



# Research Brief

After FOSTA-SESTA

2018



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## Background

The **Stop Enabling Sex Traffickers Act (SESTA)** and **Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA)** are the U.S. Senate and House bills that became law on April 11, 2018. They clarify the country's sex trafficking law to make it illegal to knowingly assist, facilitate, or support sex trafficking, and amend the [Section 230 safe harbors](#) of the [Communications Decency Act](#) (which make online services immune from civil liability for the actions of their users) to exclude enforcement of federal or state sex trafficking laws from its immunity.<sup>1</sup>

The FOSTA-SESTA legislation ( H.R. 1865 <https://www.congress.gov/bill/115th-congress/house-bill/1865> specifically targeted those businesses (commercial websites) that promote prostitution and facilitate sex trafficking, and which enable criminal activity with impunity. Criminal prosecutions under the Communications Decency Act were not only discretionary, but also restricted to the jurisdiction of the U.S. Department of Justice. Thus, one of the legislation's objectives was to enable state law enforcement officials to prosecute cases against websites that knowingly facilitate sex trafficking, thereby allowing a much wider range of law enforcement resources to be engaged in the fight against this crime. An additional FOSTA-SESTA reform allows law enforcement to go after websites that intentionally promote the prostitution of others. Together these reforms are intended to disrupt, fragment, and shrink the online prostitution marketplace, since it has operated as an anonymous and lawless environment that gave rise to massive sexual exploitation and trafficking across the country and around the world.

In a further development which occurred before FOSTA-SESTA became law, the U.S. Department of Justice seized control of and shut down Backpage.com, likely the largest corporate provider of online prostitution advertising worldwide, and upwards of 15 additional sites. As hoped, the number of advertisements has plummeted, and casual sex buyers appear deterred.

Recognizing that the disruption to this system in one area may have had consequences in another, we extended a short survey to service providers offering care to victims of sexual exploitation/prostitution/trafficking. The objective of this inquiry was to assess whether the FOSTA-SESTA legislation had/is having an impact on shelter agencies' referrals or operations.

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<sup>1</sup> [https://en.wikipedia.org/wiki/Stop\\_Enabling\\_Sex\\_Traffickers\\_Act](https://en.wikipedia.org/wiki/Stop_Enabling_Sex_Traffickers_Act)

## Respondents

This 11-question survey was issued for a 14-day period in July 2018. Email invitations were sent to 192 known agencies offering services-only, emergency shelter or long-term care specifically to victims of sexual exploitation. Some agencies offer more than one program type and were invited to respond based on each type of program. Of 44 respondents (or 23% response rate), the following program types were represented:

Type of Program	Number of Responses	Percentage of Responses
<b>Services Only</b> – provides some level of victim services, but does not have beds	10	23.26%
<b>Emergency Shelter</b> – usually 24-72 hour stay, often in coordination with law enforcement	1	2.33%
<b>Assessment Program</b> – average of 30-90 days of residential care with limited services, with goal of determining long-term course of action	3	6.98%
<b>Restorative Program</b> – average of 12 months (or more) with specific program requirements, activities, and goal of social re-entry	27	62.79%
<b>Graduate Program</b> – independent, supportive housing with accountability	2	4.65%

Respondents from 20 states contributed to the survey. The states with the highest number of respondents were Texas (7) and Florida (7), California (5) and Illinois (5), and Washington (4).

Among these agencies, the majority started serving victims of exploitation/prostitution/trafficking in 2012 (7). Six agencies began in 2011 and six in 2016. The longest-serving agency began in 2000 and the shortest began in 2018.

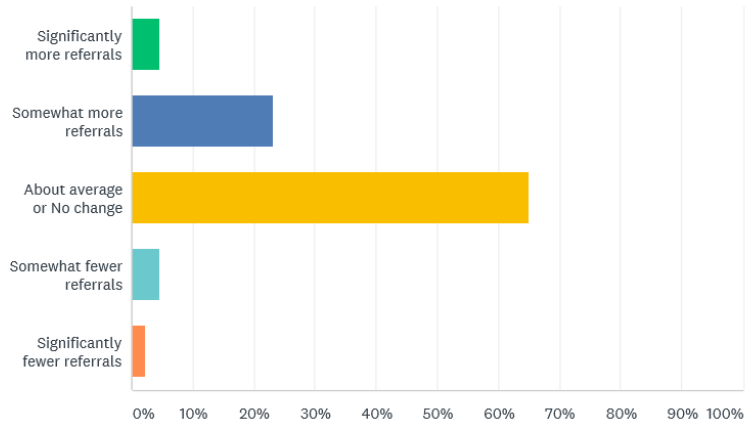
## Impact on Agency Referrals

As a benchmark of referrals prior to SESTA-FOSTA, 43 agencies reported their total number of referrals for a typical month which was 877, or an average of 18 referrals per agency/per month. Subtracting the two agencies that reported the highest number of referrals (200 and 119), the average of those remaining 41 agencies was 11 referrals per agency/per month in 2017.

We then asked them to report their average number of referrals since April 2018 and 40 agencies reported 834 referrals or 21 referrals per agency/per month. One agency reported 300 referrals in a month, so we subtracted that one outlier from the remaining 39 agencies and the average number of referrals per agency/per month from that group dropped to 14. When compared with April 2018, these respondents reported that their overall impression of referrals was about average/no change, or only slightly higher.

How would you compare the number of referrals your agency received since April 2018 to your historical average?

Answered: 43 Skipped: 1



ANSWER CHOICES	RESPONSES
Significantly more referrals	4.65% 2
Somewhat more referrals	23.26% 10
About average or No change	65.12% 28
Somewhat fewer referrals	4.65% 2
Significantly fewer referrals	2.33% 1
<b>TOTAL</b>	<b>43</b>

Sixty-five percent (28 agencies) of respondents indicated “About average/No change” to their number of referrals, whereas 23% (10 agencies) indicated “Somewhat more referrals” in the month following the legislative action. Respondents’ comments that accompanied the data included:<sup>2</sup>

*We historically have done most of our work with sexually exploited minors and since SESTA-FOSTA we have seen an uptick in adult clients who do sex work being assaulted.*

*One client who has had one foot in and one foot out of the life decided now that back page is down, it's not working going back to the life. It actually motivated her to stay out of the life.*

*Referrals received are more speculative ("at risk") with fewer confirmed victims being identified and referred*

*A lot of the residents we are getting referrals for now were truly victims of human trafficking and in some instances were part of an FBI raid-trafficking ring bust.*

<sup>2</sup> NOTE: All write-in comments from respondents are presented as submitted, inclusive of any omissions or errors. Each comment offered represents a separate respondent.

*We have always worked with women that are involved in street prostitution. I would say we are getting more homeless women than anything.*

*We are seeing an increase in women directly seeking out our services (as opposed to law enforcement or service provider referrals).*

### Impact on Agencies' Outreach Efforts

We inquired if these agencies had done anything different either in response to FOSTA-SESTA or in an effort to increase/decrease referrals, and if yes, what did the agency do. Most respondents indicated that they did nothing in response to the legislative action. A few write-in comments included efforts to promote the availability of their services:

*We have been reaching out to sex workers more due to our knowledge of their increased risk of exposure to violence due to FOSTA-SESTA*

*More street outreach toward CSEC. More people are back on the street then online thereby outreach is important.*

*Reminders that we have services for anyone that desires to be out of the sex trade*

*Increased outreach education and training to the community about red flags and indicators*

### Impact on Agencies' Operations

Similarly, we asked if these agencies had made any changes within their operations because of (or perhaps corresponding to) FOSTA-SESTA. Eighty-six percent of respondents indicated "no changes." Of those that offered comments, we received the following:

*Yes, we have had to increase capacity for sex workers to receive services due to the increase in violent assaults they have been experiencing.*

*We are making more efforts to connect with local law enforcement agencies to remind them that our services are available when they rescue a victim*

*Trying to have alternate referrals for those we are unable to accommodate*

### Impact on Trafficking Patterns or Trends

Several agencies offered comments (or conjecture) on how the legislation impacted movement or conditions in trafficking:

*We have had women report the other websites that they are posting on instead of website. Most of our women who post on-line have not reported moving to the streets but changing the sites that they are on.*

*networked partners in [our] state who volunteers at an outreach ministry reported that there has been a significant increase in women on the streets working the "track" due Backpage operations being shut down they are attempting to meet the need on the streets.*



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*SESTA has done absolutely nothing to improve anything in [our city]. In fact, it has definitely made things worse. Street-level activity is up. Gang involvement in prostitution is up. Website are still active. There has been absolutely no improvement or change.*

*We have heard that pimps have been actively seeking out prior victims with the promise of clients, since it's more difficult for those involved in the industry to find customers on their own. Plenty of Fish is being used with much more frequency with the shut-down of backpage.*

*Survivors are using more websites so its harder to track and train the community*

*More women on the street*

Some agencies suggest that an unintended outcome of FOSTA-SESTA has been an increase in violence against victims:

*Clients on the whole experiencing more violent assaults since no longer able to use online platforms to advertise and screen johns*

*The women we interact with are frustrated by the changes and feel it makes their jobs more dangerous*

*Street activity is up and violence is up.*

*We've also seen an uptick in the amount of violence/abuse occurring with victim/exploiter relationships (though I'm not sure yet if there is any correlation to SESTA/FOSTA).*

### **Impact on Agencies' Relations with Law Enforcement**

There was a cluster of responses on the relationship between FOSTA-SESTA, law enforcement, and shelter agencies:

*No-Referrals are based on task fork [force] operations, if they operate we receive, if they don't, we do not.*

*Our partners in law enforcement had to abandon several pending investigations and have had a much more difficult time finding/locating missing youth and/or being able to coordinate undercover sting operations.*

*we're not seeing any referrals from law enforcement anymore*

*We are now reaching out more to the FBI, Homeland Security, etc...*

*Our work consulting with local law enforcement has shifted slightly, however the local counties practice partial-decrim/"Nordic model" and so focus on demand reduction operations.*



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The interplay here may be related to the fact that some law enforcement agencies working in anti-trafficking relied on sites like Backpage.com for intelligence-gathering and sting operations. A consequence of FOSTA-SESTA was disrupting their access to such tools; or as one respondent conveyed:

*A recent meeting with our commissioner from the DPS in [state] and one investigator reported the shutting down of Backpage was like turning on a light in a dark room full of cockroaches, the cockroaches fled, now we are trying to find out where they fled to.*

### Conclusion

Overall, this industry “pulse check” yields that victim service providers offering care to exploited/prostituted/trafficked persons in the U.S. have not been unduly burdened in their outreach, referral base, or operations because of the FOSTA-SESTA legislation. Some areas of impact have been observed (or assumed to correlate) with this legislation, such as in the dynamic with law enforcement, the diffusion of trafficking channels, or the reports from victims about increased street-level exploitation and physical assaults. This research should be repeated to assess any longer-term impacts.