

Testimony of John J. Farmer, Jr.,
Before the Senate Homeland Security
Committee, September 23, 2013

I want to thank the Senate Homeland Security Committee for inviting me to speak today about human trafficking, one of the most significant civil and human rights issues of our time. Human trafficking is an issue that, like terrorism and drug trafficking, challenges both the categories we use to think about crime and, ultimately, the very structure of law enforcement itself.

It is also an issue that, like terrorism and drug trafficking, has touched my career at different times. I served as New Jersey's Attorney General over a decade ago, when the law enforcement community first became aware of what we now call human trafficking on a scale that transcended local, state, and national boundaries. New Jersey conducted one of the first undercover investigations of east European prostitution trafficking to bars and massage parlors in New Jersey, and cooperated in an investigation of sweat shop labor conditions; through these efforts, we had an early glimpse of the

international dimensions of the trafficking issue. It was clear even then that this was an issue that defined ideological categorization even as it defied geographical boundaries; it is a tribute to our system that the issue has unified politicians as diverse in their orientation as Rep. Chris Smith of New Jersey, who sponsored pioneering federal human trafficking legislation in 2000, and President Obama, who echo each other in recognition of its evils.

Last year, Rutgers Law School in Newark, where I was serving as Dean – I am currently on leave from that job so that I can serve as General Counsel of the university – hosted a conference on human trafficking. That conference, which we hosted in partnership with the Bergen County Prosecutors Office and Seton Hall Law School, was the second annual event intended to highlight the most serious criminal law issues of our time; it followed a symposium on cyber-crime in 2011. The human trafficking symposium brought home to me how far we have come in combating human trafficking, but also how far we have to go. I'd like to highlight both issues in my testimony this afternoon.

First, there is no question that our states, nation, and to a lesser extent the world, have come a long way in terms of both awareness and action. In the 1990s, as awareness was beginning to dawn, we were as likely to see the women who

were being trafficked as criminals as we were to see them as victims. To a lesser extent, this is still an issue. But in the intervening years, as the magnitude of the problem we face became clear, awareness has also grown and, with it, the tools available to law enforcement to combat the problem have multiplied. A few recent real world examples should suffice to make the point.

Earlier this month, a prostitution ring operating out of Lakewood New Jersey was taken down. The women involved, who were all from Mexico, were reportedly promised jobs as house cleaners or baby sitters. Prior to the recognition of trafficking as an international law enforcement issue, the problem of prostitution in Lakewood would likely have been seen as an issue for local or county or, at most, state law enforcement. Now, however, law enforcement has become accustomed to going beyond the local manifestation of criminal activity to the underlying and broader issue. The Lakewood ring, for example, is alleged to have been part of a broader ring operating out of New York and other surrounding states, with additional ties to Mexico itself.

This case follows closely on the announcement, in July, 2013, of the arrests of 150 alleged traffickers and the recovery of 105 sexually trafficked children between the ages of 14 and 17 in the largest nationwide crackdown in history. Operation Cross

Country took place in 76 cities across the country and involved the cooperative efforts of 4,000 law enforcement officers in literally dozens of local, state, and federal law enforcement agencies. In my home state of New Jersey, 70 arrests resulted, mostly in the area around Atlantic City.

Such complex investigations reflect more than just growing awareness; they also reflect substantive changes in the law and in the structure of law enforcement. According to the Polaris Project, some 39 states have passed anti-trafficking statutes as of August 2013; under the leadership of Senator Chiesa, in his prior role as Attorney General, New Jersey passed a cutting-edge anti-trafficking statute earlier this year that has been highlighted by the Polaris Project as a model for the nation. The New Jersey legislation treats trafficked people as the victims they are, making it easier for them to expunge convictions, to seek assistance, and to serve as witnesses. It builds on the existing criminal statutes to make it easier to reach trafficking networks. Senator Chiesa also, as Attorney General, created a Human Trafficking office within the Division of Criminal Justice, and issued a statewide law enforcement directive ordering an increase in trafficking investigations and prosecutions, an increase in law enforcement training, and an increase in services available to victims.

Trafficking has also been highlighted at the national level by the American Bar Association, which identified human trafficking as its signature issue for 2012, and by the Uniform Laws Commission, which adopted a Uniform Act on Human Trafficking in June 2013; this uniform act was approved by the ABA at its August meeting in San Francisco. The adoption of a uniform state law will be a significant step, as it will minimize the potential confusion and disparate treatment of both victims and perpetrators that could arise from differing laws in multiple jurisdictions.

We have, in short, come a long way in recognizing the scope of the trafficking problem and in aligning our laws and the structure of law enforcement to meet the threat to human liberty and the insult to human dignity posed by human trafficking. The question, then, is what remains to be done. What are the short-term threats, and the long-term solutions? In the balance of my time, I'd like to highlight a short-term threat and three areas in which more progress needs to occur.

The highest profile short-term threat – and a real test of the new laws and structure of our anti-trafficking efforts – will come with the festivities that will envelop New Jersey and New York surrounding the 2014 Superbowl. Although the numbers are debated, experience has demonstrated that high-profile events like the Superbowl attract an upsurge in human

trafficking incidents. One woman, who was enslaved as a child and now works to eradicate child prostitution, estimated that she would be expected to have sex with over 20 people per day during Superbowl weeks. Considering the most effective ways to prepare for the Superbowl will be a good way to talk about next steps in combating human trafficking generally.

First, having the right laws is a major achievement, but it will not be sufficient. The devil will lie in the details of the enforcement of those laws.

Second, because human trafficking is a crime that respects no boundaries, the geographic and bureaucratic boundaries that exist between and among law enforcement agencies themselves must be overcome. This has become, in an age of transborder crimes like terrorism, or money laundering, or illegal arms smuggling, the most challenging issue for law enforcement. The reality is that our law enforcement structure, with its emphasis on local police departments, augmented by statewide and federal law enforcement, is largely a product of an age when threats were overwhelmingly local, and isolated. The frustrations law enforcement experiences, for example, in solving unsolved homicides, is largely a function of the reality that law enforcement is trapped within the boundaries that do not constrain criminals.

A new kind of structure is required to cope with this reality. I am aware that the effectiveness of fusion centers in fighting terrorism has been controversial in Washington. My view is that they are absolutely essential to effective law enforcement in a borderless criminal environment. I have visited the centers in New Jersey and in Las Vegas, and have spoken with fusion centers leaders from around the country; while they are perhaps too autonomous, they are in my view nonetheless essential, for they bridge a critical gap. In human trafficking, as in other borderless crimes, the scope of the conspiracies may transcend boundaries, but the first evidence of criminal conduct is likely to occur locally. Local reports of suspicious activity, reported to fusion centers capable of sifting and collating the intelligence, can be essential to identifying and interdicting the potential criminal conduct. Without fusion centers, we have no hope of taking advantage of the street-level acumen of the vast majority of law enforcement officers.

This brings me to my final point of emphasis: awareness and training. If our local law enforcement officers are not trained adequately, they may not know to report suspicious precursor activity so that the “dots” can be connected. The Suspicious Activity Reporting initiative undertaken by the Justice Department and the Department of Homeland Security, which I assisted in developing by conducting roundtables in Denver, Boston, and Chicago, in which precursor conduct and other

indicators of criminal activity are identified in training modules designed to guide discretion toward objective factors such as conduct, and away from inappropriate indicators such as race, afford a useful template that could, in my opinion, be adapted easily to the human trafficking context.

Finally, in my view, the SAR concept must be extended beyond law enforcement to the general public. Hotel workers, for instance, if properly trained to look for the signature conduct of human trafficking, might be in the best position of all to report criminal activity. In New Jersey, training in human trafficking is in fact being extended to the hospitality industries in anticipation of the Superbowl. This kind of training should occur nationwide.

Human trafficking, like terrorism and the other transborder crimes, challenges us to adapt our laws and our government structures to make our own borders irrelevant. Thanks to the work of Senator Chiesa and others, we have put the right laws in place and we have begun to raise awareness. A further commitment to fusion centers and to initiatives like SAR will be an important next step, in my opinion, in enabling us to eradicate human trafficking.

Thank you again for the invitation to share my views.

