, a project that is partially funded by the U.S. Department of Health and Human Services. Childsafe.ai’s April 2019 report is titled: *Beyond Backpage: Buying and Selling Sex in the United States One Year Later*. Childsafe.ai is a software company that deploys machine learning and active collection networks to observe actors that buy and sell human beings online.

domain names to countries where prostitution is legal.²⁸ It is not clear, officials said, whether those who control these platforms also moved employees who run day-today operations overseas or moved their own physical residences overseas.

Fragmentation of the Market

With backpage.com no longer in the market, buyers and sellers moved to other online platforms, and the market became fragmented. The July 2020 Polaris and April 2019 childsafe.ai reports state that since backpage.com was removed from the market, there has been fierce competition among platforms for market share, and no single platform has emerged as dominant at the national level. DOJ officials confirmed this assessment.

In addition to using platforms in the online commercial sex market to solicit buyers, sellers also use social media and other platforms to do so. Definitions of these platforms are shown below.

²⁸A “web server” is a computer that provides World Wide Web (WWW) services on the Internet. It includes the hardware, operating system, web server software, and web site content (web pages). “Web hosting” is the activity or business of providing storage space and access for websites.

Sellers Can Use a Variety of Types of Platforms to Solicit Buyers

For purposes of this report, “soliciting buyers” refers to (1) advertising or posting sexual services online, or (2) any online communication from the seller to the potential buyer. Thus, platforms used to solicit buyers may include platforms in the online commercial sex market (i.e. advertising, hobby board, and sugar dating platforms) or other types of platforms, such as social media platforms.

According to Federal Bureau of Investigation officials, after buyers and sellers initially connect—either through platforms in the online commercial sex market or through other types of platforms (e.g. mainstream dating platforms)—they often move their communication to text, phone, social media, or messaging/communication platforms to coordinate and complete the interaction.

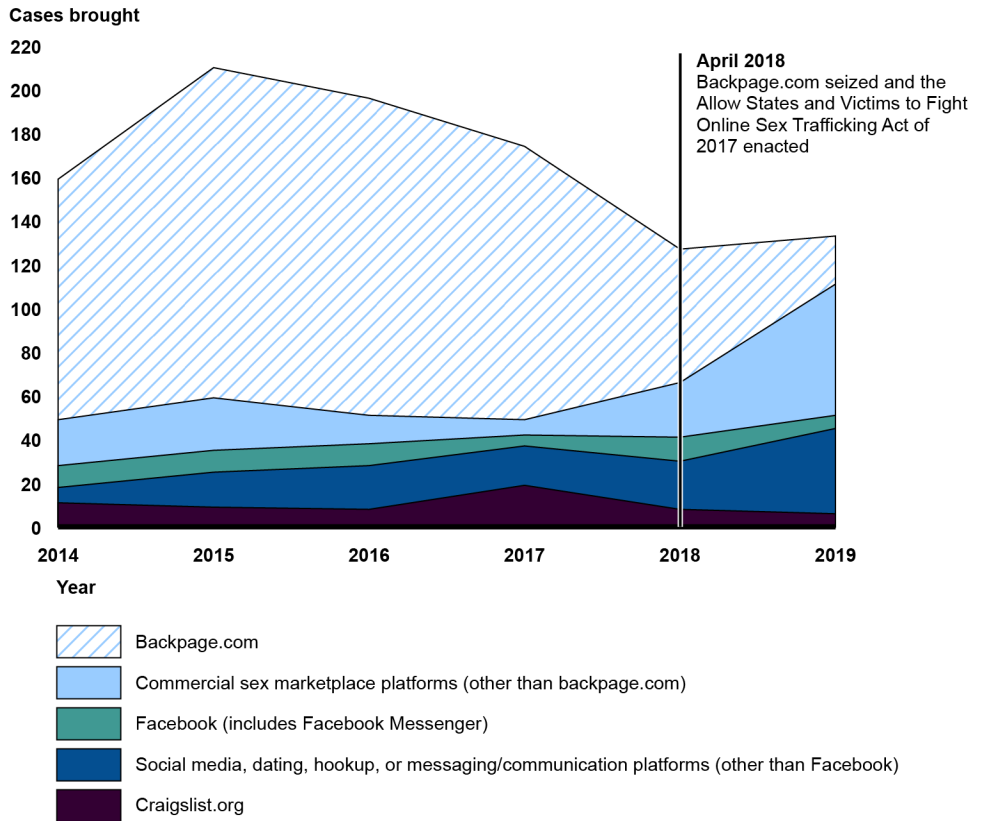
Subcategories of platforms—such as social media, dating, hookup, and messaging/communication platforms—are not mutually exclusive. Some platforms perform functions related to more than one subcategory. Thus, the following definitions and insights may be helpful.

- **Social media:** Platforms that allow users to share messages, photos, and other information in communities or forums based on shared interests or backgrounds.
- **Dating:** Platforms that connect users for dates or romantic relationships. Dating platforms are to be distinguished from “sugar dating” platforms. Whereas both types of platforms are designed to help users connect, sugar dating platforms seek to connect them under a commercial arrangement in which sexual activity may be expected or implied.
- **Hookup:** Platforms that explicitly connect users for casual sexual encounters (as opposed to a serious relationship).
- **Messaging/communication:** Platforms that enable users to send and receive messages (e.g. text, instant messaging, email, video).

Source: GAO analysis of dictionary definitions, platforms’ descriptions of themselves, and input from Federal Bureau of Investigation officials and Human Trafficking Institute representatives. | GAO-21-385

The shift of buyers and sellers away from backpage.com and toward other platforms is reflected in the number of federal sex trafficking cases brought against defendants who used platforms other than backpage.com to solicit buyers after the events of April 2018. Specifically, our analysis of Human Trafficking Institute (HTI) data shows that after April 2018, prosecutors began bringing fewer cases against those that solicited buyers using backpage.com and more cases against those that solicited buyers using other platforms, as shown in figure 3.

Figure 3: Use of Online Platforms to Solicit Buyers in New Federal Criminal Sex Trafficking Cases from 2014 through 2019



Source: GAO analysis of Human Trafficking Institute data. | GAO-21-385

Note: Data in this figure are from federal criminal cases that involved: (1) one or more charges under Chapter 77 of Title 18, U.S. Code, 18 U.S.C. §§ 1581-97 (Peonage, Slavery, and Trafficking in Persons); or (2) one or more charges under statutes outside of Chapter 77 where there was substantial evidence of force, fraud, coercion, commercial sex with a child, or an identified victim of trafficking. Multiple online platforms may be used to solicit buyers in a single criminal case; thus, some cases may be double-counted. The downward trend in overall cases beginning in 2015 can largely be explained by a broader trend wherein the Department of Justice has brought fewer federal sex trafficking cases in recent years, according to Human Trafficking Institute representatives.

Increased Use of Hobby Board and Sugar Dating Platforms

After the events of April 2018, there has been an increase in the use of hobby board platforms, according to the April 2019 childsafe.ai report and confirmed by FBI officials.²⁹ One reason for an increased use of hobby

²⁹Figure 3 shows that defendants in federal sex trafficking cases have increasingly used commercial sex market platforms (other than backpage.com) to solicit buyers in recent years. This category—commercial sex market platforms—includes hobby boards and sugar dating platforms.

board platforms may be the reliability of their content relative to advertising platforms. Specifically, since backpage.com was seized, there has been an increase in spam and scam efforts on advertising platforms, according to the April 2019 childsafe.ai report and confirmed by Polaris representatives. The reason for this, according to the Chief Executive Officer (CEO) for childsafe.ai, is that those who control platforms in the post-backpage.com market may not be able to attract or afford technical staff capable of screening ads for commercial sex, as backpage.com did.³⁰ In contrast, the CEO said hobby boards are designed around preserving legitimacy and reputation, and even have built-in mechanisms whereby users moderate content on the platforms.

Moreover, hobby boards already function as de facto advertising platforms, so buyers encountering spam and scam on advertising platforms might migrate to hobby board platforms. According to the CEO of childsafe.ai and our own review of platforms, hobby boards provide more information than what is available on advertising platforms. For instance, in addition to reviews from other buyers, buyers may be able to see a detailed list of services provided and a graphic description of the provider's appearance. Further, provider profiles contain contact information and pricing information with detail that is often banned on advertising sites, such as rates and location, according to the April 2019 childsafe.ai report. Thus, the childsafe.ai CEO said, although buyers may still shop on advertising platforms, they are increasingly relying on hobby board platforms both to shop and to ensure they will be receiving the services they will be paying for.

³⁰The superseding indictment against seven of the controllers of backpage.com discuss the role of backpage.com's ad "moderators" numerous times.

Promotion of In-Person Sexual Services Online

Platforms in the online commercial sex market operate on the premise of payment in exchange for:

- **Direct in-person sexual services.** This refers to platforms that directly promote in-person sexual services. Such services are not masked as legal services and do not create the expectation of a continuing relationship.
- **Services that are seemingly legal.** This refers to platforms where the façade of services that are seemingly legal—such as massage or health/beauty services—mask the promotion of in-person sexual services that are expected or implied.
- **A continuing relationship.** This refers to platforms that promote the services of a continuing relationship—such as a dating or escort relationship—where in-person sexual services may be expected or implied.

Source: GAO analysis of selected online platforms. | GAO-21-385

The use of sugar dating platforms has also increased since the events of April 2018, according to the April 2019 childsafe.ai report and confirmed by FBI officials. The CEO of childsafe.ai stated that at least one leading sugar dating platform is growing in use, in part, due to its dual marketing strategy whereby it seeks to attract (1) customers that would otherwise not be in the online commercial sex market, and (2) customers that are already shopping in the online commercial sex market (e.g., former patrons of backpage.com).

As part of its strategy, this platform provides different landing pages to internet users, depending on how users navigate to the platform. The childsafe.ai CEO explained that if an internet user searches for the platform using a search engine, the user will find a landing page that presents the general idea of generous men and attractive women entering into mutually beneficial relationships. However, if the user is browsing other platforms in the online commercial sex market—such as advertising or hobby board platforms—and then clicks on a “Sugar Babies” button, the user will be taken to one of several possible landing pages that market the platform as an “alternative to escorts” and include images clearly insinuating that sex is part of the sugar dating commercial arrangement. Polaris provided documentation corroborating this finding.³¹

To illustrate where buyers and sellers may have migrated after the events of April 2018, we reviewed 27 platforms in the online commercial sex market and categorized them as advertising, hobby board, or sugar dating platforms, as shown in table 3.³²

³¹We also replicated this finding ourselves after initially being unable to do so. Initially, we used the Mozilla Firefox browser. When we clicked “Sugar Babies” buttons from the Firefox browser, we were taken to a landing page that included images of sugar babies that did not insinuate that sex is part of the sugar dating commercial arrangement. However, on a subsequent attempt, we used a Google Chrome browser and its “incognito window” function. When we did this, we were able to replicate childsafe.ai’s and Polaris’s findings.

³²A brief description of advertising, hobby board, and sugar dating platforms in the online commercial sex market is in the background section of this report, and appendix II provides additional details.

Table 3: Categorization of 27 Platforms in the Online Commercial Sex Market, as of November 2020

	Advertising	Hobby board	Sugar dating
Direct in-person sexual services	13	5	-
Services that are seemingly legal where in-person sexual services may be implied or expected	6	-	-
A continuing relationship where in-person sexual services may be implied or expected	-	-	3

Source: GAO analysis. | GAO-21-385

Note: Platform models of operation—advertising, hobby board, and sugar dating—are not necessarily mutually exclusive. Similarly, platforms may promote sexual services using more than one approach (e.g. direct in-person sexual services and a continuing relationship where in-person sexual services may be expected or implied). We reviewed platforms and selected the primary model of operation and primary approach used to promote sexual services. We selected platforms for this figure that promoted commercial interactions between parties the platforms sought to connect. Platforms included in this figure are not exhaustive of platforms in the online commercial sex market.

Current Landscape of the Online Commercial Sex Market Heightens Challenges for Law Enforcement

The current landscape of the online commercial sex market heightens already-existing challenges law enforcement face in gathering tips and evidence. Specifically, gathering tips and evidence to investigate and prosecute those who control or use online platforms has become more difficult due to the relocation of platforms overseas; platforms' use of complex payment systems; and the increased use of social media, dating, hookup, and messaging/communication platforms.

Challenges from Platforms Relocating Overseas

The relocation of platforms overseas makes it more difficult for law enforcement to gather tips and evidence. According to DOJ officials, successfully prosecuting those who control online platforms—whether their platforms are located domestically or abroad—requires gathering enough evidence to prove that they intended that their platforms be used to promote prostitution, and, in some cases, that they also acted in reckless disregard of the fact that their actions contributed to sex trafficking.

The evidence needed to prove such allegations may include documentation of communications, incorporation records, or financial transactions that demonstrate that those who control these platforms had the intent to promote the prostitution of others or to conceal the nature of the material being posted on their platforms (if such material promoted the prostitution of others), according to DOJ officials. According to these officials, intensive evidentiary review and analysis is essential because the needed evidence may be contained in voluminous electronic

communications and financial records. Further, officials said, these investigations are often national or international in scope, necessitating interviews in various locations, and requiring extensive computer and financial forensic expertise.

These existing challenges are heightened when those who control such platforms host servers abroad, reside abroad, use offshore bank accounts and financial institutions, or introduce third parties to attempt to obscure or distance themselves from the day-to-day operation of their platforms, according to DOJ officials. For instance, these officials said, following laundered money through shell companies based in corporate secrecy jurisdictions is significantly more difficult than following laundered money through U.S.-based financial institutions that are subject to U.S. laws.³³ Such circumstances often require using mutual legal assistance requests to coordinate and obtain evidence from foreign jurisdictions. Officials said this can cause extensive delays in investigations and some countries' extradition policies may further complicate prosecutions.

Separately, gathering evidence to bring cases against users of online platforms has also become more difficult. According to a 2019 FBI document, the FBI's ability to identify and locate sex trafficking victims and perpetrators was significantly decreased following the takedown of backpage.com. According to FBI officials, this is largely because law enforcement was familiar with backpage.com, and backpage.com was generally responsive to legal requests for information. In contrast, officials said, law enforcement may be less familiar with platforms located overseas. Further, obtaining evidence from entities overseas may be more cumbersome and time-intensive, as those who control such platforms may not voluntarily respond to legal process, and mutual legal assistance requests may take months, if not years, according to DOJ officials. Despite these investigative challenges, DOJ officials said they are committed to holding accountable those who control online platforms that promote sex trafficking.

Challenges from Platforms' Use of Complex Payment Systems

Those who control online platforms may use complex and opaque payment systems, which can make it difficult to gather tips and evidence.

³³For more information about money laundering generally and the legal and regulatory framework for preventing, detecting, and deterring money laundering, see GAO, *Anti-Money Laundering: U.S. Efforts to Combat Narcotics-Related Money Laundering in the Western Hemisphere*, [GAO-17-684](#) (Washington, D.C.: August 22, 2017).

Payment Methods Accepted by Platforms in the Online Commercial Sex Market

Platforms in the online commercial sex market generally accept a combination of the following payment methods:

- **Credit/debit Cards:** Payments through credit or debit cards, including pre-paid debit products.
- **Virtual currency:** Transfer of virtual currency, including platforms that use third-party wallet providers and exchanges.
- **Store-brand gift cards:** Transfer of store-brand gift cards directly to the platform site or to a separate account holder, or through a third-party gift card transfer/redemption site.
- **Check/wires/money orders:** Sending checks or money orders to a specified address or wire transfers into a bank account held by the commercial sex advertising website or a separate account holder.

Source: Polaris, *Executive Summary: Using an Anti-Money Laundering Framework to Address Sex Trafficking Facilitated by Commercial Sex Advertisement Websites*, July 2020. | GAO-21-385

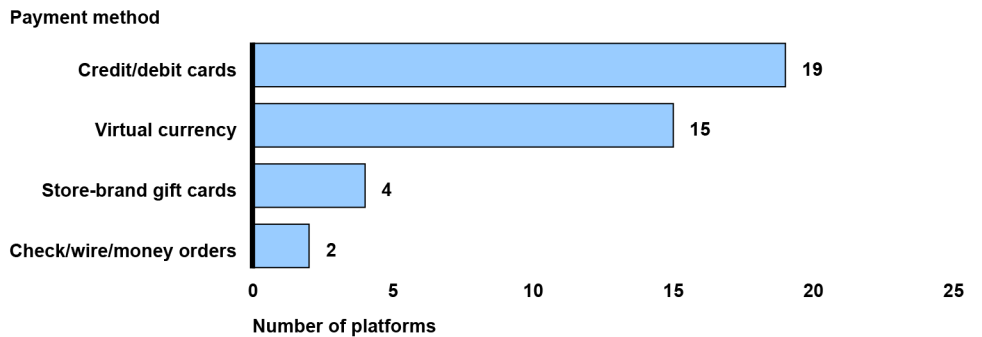
In the United States, the Bank Secrecy Act, and implementing regulations, require financial institutions to monitor and report suspicious activity potentially indicating money laundering or other criminal activity such as sex trafficking.³⁴ However, it has become increasingly difficult for financial institutions to identify transactions and accounts associated with platforms in the online commercial sex market, according to the July 2020 Polaris report. According to the report, platforms in the online commercial sex market accept a variety of traditional and alternative payment methods, and utilize evasive techniques—such as the use of third parties—to facilitate illicit transactions (see sidebar).

One reason platforms might accept payment methods beyond credit and debit cards may be the difficulty they have in maintaining reliable credit and debit card payment systems, according to the July 2020 Polaris and April 2019 childsafe.ai reports. The April 2019 childsafe.ai report states that much of backpage.com’s operation focused on the “financial gymnastics” required to take credit cards for advertising. Specifically, the report states that constantly applying for new merchant accounts, changing billing descriptors, and load balancing payments across accounts to keep fraud/chargeback rates under acceptable limits requires significant expertise and time.³⁵ Figure 4 shows the results of our analysis of payment methods accepted by the 27 platforms we selected for our review.

³⁴The Bank Secrecy Act imposes a range of recordkeeping and reporting obligations across a wide sector of financial institutions, compliance with which is essential to detecting, investigating, and deterring criminal activity, according to DOJ officials. There are civil and criminal penalties for willful Bank Secrecy Act violations, including failure to report criminal activity such as sex trafficking. In 2014, The U.S. Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) published an *Advisory: Guidance on Recognizing Activity that May be Associated with Human Smuggling and Human Trafficking – Financial Red Flags*, FIN-2014-A008, September 11, 2014. In 2020, FinCEN published a *Supplemental Advisory on Identifying and Reporting Human Trafficking and Related Activity*, FIN-2020-A008, October 15, 2020.

³⁵According to the childsafe.ai CEO, a chargeback rate for a merchant account is the number of charge disputes made against the total volume of transactions, expressed as a percentage. If a merchant account keeps a chargeback rate too high for too long it will often be closed by the issuing bank. Thus, to prevent an interruption of payments, a successful operator will have multiple merchant accounts for processing and adjust their transaction flow between them in order to avoid one account accumulating too much fraud.

Figure 4: Payment Methods Accepted by 27 Platforms in the Online Commercial Sex Market, as of November 2020



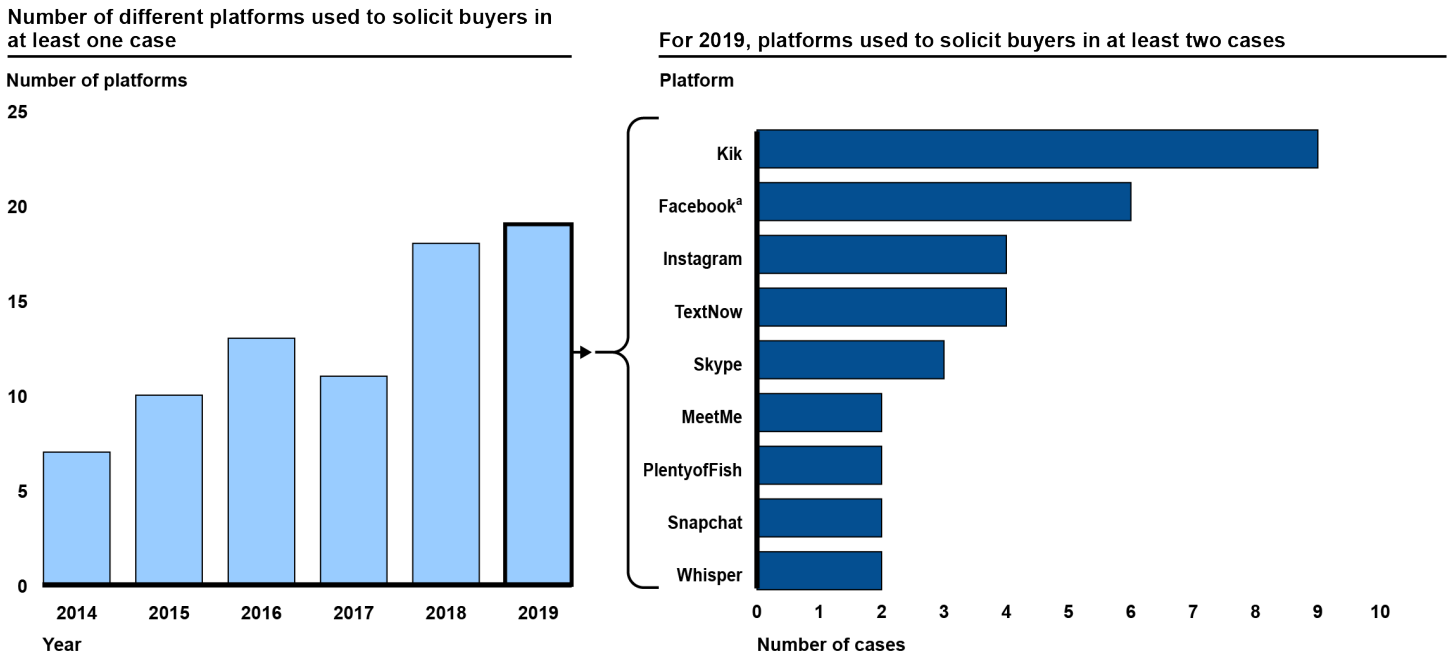
Source: GAO analysis. | GAO-21-385

Note: Online platforms often accept more than one payment method, so the number of payment methods listed above do not total to 27 (the number of platforms reviewed). Selected platforms may not be representative of all platforms.

Challenges from the Increased Use of Social Media, Dating, Hookup, and Messaging/Communication Platforms

The increased use of social media, dating, hookup, and messaging/communication platforms in the online commercial sex market similarly makes it difficult for law enforcement to gather tips and evidence. FBI documents, dated 2018 through 2020, indicate there has been an increased use of social media, dating, hookup, and messaging/communication platforms in sex trafficking, and this trend will likely continue. HTI data support this information and show a general increase in the number of these platforms used to solicit buyers in new federal sex trafficking cases from 2014 through 2019, as shown in figure 5.

Figure 5: Use of Social Media, Dating, Hookup, and Messaging/Communication Platforms to Solicit Buyers in New Federal Criminal Sex Trafficking Cases (from 2014 through 2019)



Source: GAO analysis of Human Trafficking Institute data. | GAO-21-385

Note: Data in this figure are from federal criminal cases that involved: (1) one or more charges under Chapter 77 of Title 18, U.S. Code, 18 U.S.C. §§ 1581-97 (Peonage, Slavery, and Trafficking in Persons); or (2) one or more charges under statutes outside of Chapter 77 where there was substantial evidence of force, fraud, coercion, commercial sex with a child, or an identified victim of trafficking.

^aIncludes Facebook Messenger

FBI information also indicates that the increased use of these platforms hinder the ability of law enforcement to gather tips and evidence related to sex trafficking. Specifically, FBI documents and our interviews with FBI officials indicate that gathering information from social media, dating, hookup, and messaging/communication platforms is difficult because:

-
- platforms employ varying levels of encryption of messages shared between users;³⁶
 - platforms allow users pseudo-anonymity through the use of false identities;
 - some platforms automatically delete content shortly after intended recipients view the content; and
 - the increasing number of these types of platforms and their legitimate intent make separating, monitoring, and quantifying information specific to sex trafficking difficult.
-

Criminal Restitution Has Not Been Sought and Civil Damages Have Not Been Awarded under Section 3 of FOSTA

DOJ Has Brought One Criminal Case for Aggravated Violations under Section 3 of FOSTA and Has Not Sought Restitution

As of March 2021, DOJ had brought one case under the criminal provision established by section 3 of FOSTA for aggravated violations involving the promotion of the prostitution of five or more persons, or acting in reckless disregard that conduct contributes to sex trafficking.³⁷ Specifically, in June 2020, federal prosecutors brought a case against the

³⁶In October 2020, DOJ issued an *International Statement: End-to-End Encryption for Public Safety* that supports strong encryption for purposes of protecting personal data, privacy, and intellectual property, among other things. The press release states that “Particular implementations of encryption technology, however, pose significant challenges to public safety, including to highly vulnerable members of our societies like sexually exploited children. We urge industry to address our serious concerns where encryption is applied in a way that wholly precludes any legal access to content.”

³⁷18 U.S.C. § 2421A(b).

owner of cityxguide.com.³⁸ Prosecutors allege that, among other things, the owner operated his platform with the intent to promote and facilitate prostitution, and (1) promoted and facilitated the prostitution of five or more persons, and (2) did so in reckless disregard that his conduct contributed to sex trafficking. This case—*USA v. Martono*—is an ongoing case and restitution had neither been sought nor awarded as of March 2021.³⁹

According to DOJ officials, one reason federal prosecutors have not brought more cases with charges under 18 U.S.C. § 2421A in general, or subsection 2421A(A)(b) in particular, is that the law is relatively new. Specifically, FOSTA was enacted on April 11, 2018, and, because of the Constitution’s Ex Post Facto Clause, only conduct engaged on or after that date is punishable by this law.⁴⁰ DOJ officials note that another reason why federal prosecutors have not brought more cases under the FOSTA provision is because prosecutors have had success using racketeering and money laundering charges against those who control

³⁸*USA v. Martono*, No. 3:20-CR-00274, Doc. 1, Sealed Indictment (N.D. Tex. June 2, 2020). The first case where DOJ charged a violation under section 3 of FOSTA was in June 2019 in the *USA v. Palms*, No. 4:19-CR-00103 (N.D. Ok. June 6, 2019). However, we excluded this case from our review because DOJ did not charge an “aggravated” violation under 18 U.S.C. § 2421A(b) (which we focus on in this report); and the defendant’s motion for judgment of acquittal as to two of the counts, including the alleged § 2421A(a) violation, was granted by the judge, and these counts were therefore not submitted to the jury for a verdict.

³⁹On January 5, 2021, the Texas federal district court denied the defendant’s motion to dismiss the case. *USA v. Martono*, No. 3:20-CR-00274, Doc. 28, Memorandum Opinion and Order Denying Motion to Dismiss (N.D. Tex. Jan. 5, 2021). Specifically, the order states that “Because FOSTA is not unconstitutionally vague or overbroad and the indictment against Martono is sufficient, the Court denies Martono’s motion to dismiss.” Section 3 of FOSTA makes federal criminal restitution mandatory for certain aggravated violations whereby defendants acted with reckless disregard that their conduct contributed to sex trafficking. See 18 U.S.C. § 2421A(d). Criminal restitution applies only to criminal proceedings and refers to that which a convicted offender may be ordered to compensate victims for actual—in other words, tangible or “out-of-pocket”—losses incurred due to the offender’s crime. See, e.g., *United States v. Frazier*, 651 F.3d 899, 904-08 (8th Cir. 2011) (limiting restitution to the full amount of victim’s actual, provable loss); Goodwin, *Federal Criminal Restitution*, 256-257. Restitution may be ordered for lost income, property damage, counseling, medical expenses, funeral costs or other financial costs directly related to the crime. Federal courts are not authorized to order restitution for losses such as pain and suffering and emotional distress to crime victims.

⁴⁰The U.S. Constitution states that “[n]o . . . ex post facto [l]aw shall be passed.” U.S. CONST. art. I, § 9, cl. 3. An ex post facto law is a law that makes criminal an act that was innocent under laws at the time of its commission.

such online platforms in the past.⁴¹ Appendix III provides a list of such cases brought from 2014 through 2020, and a few of these cases are highlighted below.

Use of Racketeering and Money Laundering Charges

Both before and after the enactment of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (FOSTA)—enacted in April 2018—federal prosecutors used racketeering and money laundering charges against those who control online platforms that promote prostitution.

- **USA v. Omuro et al (2014).** Prosecutors charged the proprietor of the website myredbook.com with violating various provisions of racketeering and money laundering statutes (18 U.S.C. §§ 1952, 1957). These statutes both require an underlying “specified unlawful activity.” The indictment cites prostitution offenses in violation of the laws of California as the underlying specified unlawful activity for racketeering, and cites racketeering in support of prostitution offenses as the underlying specified unlawful activity for money laundering.
- **USA v. Lacey et al (2018).** Prosecutors charged seven individuals who owned, managed, or operated backpage.com with violating various provisions of racketeering and money laundering statutes (18 U.S.C. §§ 1952, 1956, 1957). The indictment cites prostitution offenses in violation of the laws of Arizona as the specified unlawful activity for racketeering, and cites racketeering in support of prostitution offenses as the underlying specified unlawful activity for money laundering.
- **USA v. Reynolds (2020).** Prosecutors charged two individuals in connection with their ownership and operation of vipesorts.com and its affiliate websites, with committing various money laundering-related crimes (18 U.S.C. § 1956). In this case, prosecutors did not charge the defendants with racketeering. However, the complaint cites a violation of racketeering laws—whereby defendants caused proceeds from their prostitution business to be transferred to another business—as the underlying specified unlawful activity for purposes of money laundering.

Source: GAO analysis of selected criminal cases. | GAO-21-385

Although federal prosecutors’ have rarely used 18 U.S.C. § 2421A(b), DOJ officials said there are two reasons to consider using this provision of law in the future, either alone or in tandem with racketeering and money laundering charges. First, according to DOJ officials, this provision allows the government the ability to secure the imposition of an increased punishment, when appropriate. A violation of 18 U.S.C. § 2421A(b) carries a maximum penalty of 25 years in prison, whereas violations of racketeering and money laundering statutes typically carry 5, 10, or 20-year maximum prison penalties, depending on the specific statute violated.⁴² Second, DOJ officials told us that charging 18 U.S.C. §

⁴¹As noted previously, we use the term “racketeering” to refer to 18 U.S.C. § 1952 - Interstate and foreign travel or transportation in aid of racketeering enterprises. This is not to be confused with a separate set of statutes under chapter 96 of Title 18, U.S. Code (§§ 1961-1968), Racketeer Influenced and Corrupt Organizations.

⁴²Where one travels, or uses the mail or any facility, in interstate or foreign commerce, with intent to commit any crime of violence to further any unlawful activity, and thereafter performs or attempts to perform such violent crime resulting in death, the sentence shall be imprisonment for any term of years or for life. 18 U.S.C. § 1952(a).

2421A(b) alongside racketeering or money laundering statutes may help ensure all criminal activity involved in a course of criminal conduct is prosecuted. DOJ officials said charging multiple statutes also makes it more likely prosecutors will obtain a conviction. For example, if juries or courts find evidence to be insufficient to support one charge or the charge is dismissed, prosecutors may still be able to obtain a conviction for another charge.

One Individual Sought Civil Damages under Section 3 of FOSTA, and No Damages Were Awarded

As of March 2021, one individual had sought civil recovery in federal court under section 3 of FOSTA, but no damages were awarded and the case was dismissed. Section 3 of FOSTA establishes that persons injured by an aggravated violation involving promotion of prostitution of five or more persons, or reckless disregard of the fact that the alleged conduct contributes to sex trafficking, may recover damages in a federal civil action.⁴³ Specifically, in November 2020, an individual claiming to be a victim of sex trafficking sought damages and other relief under the U.S. Constitution and a number of federal statutes, including 18 U.S.C. § 2421A.⁴⁴ This individual sought a total of \$26 million in civil damages from the defendants.⁴⁵ In March 2021, the court dismissed the case, without

⁴³Specifically, section 3 of FOSTA added a new provision at 18 U.S.C. § 2421A(c) which states: “Any person injured by reason of a violation of section 2421A(b) may recover damages and reasonable attorneys’ fees in an action before any appropriate United States District Court.” Private civil proceedings involve conflicts between people or institutions and are separate from criminal or civil law enforcement proceedings, which are brought by the government. Civil damages refer to money that a defendant pays a plaintiff in a civil case if the plaintiff has won. In civil proceedings, courts can hold injurers liable for compensatory damages to cover the “economic” or monetary cost of an injury—for example, medical costs and lost wages—and the “noneconomic” or non-monetary costs of pain and suffering and punitive damages intended to punish a defendant for willful and wanton conduct

⁴⁴*USA v. Brooks*, No. 4:20-CV-40148, Doc. 1, Complaint (D. Mass. Nov. 27, 2020).

⁴⁵Plaintiff sought \$13 million in compensatory damages and \$13 million in punitive damages. Plaintiff also sought a protection order, as well as declaratory relief. Compensatory damages are intended to compensate the plaintiff for an injury or loss. Punitive damages are awarded to punish the defendant and serve as a warning to others to refrain from similar conduct.

finding in the plaintiff's favor or awarding damages, in accordance with its orders granting the motions to dismiss filed by defendants.⁴⁶

There is no definitive reason why victims have not brought more civil cases under section 3 of FOSTA. However, one possible reason is that the FOSTA provision that allows for civil remedy is relatively new and untested.⁴⁷ Representatives from the Human Trafficking Institute—an organization that performs human trafficking legal research—also provided other possible reasons why more civil cases have not been brought under the FOSTA provision:

- Victims may not want to bring cases years after crimes took place because doing so might open old wounds for which they do not want to relive the trauma.
- Successfully bringing a civil case could be easier when there has been a related criminal conviction, and there have been no criminal convictions for aggravated violations of section 3 of FOSTA.
- Victims and their attorneys may not have the resources to gather sufficient evidence to prove that injury was suffered as a result of an aggravated violation of section 3 of FOSTA.⁴⁸

⁴⁶*Brooks v. D'Errico*, No. 4:20-CV-40148, Doc. 71, Order of Dismissal (D. Mass. Mar. 22, 2021). The court granted defendants' motions to dismiss on various grounds, including plaintiff's failure to state a plausible claim for relief, and the judicial immunity doctrine (whereby judges are immune from liability or damages for actions taken within their judicial jurisdiction). For further information, see the following court orders granting defendants' motions to dismiss: *Brooks v. Love, et al.*, 2021 WL 1092634 (D. Mass. Mar. 22, 2021); *Brooks v. Delaney, et al.*, 2021 WL 1092135 (D. Mass. Mar. 22, 2021); *Brooks v. Gilman, et al.*, 2021 WL 1092640 (D. Mass. Mar. 22, 2021); *Brooks v. D'Errico, et al.*, 2021 WL 1092644 (D. Mass. Mar. 22, 2021); *Brooks v. Metro. Sec. Serv. Inc., et al.*, 2021 WL 1092636 (D. Mass. Mar. 22, 2021).

⁴⁷Relatively few civil cases have been brought using a pre-existing non-FOSTA provision of law that allows for trafficking victims to bring federal civil actions against perpetrators. See 18 U.S.C. § 1595(a). This provision states that "An individual who is a victim of a violation of [Chapter 77 of Title 18] may bring a civil action against the perpetrator (or whoever knowingly benefits . . .) in an appropriate district court of the United States and may recover damages and reasonable attorneys fees."

⁴⁸In order to successfully recover damages in a civil case pursuant to 18 U.S.C. § 2421A(c), victims and their attorneys would have to prove that victims were injured by "a violation of section 2421A(b)." Proving that such a violation occurred would involve gathering sufficient evidence to show that those who controlled the online platform(s) involved in the case did so with the intent to promote or facilitate the prostitution of another person, and that they promoted or facilitated the prostitution of five or more persons, or acted in reckless disregard of the fact that such conduct contributed to sex trafficking.

Agency Comments

We provided a draft of this report to DOJ and the Administrative Office of the U.S. Courts for review and comment. DOJ and the Administrative Office of the U.S. Courts informed us that they had no formal comments on the draft report; however, they provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Attorney General, the Director of the Administrative Office of the U.S. Courts, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or goodwing@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix IV.



Gretta L. Goodwin
Director, Homeland Security and Justice

List of Committees

The Honorable Gary C. Peters
Chairman
The Honorable Rob Portman
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Dick Durbin
Chairman
The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Bennie G. Thompson
Chairman
The Honorable John Katko
Ranking Member
Committee on Homeland Security
House of Representatives

The Honorable Jerrold Nadler
Chairman
The Honorable Jim Jordan
Ranking Member
Committee on the Judiciary
House of Representatives

Appendix I: Objectives, Scope, and Methodology

This report addresses:

1. Department of Justice (DOJ) enforcement efforts against online platforms that promote prostitution and sex trafficking, from 2014 through 2020; and
2. the extent to which criminal restitution and civil damages been sought and awarded for aggravated violations under section 3 of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (FOSTA).¹

DOJ Enforcement Efforts against Online Platforms that Promote Prostitution and Sex Trafficking

To examine DOJ enforcement efforts against online platforms that promote prostitution and sex trafficking, from 2014 through 2020, we: reviewed selected literature; reviewed specific federal criminal cases; reviewed selected online platforms; reviewed data on the use of the internet in sex trafficking cases; and interviewed DOJ officials and representatives from third parties.

Review of Selected Literature

We identified publications for potential review primarily based on (1) an exploratory search of various online databases, and (2) recommendations from DOJ officials. We selected 20 publications for review. Our selections reflected publications that addressed the nature of the online commercial sex market, the role and seizure of backpage.com, and the passage of FOSTA, among other things. The publications we reviewed had publication dates ranging from 2015 through 2020. These dates provided a reasonable amount of time both before and after two key events that occurred in April 2018: the seizure of backpage.com and enactment of FOSTA. We ultimately used information from five publications in our report. For two publications that provided extensive information on the nature of the online commercial sex market, we reviewed the methodologies described in the publications, asked the authors and researchers follow-up questions about how they gathered data and generated findings, and corroborated selected findings with DOJ officials.

Review of Specific Federal Criminal Cases

We reviewed cases that were brought against those who control platforms in the online commercial sex market from January 2014 through

¹Pub. L. No. 115-164, 132 Stat. 1253 (2018).

December 2020.² We excluded the first case where DOJ charged a violation under section 3 of FOSTA because it did not allege an aggravated violation under 18 U.S.C. § 2421A(b), and the court also granted the Defendant’s motion for judgment of acquittal as to the count involving a general violation under section 2421A(a).³ We include in our scope cases against those who control platforms that primarily promote commercial interactions between parties where in-person sexual services may be expected or implied; thus, we excluded cases relating to platforms that primarily promote visual content (e.g. pornography and live virtual sex shows).⁴ We also limited our search to cases involving platforms operating on the surface web or deep web, as opposed to the dark web.⁵ DOJ’s databases of federal criminal cases do not have search parameters that allow for cases brought against those who control platforms in the online commercial sex market to be readily identified.

²We selected January 2014 because during 2014 federal authorities seized myredbook.com in connection with a federal prosecution that resulted in the first federal conviction of an online platform operator for facilitation of prostitution. We concluded our review of criminal cases in December 2020.

³The first case where DOJ charged a violation under section 3 of FOSTA was in June 2019 in *USA v. Palms*, No. 4:19-CR-00103 (N.D. Ok. June 6, 2019). However, we excluded this case from our review because DOJ did not charge an “aggravated” violation under 18 U.S.C. § 2421A(b) (which we focus on in this report); and the defendant’s motion for judgment of acquittal as to two of the counts, including the alleged § 2421A(a) violation, was granted by the judge, and these counts were therefore not submitted to the jury for a verdict.

⁴In this report, we focus on the online promotion of in-person commercial sex acts, whether through prostitution, which is illegal in all states but Nevada; or sex trafficking, which is a federal crime and with respect to which all 50 states and the District of Columbia have criminal statutes that can be used for anti-trafficking efforts. See GAO, *Human Trafficking: Information on Cases in Indian Country or that Involved Native Americans*, GAO-17-624, (Washington, D.C.: July 24, 2017). Nevertheless, we recognize that the production and distribution of visual sexual content is subject to regulation or prohibition under state or federal law, depending on the relevant facts and circumstances, including whether such content involves sexual exploitation and abuse of minors (18 U.S.C. ch. 110).

⁵Content on the surface web has been indexed by traditional search engines (e.g. Google, Bing) and is readily available to the general public. Content on the deep web has not been indexed by traditional search engines and is not generally accessible, but may be accessible—in the context of this report—through the use of memberships and subscriptions. Content on the dark web has been intentionally concealed and requires specific software to access. We excluded criminal cases brought against those who control platforms on the dark web because, according to DOJ officials, most online advertisements for commercial sex are posted on the surface web where it is easier for buyers and sellers to connect.

Thus, we used a variety of means to identify these cases. Specifically, to ensure we identified as many relevant cases as possible, we:

1. obtained a preliminary and non-exhaustive listing of cases from DOJ's Criminal Division;
2. searched DOJ's online repository of press releases using keywords "website and sex trafficking" and "website and prostitution;"
3. incorporated responses compiled from an email sent to all U.S. Attorney's Offices wherein DOJ's Executive Office for U.S. Attorneys (EOUSA) sought to identify any additional cases;⁶ and
4. discussed and confirmed the results with officials from DOJ's EOUSA and Criminal Division.

These steps provide a reasonable assurance we identified most or all relevant cases.

The 11 cases identified provide information on the level of DOJ enforcement efforts. We reviewed case dockets, and, as applicable, indictments, informations, complaints, forfeiture-related documents, and judgments for information related to charges brought, assets seized and/or subject to potential forfeiture, and case status, among other things. We obtained these documents from industry standard legal research tools, including Thompson Reuters Westlaw Dockets and Public Access to Court Electronic Records.⁷ All information was initially identified by one analyst and confirmed by a second person (attorney or analyst, as appropriate). In instances where information from cases was not clear, we obtained clarification from DOJ's EOUSA, DOJ's Criminal Division, or the Administrative Office of the U.S. Courts (part of the Federal Judiciary).

Review of Selected Online Platforms

We reviewed selected platforms in the online commercial sex market. To perform this review, we obtained lists of platforms from the FBI, Polaris,

⁶According to an EOUSA official, the email was sent to individuals working within the 94 United States Attorneys' offices. Two offices responded and identified a total of four additional cases as possibly being within our scope. EOUSA did not capture responses wherein offices reviewed the email but did not identify additional cases, according to this official.

⁷Thompson Reuters Westlaw Dockets enables users to track cases and get instant access to electronic court docket materials. The Public Access to Court Electronic Records service provides electronic public access to federal court records.

childsafe.ai, and the Human Trafficking Institute (HTI).⁸ These lists were current as of various points in 2020, with the exception of the list from HTI, which was current as of the end of 2019. We excluded platforms for review that were not included in at least two of the lists. A GAO investigator visited the remaining 34 platforms from a U.S.-based Internet Protocol address and gathered information to further exclude platforms that:

- had inactive or inaccessible domains, or domains that automatically redirected users to other platforms;⁹
- primarily hosted content that, when clicked on, redirected users to other platforms;¹⁰
- only promoted services outside the United States; or
- primarily promoted visual content (e.g. pornography or virtual live sex shows).¹¹

After applying these exclusionary criteria, the investigator reviewed the remaining 27 platforms and categorized each platform based on: (1) its primary model of operation (advertising, hobby board, or sugar daddy); (2) the services it primarily promotes (direct in-person sexual services, services that are seemingly legal and mask in-person sexual services that

⁸Polaris is a nonprofit organization and is leading a data-driven social justice movement to prevent and reduce sex and labor trafficking in the United States and Mexico, according to Polaris representatives. Since 2007, Polaris has operated the National Human Trafficking Hotline, a project that is partially funded by the U.S. Department of Health and Human Services. Childsafe.ai is a software company that deploys machine learning and active collection networks to observe actors that buy and sell human beings online. HTI is a nonprofit organization that conducts human trafficking research, among other things

⁹In one instance, we found that the domains for two platforms redirected users to a new platform domain that blended the two original domains. Thus, we excluded the two original platforms and included the new platform domain.

¹⁰To determine whether a platform “primarily” hosted content that, when clicked on, redirected users to other platforms, a GAO investigator visited the platform and used her best judgment to determine whether a majority of the content redirected users to other platforms. A second investigator confirmed the results.

¹¹To identify whether a platform “primarily” promoted or facilitated visual content, a GAO investigator visited the platform and used her best judgment to determine whether a majority of the content promoted or facilitated visual content, as opposed to in-person sexual services. A second investigator confirmed the results. We also excluded two platforms that sought to connect people for dating or casual sexual activities, but did not promote a commercial interaction between parties. For purposes of this report, we do not consider these platforms to be part of the online commercial sex market.

may be expected or implied, or a continuing relationship where in-person sexual services may be expected or implied); and (3) the payment methods it accepts (credit/debit cards, virtual currency, store-brand gift cards, or check/wires/money orders). A second investigator confirmed the analysis and results of the first investigator.

Review of Data on Use of the Internet in Sex Trafficking Cases

We reviewed HTI data on defendants' use of online platforms to solicit buyers in federal sex trafficking cases from January 2014 through December 2019. We selected January 2014 because during 2014 federal authorities seized myredbook.com in connection with a federal prosecution that resulted in the first federal conviction of an online platform operator for facilitation of prostitution. We selected December 2019 because this was the latest data available from HTI at the time of our review. To ensure data were reliable we reviewed HTI reports' methodology sections, interviewed HTI officials, and followed up with HTI officials regarding specific questions that arose during our analysis. For example, we clarified data related to defendants' use of Facebook and craigslist.org that was initially unclear. After completing these steps, we determined that the HTI data we use in this report are sufficiently reliable to convey trends and provide specific examples of platforms used to solicit buyers in federal sex trafficking cases.¹²

¹²HTI data we reviewed included data from federal criminal cases that involved: (1) one or more charges under Chapter 77 of Title 18, U.S. Code, 18 U.S.C. §§ 1581-97 (Peonage, Slavery, and Trafficking in Persons); or (2) one or more charges under statutes outside of Chapter 77 where there was substantial evidence of force, fraud, coercion, commercial sex with a child, or an identified victim of trafficking. Beginning in 2018, HTI began proactively identifying sex trafficking cases charged outside of Chapter 77, according to HTI representatives; prior to 2018, representatives said, HTI relied exclusively on federal prosecutors to identify and convey cases with non-Chapter 77 charges to HTI. To ensure HTI identified all relevant cases, HTI solicited and obtained input from DOJ's U.S. Attorney's Offices, DOJ's Criminal Division, and the Human Trafficking Prosecution Unit in DOJ's Civil Rights Division. HTI representatives said they considered a criminal case to be "new" in a given year if prosecutors initiated charges by complaint, information, or indictment in a federal court during that year. HTI considered a criminal case to be "active" in a given year if prosecutors initiated charges in federal court and at least one defendant was still awaiting trial or sentencing, if a case was on appeal, or if at least one defendant still had the option to file a direct appeal as of the end of that year. Data in the report represent information from cases for which the method of victim recruitment or buyer solicitation was available in public sources as of December 2019. According to HTI representatives, in the few instances where more than one method of buyer solicitation was identified in a case (e.g. internet and massage parlor), reviewing attorneys used their professional judgment to select the predominant method in the case (the "primary" method). According to HTI representatives, data from cases in more recent years may not be as complete as they will be in the future. This is because criminal proceedings often take years and more information may become available as cases progress.

Interviewed DOJ Officials and Representatives from Third Parties

Finally, to inform all previous efforts discussed, we interviewed DOJ officials and representatives from third parties. Specifically, we interviewed officials from DOJ’s Civil Rights Division (Human Trafficking Prosecution Unit specifically), Criminal Division, EOUSA, and the FBI. We also interviewed the Chief Executive Officer of childsafe.ai; an Associate Professor at Texas Christian University; and representatives from Polaris, HTI, and the Human Trafficking Legal Center.¹³

Criminal Restitution and Civil Damages under Section 3 of FOSTA

To address our second objective—the extent to which criminal restitution and civil damages have been sought and awarded for aggravated violations under section 3 of FOSTA—we used industry standard legal research tools to identify criminal cases including charges under 18 U.S.C. § 2421A(b)(2).¹⁴ To corroborate our results, we compared our results with the results of a search performed by EOUSA of its CaseView system—the case management system for the Offices of the United States Attorneys. The results of EOUSA’s search confirmed our initial results, which we updated to be current as of March 2021. To obtain context on the number of cases DOJ has brought that include charges under 18 U.S.C. § 2421A(b)(2), we interviewed officials from DOJ components that are involved in litigating sex trafficking cases (EOUSA, Criminal Division, and Civil Rights Division). We also reviewed EOUSA’s November 2017 Bulletin on Human Trafficking, which discusses

¹³Childsafe.ai is a software company that deploys machine learning and active collection networks to observe actors that buy and sell human beings online. The Associated Professor at Texas Christian University has extensive experience researching human trafficking issues. According to Polaris representatives, Polaris is a nonprofit organization and is leading a data-driven social justice movement to prevent and reduce sex and labor trafficking in the United States and Mexico. Since 2007, Polaris has operated the National Human Trafficking Hotline, a project that is partially funded by the U.S. Department of Health and Human Services. HTI and the Human Trafficking Legal Center are both nonprofit organizations that conducts human trafficking research, among other things.

¹⁴Specifically, we used Thompson Reuters Westlaw Dockets, which enables users to track cases and get instant access to electronic court docket materials. 18 U.S.C. § 2421A(d) states that “the court shall order restitution for any violation of subsection (b)(2).” Subsection (b) states that “Whoever, using a facility or means of interstate or foreign commerce or in or affecting interstate or foreign commerce, owns, manages, or operates an interactive computer service . . . or conspires or attempts to do so, with the intent to promote or facilitate the prostitution of another person and—(1) promotes or facilitates the prostitution of 5 or more persons; or (2) acts in reckless disregard of the fact that such conduct contributed to sex trafficking, in violation of [18 U.S.C.] 1591(a), shall be fined under this title, imprisoned for not more than 25 years, or both.”

prosecutorial strategies that may be used against those who control platforms that promote prostitution and sex trafficking.¹⁵

To examine the extent to which civil damages were sought by and awarded to victims of aggravated violations under section 3 of FOSTA, we used industry standard legal research tools to identify civil cases brought under 18 U.S.C. § 2421A(c), based on a violation of subsection 2421A(b).¹⁶ We contacted HTI and the Human Trafficking Legal Center—both of which are organizations that work with federal civil sex trafficking case data—and they confirmed our initial results, which we updated to be current as of March 2021. To obtain context on the number of cases victims and their legal representatives have brought under subsection 2421A(c), based on a violation of subsection 2421A(b), we interviewed officials from HTI and the Human Trafficking Legal Center.

We conducted this performance audit from May 2020 to June 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We conducted our related investigative work in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

¹⁵DOJ, EOUSA, *United States Attorneys' Bulletin: Human Trafficking*, Volume 65, Number 6, November 2017.

¹⁶Specifically, we used Thompson Reuters Westlaw Dockets, which enables users to track cases and get instant access to electronic court docket materials. 18 U.S.C. § 2421A(c) states that "Any person injured by reason of a violation of section 2421A(b) may recover damages and reasonable attorneys' fees in an action before any appropriate United States district court."

Appendix II: Types of Platforms in the Online Commercial Sex Market

Platforms in the online commercial sex market have different models of operation that generally fall within three broad categories: advertising, hobby board, and sugar dating. Nevertheless, these categories are not mutually exclusive, as there may be overlap in how these platforms function and monetize.

Advertising Platforms

Advertising platforms usually promote themselves as a directory or classified service for escorts or adult entertainers, according to a July 2020 Polaris Report.¹ According to this same report, the majority of the content on these platforms are paid advertisements for individuals or businesses providing commercial sex. According to an April 2019 childsafe.ai report, ads often include a title, photos, sentences of unstructured text, and a unique identifier for contact like a phone number, email address, or social media handle.² We confirmed this with our own review of advertising platforms and found that ads often also included emojis, acronyms, and other “insider” language known within the industry, as shown in figure 6.

¹Polaris’s July 2020 report is titled: *Using an Anti-Money Laundering Framework to Address Sex Trafficking Facilitated by Commercial Sex Advertisement Websites*. This report is comprised of two separate documents: (1) the full report; and (2) an executive summary which is not included in the full report. According to Polaris representatives, Polaris is a nonprofit organization and is leading a data-driven social justice movement to prevent and reduce sex and labor trafficking in the United States and Mexico. Since 2007, Polaris has operated the National Human Trafficking Hotline, a project that is partially funded by the U.S. Department of Health and Human Services. According to the American Heritage dictionary, an “escort” is a person, often a prostitute, who is hired to spend time with another as a companion.

²Childsafe.ai’s April 2019 report is titled: *Beyond Backpage: Buying and Selling Sex in the United States One Year Later*. Childsafe.ai is a software company that deploys machine learning and active collection networks to observe actors that buy and sell human beings online.

Figure 6: Screenshot from Advertising Platform in the Online Commercial Sex Market



Source: GAO screenshot. | GAO-21-385

According to the July 2020 Polaris report, advertising platforms monetize through selling an array of advertising options which include posting an advertisement for various lengths of time, upgrading an advertisement so that it is more prominently featured, or purchasing banner advertisements. Platforms allow users to purchase individual ads, advertising packages, or bundles of “credits” which vary in worth depending on the site. Lastly, according to this report, some sites offer free basic ads but charge for ad upgrades.

Advertising platforms also monetize by acting as “affiliate marketers” for other platforms in the online commercial sex market. Companies—both legitimate and illegitimate—that use affiliate marketing programs offer performance-based commission incentives to third-party promoters, or “affiliates,” who are often employed to direct new web traffic and customers to the company’s products or services, according to the July 2020 Polaris report. Specifically, the Chief Executive Officer (CEO) of childsafe.ai said that affiliate, or third-party, platforms post ads, buttons, discounts, or pop-ups in exchange for kickbacks based on associated clicks, referrals, or sales. According to the childsafe.ai CEO and the July 2020 Polaris report, affiliate marketing has become a significant aspect of

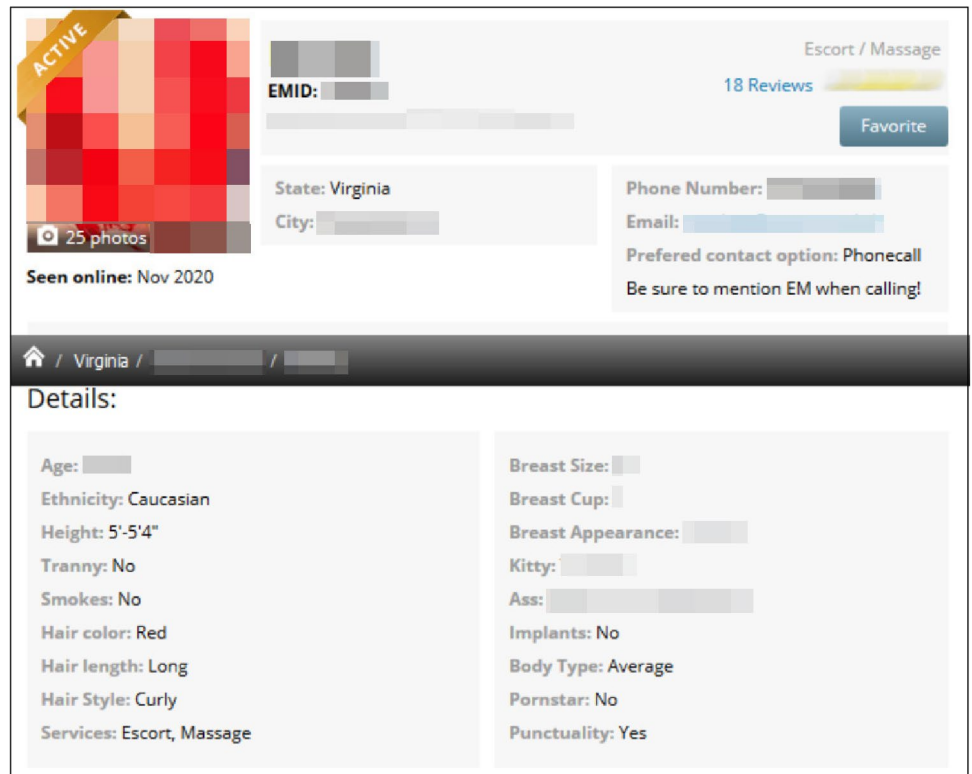
the online commercial sex market, although it is a common marketing practice among all types of online markets.

Hobby Board Platforms

Hobby board platforms allow commercial sex buyers (self-identified “hobbyists”) to review individuals or businesses providing commercial sex and participate in discussion forums on the subject, according to the July 2020 Polaris report.³ Hobby boards also serve as de facto advertising platforms. According to the CEO of childsafe.ai, hobby boards provide far more information than what is available on advertising platforms. For instance, in addition to seeing reviews from other buyers, buyers can see a detailed list of services provided and a graphic description of parts of the provider’s body. We confirmed this with our own review of hobby board platforms. Further, provider profiles contain contact information and pricing information with detail that is often banned on advertising sites, like rates and location, according to the April 2019 childsafe.ai report. See figure 7 below.

³The July 2020 Polaris report uses the term “review board” instead of “hobby board,” and does not use the term “hobbyist.”

Figure 7: Screenshot from Hobby Board Platform in the Online Commercial Sex Market



Source: GAO screenshot. | GAO-21-385

According to the July 2020 Polaris report, hobby boards primarily monetize by charging commercial sex buyers a membership subscription fee that allows them to review individual providers of commercial sex and commercial sex-related businesses, participate in forum discussions, and see reviews posted by other commercial sex buyers. For one hobby board platform, the childsafe.ai CEO said non-paying members can access general reviews, but must subscribe to access more detailed reviews. We confirmed this was true for at least one hobby board platform. Hobby board platforms also monetize by acting as affiliate marketers for other platforms in the online commercial sex market, according to Polaris representatives and the childsafe.ai CEO.

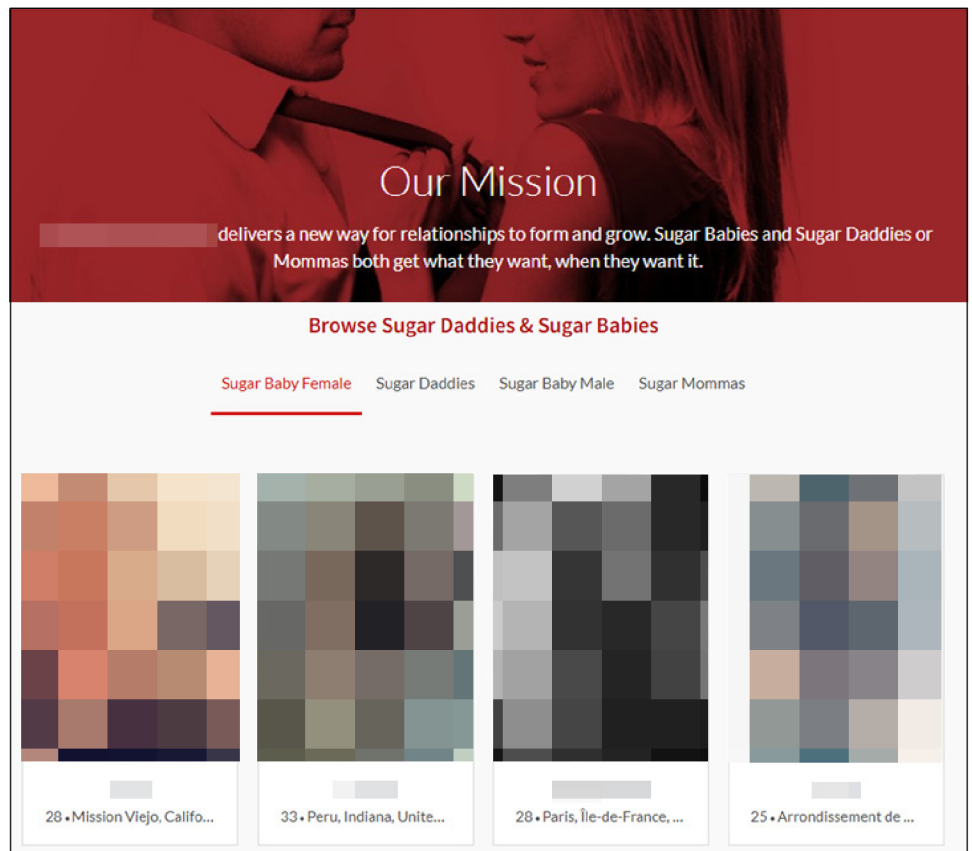
Sugar Dating Platforms

Sugar dating platforms connect individuals for romantic relationships under a commercial arrangement in which sexual activity may be expected or implied, according to the July 2020 Polaris report. According to this same report, rather than presenting a more transactional “quid pro

Appendix II: Types of Platforms in the Online Commercial Sex Market

quo” arrangement of sexual services directly for money or something of value, sugar dating platforms tend to describe themselves as facilitating longer-term relationships with a benefactor dynamic. For instance, one platform states that attractive members seek financially supportive partners, or providers, who have the means to help them with the cost of living or education, or those who can afford the lifestyle they desire. The CEO of childsafe.ai summarized this benefactor dynamic by saying that, at their core, sugar dating platforms promote connecting wealthy older men (“sugar daddies”) with attractive younger women (“sugar babies”). See figure 8 below.

Figure 8: Screenshot from Sugar Dating Platform in the Online Commercial Sex Market



Source: GAO screenshots collaged. | GAO-21-385

**Appendix II: Types of Platforms in the Online
Commercial Sex Market**

According to the July 2020 Polaris report, sugar dating platforms monetize by charging a membership subscription fee or by charging a separate fee for each contact initiated. Although sugar dating platforms may not monetize by acting as affiliate marketers for other platforms, they often employ other platforms to be affiliate marketers to draw visitors to their platforms, according to Polaris representatives and the childsafe.ai CEO.

Appendix III: Federal Criminal Cases Brought Against Those Who Control Online Platforms

In June 2014, federal prosecutors initiated a case against the owner of myredbook.com. According to the Department of Justice, this case resulted in the first federal conviction of an online platform operator for facilitation of prostitution. Since 2014, federal prosecutors have brought at least 10 other cases against those who control platforms in the online commercial sex market.¹ Table 4 below provides information on each of these 11 cases.

¹We use the term “at least” because, although we used a variety of means to identify these cases and thus have a reasonable assurance we identified most or all relevant cases, it is possible our search was not exhaustive. See appendix I for more details.

Appendix III: Federal Criminal Cases Brought Against Those Who Control Online Platforms

Table 4: Federal Criminal Cases Brought Against Those Who Control Platforms in the Online Commercial Sex Market (from 2014 through 2020)

Case name / major online platform involved	Month and year filed	Summary of charges^a	Summary of assets seized and/or subject to potential forfeiture^b	Case status	Case resolution	Summary of assets ordered to be forfeited
USA v. Omuro et al (myredbook.com)	June 2014	Two individuals charged with racketeering, and money laundering.	Over \$5.4 million in funds and property; domains sfredbook.com and myredbook.com.	Closed.	One individual convicted of racketeering and sentenced to 13 months in prison. Government dismissed charges against other individual.	One individual ordered to forfeit nearly \$1.3 million and 2 cars.
USA v. Easy Rent Systems, Inc. et al (rentboy.com)	Aug 2015	One individual and one organization charged with racketeering, and money laundering.	Nearly \$1.6 million; domain rentboy.com.	Closed.	One individual convicted of racketeering and sentenced to 6 months in prison. One organization convicted of money laundering.	One individual and one organization ordered to forfeit nearly \$1.5 million and domain rentboy.com (both the individual and organization were ordered to forfeit the same assets).
USA v. Lacey et al (backpage.com)	March 2018	Seven individuals charged with racketeering and money laundering.	Between \$69.5 and \$75.8 million in 70 accounts; the equivalent of between \$13.9 and \$16 million in 4 cryptocurrency accounts; unknown amount of funds in 53 accounts; 26 real properties; domain backpage.com and 267 associated domains; trademarks and other intellectual property. ^c	Pending as of the end of 2020.	Case pending.	Case pending.

Appendix III: Federal Criminal Cases Brought Against Those Who Control Online Platforms

Case name / major online platform involved	Month and year filed	Summary of charges^a	Summary of assets seized and/or subject to potential forfeiture^b	Case status	Case resolution	Summary of assets ordered to be forfeited
USA v. Ferrer (backpage.com)	April 2018	One individual charged with racketeering, and money laundering.	Included in USA v. Lacey et al above. ^c	Pending as of the end of 2020.	Case pending.	Case pending.
USA v. Backpage.com LLC, et al (backpage.com)	April 2018	Six entities charged with money laundering. ^d	Included in USA v. Lacey et al above. ^c	Pending as of the end of 2020.	Case pending.	Case pending.
USA v. Martin, et al (flawlessescorts.com)	July 2018	Two individuals charged with money laundering.	Unknown amount of funds in 6 accounts; domain flawlessescorts.com.	Pending as of the end of 2020.	Case pending.	Case pending.
USA v. Chen, et al (supermatchescort.com)	November 2018	Five individuals charged with racketeering.	\$12,662; miscellaneous jewelry.	Pending as of the end of 2020.	Case pending.	Case pending. Supermatchescort.com and 499 associated domains were ordered to be forfeited through civil judicial proceedings. ^e
USA v. Lee (wehavefuntimes.com)	March 2019	One individual charged with racketeering, child sex trafficking, production of child pornography, and interstate transportation for prostitution.	\$1,140; 12 electronic devices or storage equipment (computers, phones, storage drives, etc.).	Pending as of the end of 2020.	Case pending.	Case pending.
USA v. Greenberg (independentgirls.com)	May 2019	One individual charged with racketeering, sex trafficking, and sexual exploitation of children.	3 cameras and 1 storage device; domain independentgirls.com.	Pending as of the end of 2020.	Case pending.	Case pending.
USA v. Reynolds (vipesorts.com)	February 2020	Two individuals charged with money laundering.	Unknown amount of funds in multiple accounts; domain vipesorts.com and 390 associated domains.	Pending as of the end of 2020.	Case pending.	Case pending.

Appendix III: Federal Criminal Cases Brought Against Those Who Control Online Platforms

Case name / major online platform involved	Month and year filed	Summary of charges^a	Summary of assets seized and/or subject to potential forfeiture^b	Case status	Case resolution	Summary of assets ordered to be forfeited
USA v. Martono (cityxguide.com)	June 2020	One individual charged with promotion and facilitation of prostitution and reckless disregard of sex trafficking, racketeering, and money laundering.	Unknown amount of funds in 12 accounts; precious metals; domain cityxguide.com.	Pending as of the end of 2020.	Case pending.	Case pending.

Source: GAO analysis of court documents and Department of Justice press releases. | GAO-21-385

Note: This table reflects the status of cases as of the end of 2020, and excludes cases brought against those who control platforms on the dark web or control platforms that primarily promote visual content (e.g. pornography and live virtual sex shows).

^a“Summary of charges” represents selected charges from the indictment (or the latest superseding indictment), if one has been filed; if an indictment has not been filed, selected charges come from the criminal information or complaint, as applicable. Selected charges generally illustrate the nature of the alleged criminal conduct charged by the government in the case. In this table, we use the term “racketeering” to refer to 18 U.S.C. § 1952 - Interstate and foreign travel or transportation in aid of racketeering enterprises. This is not to be confused with a separate set of statutes, under chapter 96 of Title 18, U.S. Code (§§ 1961-1968), Racketeer Influenced and Corrupt Organizations.

^b“Seizure” involves the physical restraint of an asset or its transfer from the owner or possessor to the custody or control of the government. Seizure generally occurs: (1) incident to an arrest; (2) pursuant to a search warrant; (3) pursuant to a civil or criminal seizure warrant; or (4) pursuant to a restraining order. Seizure is not equivalent to “forfeiture,” which is the legal process by which individuals may lose ownership of an asset through a court order. The Government is not required to seize property subject to criminal forfeiture during the pendency of a criminal case. The type and number of assets seized and/or subject to potential forfeiture may change throughout a criminal proceeding, and forfeiture is not final until a court issues a final order of forfeiture. Following resolution of a criminal case, the court conducts “ancillary proceedings” to determine the rights of any third parties to the property subject to potential forfeiture. See Fed. R. Crim. P. 32.2(c); 21 U.S.C. § 853(k), (n). After ancillary proceedings are complete, the court must issue a final order of forfeiture. Fed. R. Crim. P. 32.2(c)(2). In addition, in some cases law enforcement may continue to identify assets subject to forfeiture even after the entry of a final order of forfeiture—for example, substitute assets may be forfeited to satisfy a forfeiture money judgment. See 21 U.S.C. § 853(p). Dollar amounts have not been adjusted for inflation.

^cWe combined assets seized and/or subject to potential forfeiture in separate criminal cases brought against those who controlled backpage.com. We removed duplicates from the total when the same assets appeared to be listed in more than one case. We used ranges because, in two instances, it was not clear whether funds listed in separate cases were duplicative or not. Specific amounts of cryptocurrency included: 1334.7 Bitcoin, between 3802.7 and 6475.7 Bitcoin Cash, 509.8 Bitcoin Gold, and 17094.8 Litecoin. We used exchange rates for the average of all days in the month of July 2018 to calculate U.S. Dollar equivalencies. We used the month of July 2018 because the most comprehensive amounts of cryptocurrency were listed in July 2018 court documentation. Using exchange rates for the average of all days in the month of December 2020, the U.S. Dollar equivalency is between \$32.2 and \$33 million. We use the word “accounts” to represent the following terms used in

Appendix III: Federal Criminal Cases Brought Against Those Who Control Online Platforms

court documents: “bank accounts,” “[cryptocurrency] wallet,” “security deposits and retainers/deposits for future services,” and “reserves and accounts receivable.” According to DOJ officials, there is also a civil case related to seizure warrants and civil complaints filed against property alleged to be related to the alleged criminal conduct of both organizational and individual defendants connected to backpage.com (see *USA v. In the Matter of Seizure of: Any and All Funds Held in Republic Bank of Arizona Accounts Ending in 1889; 2592; 19538; 2912; 2500*).

⁴In addition to the six organizations charged, there are nine additional organizations and six individuals identified as “movants” (i.e. parties that make motions) in this case. According to DOJ officials, the nine additional organizations are allegedly owned by the six organizations charged in this case and the six individuals charged in the *USA v. Lacey et al* case. According to DOJ officials, although there were seven individual defendants named in the *USA v Lacey et al* case, one pleaded guilty, leaving only the six remaining individual defendants. These movants have asserted interests in the assets subject to potential criminal and civil forfeiture, according to DOJ officials.

⁵Civil judicial forfeiture is an action brought in court against the property. The property is the defendant and no criminal charge against the owner is necessary.

Appendix IV: GAO Contact and Staff Acknowledgments

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Staff Acknowledgments

In addition to the contact names above, Joseph P. Cruz (Assistant Director), Jeff R. Jensen (Analyst-in-Charge), Nasreen Badat, Peter Casey, Lilia Chaidez, Pamela Davidson, Robert Graves, Eric Hauswirth, Leslie Holen, Sasan J. "Jon" Najmi, and Patricia L. Powell made key contributions to this report.

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