

# Sex Trafficking Laws: Hospitality, Privacy and Potential Liability – What Happens in That Hotel Room...Matters.

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**The Issue:** The explosive subject of sex trafficking has emerged in the media and in the public's consciousness around the world. Sexual activity in hotel rooms is not new, nor is it illegal for consenting adults. However, there are greater risks for hospitality operators who fail to maintain a certain level of vigilance about whether they may be enabling sex traffickers and facilitating their activities.

Victims of sex trafficking have been turning to hotel owners and managers for damages associated with their trauma, and they can also recover their attorney's fees. These cases usually allege that the hotel operations are facilitating sex trafficking by knowingly renting out rooms where sex trafficking occurs.

Generally, a hotel owner or operator will not be held liable for illegal conduct unrelated to its own operations. For example, if the hotel management has no knowledge that drug dealing or other illegal conduct is occurring in a hotel room, the hotel is not liable for the crime occurring on its premises. This changes where the hotel knows or should know that it is renting out rooms where such illegal activity is occurring. Then liability will attach.

**The Law:** The federal law is titled Trafficking Victims Protection Reauthorization Act of 2008 (18 U.S.C. § 1591 et. seq.). The TVPRA provides a private right of action (that is, the right of a private party to sue those who violate the law) for the recovery of damages and attorney's fees. The ability to recover the costs of litigation and attorney's fees means that a plaintiff's counsel can count on having its fees paid by the defendants — if the facts support the allegations.<sup>1</sup> The TVPRA exposes not only the direct actors — the sex traffickers and pimps — but also “...whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew **or should have known** has engaged in an act in violation of this [law].” (Emphasis added.)

**The Current Actions Against Hotels:** Here are some of the common allegations (as extracted from a recent complaint in federal court):

1. *Defendants Wyndham Hotels & Resorts, Inc. (hereinafter “Wyndham”), Choice Hotels International, Inc. (hereinafter*

*“Choice” or “Choice Hotels”), and G6 Hospitality, LLC (hereinafter “G6”), know and have known for more than a decade that sex trafficking repeatedly occurs under their flag throughout the country. Rather than taking timely and effective measures to thwart this epidemic, Defendant Hotels have instead chosen to ignore the open and obvious presence of sex trafficking on their properties, enjoying the profit from rooms rented for this explicit and apparent purpose.*

2. *This action for damages is brought by the Plaintiff, a survivor of sex trafficking hereinafter identified by her initials B.M., under the federal William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (hereinafter “TVPRA”).*
3. *B.M. was trafficked for commercial sex as a minor in Santa Clara County, California. B.M. was sold via commercial sex transactions at the Defendants’ hotel properties through force, fraud, and coercion as the Defendants did nothing but profit.*
4. *The Plaintiff now brings this action for damages against the Defendants listed herein. Each of the Defendants, in violation of 18 U.S.C. § 1595, knowingly benefited from facilitating a venture that they knew, **or at the very least should have known**, to be engaging in sex trafficking in violation of 18 U.S.C. § 1591(a). (Emphasis added.)*

The issue of "knowledge", **or** "should have known", is at the core of these claims. Since it is unlikely that an owner or operator will readily admit that it knows or suspects illegal activity is occurring, plaintiffs look for evidence that the misconduct was obvious. For example, if online reviews associated with a hotel references ongoing prostitution or drug dealing in or around a hotel, the charge of "should have known" will be more readily inferred.

**The Issue of Obviousness:** The link to liability is whether the hotel “should have known” that sex trafficking is occurring. The "should have known" standard is the anchor for the claim. A judge or jury will make that decision, and the plaintiff will be anxious to extract the evidence and present it in a convincing way. In the recently-filed complaint, the plaintiff pointed to telltale signs of promiscuous activity on the premises, and alleged that she was victimized due to management’s failure to intervene when it "should have known" that coercion was involved. In the complaint, the plaintiff alleges that there were obvious signs of sex trafficking, and called out the following:

*Obvious signs of sex trafficking at a hotel may include: an excess of condoms in rooms, individuals carrying or flashing large amounts of cash, excessive amounts of cash stored in the room, renting two (2) rooms next door to each other, declining room service for several consecutive days, significant foot traffic in and out of room(s), men traveling with multiple women who appear unrelated, women known to be staying in rooms without leaving, women displaying physical injuries or signs of fear and anxiety, guests checking in with little or no luggage, hotel guests who prevent another individual from speaking for themselves, or a guest controlling another’s identification documents.*

**Industry Risks:** The harm suffered by victims of sex trafficking is significant, and so are the damage claims. Proving that a hotel "should have known" but failed to act converts the hotel to a source of recovery. Hotels are easy targets for plaintiffs and their lawyers. By failing to adequately train staff to look for and report potential sex trafficking, a hotel is granting plaintiffs a chance to show how badly it has failed this test.

**Action Item:** It is clear that careful training and various safeguards are needed to balance the legitimate privacy expectations of hotel guests without facilitating conduct that is both illegal and socially pernicious. Current law requires all hotels, motels, and bed and breakfast inns to post a notice informing the public and victims of human trafficking of telephone hotline numbers to seek help or report unlawful activity. The form of the required notice is available [here](#). In addition, the Department of Fair Employment and Housing

requires that hotels and motels with 50 or more employees must provide at least 20 minutes of training and education regarding human trafficking awareness to employees who are likely to interact or come into contact with victims of human trafficking. We urge you to consider your operations and risk management status and take corrective action, as needed.

If you have any questions about these developments or the federal law, please reach out to [Gilbert Tsai](#), [Alexander Berline](#), [Rory Campbell](#), [Richard Stratton](#), or [Susanne Kelly](#) of Hanson Bridgett. We are here to help.

<sup>1</sup> The ability to recover litigation costs lowers the economic barrier to pursuing these claims. A victim without the means to pay for litigation can still seek damages if she (or he) can find plaintiff's attorneys who will pursue the case without requiring any up-front fee payment. And it means that non-profit enterprises can fund such litigation and look to recover these fees in addition to eliminating sex trafficking.

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