

MAJOR POINTS

- Michael Lacey, Jim Larkin and four codefendants currently face 100 counts including the following: facilitating misdemeanor state prostitution offenses in violation of the U.S. Travel Act; money laundering; conspiracy to commit money laundering; and conspiracy to facilitate misdemeanor state prostitution offenses in violation of the Travel Act. Their trial is scheduled for September 1, 2021 in federal court in Phoenix, Arizona.
- Lacey and Larkin are not charged with “sex trafficking,” “child sex trafficking,” “pimping,” “murder,” or even aggravated assault. They and their co-defendants are not charged with harming anyone.
- Importantly, there is a specific federal statute related to allegations of child sex trafficking, and prosecutors in this case *have not charged the defendants with any of these offenses.*
- Rather, they face charges related to their former ownership of a classified ads site, backpage.com, which was very similar to Craigslist.org. Lacey and Larkin owned Backpage from 2004 to 2015, when they sold the company to the person who is now the government’s lead witness, Carl Ferrer.
- Backpage’s users were able to post their own classified ads for a variety of goods and services, everything from jobs wanted, real-estate, community events, automotive, dating, massage and adult. In fact, 69% of all ads were in non-adult sections, such as automotive and real estate.
- All illegality, including sex-for-money transactions, were forbidden by Backpage’s terms of service.

- Backpage’s publication of third-party classified ads – adult-oriented and non-adult-oriented -- was presumptively protected by the First Amendment, and also by Section 230, the federal law that generally makes the user responsible for his or her own posts to an interactive website and holds the site free from most civil and criminal liability.
- Federal district and appellate courts across the country, in addition to state courts, found that Backpage’s publication of adult, massage and dating sections was protected by the First Amendment and/or Section 230.
- Backpage moderated the site and reported ads suspected of trafficking to the National Center for Missing and Exploited Children (NCMEC), the clearinghouse for such reports.
- According to [a July 2012 federal court decision in Backpage’s favor](#), “In April 2012, users posted more than 3.3 million ads on Backpage.com. That same month, Backpage.com blocked, banned or removed more than 1 million user submissions and posts and referred approximately 400 posts to NCMEC.”
- Backpage voluntarily aided federal, state and local law enforcement and government entities, including the U.S. Department of Justice, the FBI and NCMEC. Numerous law enforcement officials praised Backpage’s work in this regard.
- Federal prosecutors are relying on an unprecedented theory of vicarious liability, never tested at trial, that seeks to hold Lacey and Larkin liable for illegal acts allegedly committed as a result of adult-oriented ads posted to Backpage by the site’s users.
- Prosecutors have played a shameful game of poisoning the water by claiming that there were posts involving child sex trafficking

on the website and that Lacey and Larkin were aware of them. This is pure slander. Lacey and Larkin did not review ads for Backpage. Rather, that was the purview of the prosecution's star witness, Carl Ferrer.

- As [a 2019 WIRED story on the case observed](#), "...[T]he government will likely argue that the end justifies the means...They will employ what trial lawyers call 'reptile theory,' tapping into the jury's primitive instincts, arguing that Backpage constituted a public danger and that convicting the defendants will make the community safer."
- Judge Susan Brnovich is the wife of Arizona Attorney General Mark Brnovich, who has a history of publicly disparaging Backpage, assuming guilt on its part and asking Congress for authority to prosecute it. He is currently a Republican candidate for the U.S. Senate. Judge Brnovich denied a defense motion that she recuse herself. The motion argued that there was an appearance of partiality and that AG Brnovich, as a politician, could benefit from the outcome of the trial.

The DOJ attacks:

- On April 6, 2018, in an unprecedented act of direct government censorship, FBI agents seized and effectively destroyed Backpage.com, haphazardly disabling more than 100 servers without preserving the website, which agents have testified they could have done.
- That same day, both men were arrested, and their homes raided by FBI SWAT teams. With guns drawn, FBI agents terrorized defenseless children and elderly women, while indiscriminately confiscating the personal property of Lacey and Larkin, as well as personal property belonging to their loved ones.

- Federal agents seized Lacey and Larkin's cars, removed truckloads of personal items and placed liens on their properties.
- Much of this property was acquired well before Backpage.com existed, yet seized as purported profits from Backpage.com. Lacey and Larkin's bank accounts also were seized, including money set aside for their defense. (More on that below.)
- The two men, now in their 70s, were arrested, held for over a week, and released on bonds of \$1 million apiece with required ankle bracelet monitoring, though neither man has a criminal history and both have profound ties to the community.
- Pre-trial services had recommended that Lacey and Larkin be released on their own recognizance, as were their co-defendants. In a purely punitive move, the prosecutors demanded an exorbitantly high bond for both men.
- Aware of a federal grand jury investigation, lawyers for Lacey and Larkin offered to have their clients surrender themselves if indicted. The feds categorically rejected the offer, opting instead for a gratuitous display of raw power.
- The government's actions in this case have demonstrated a calculated disregard for the due process rights of the accused and a willingness to use the full power of the federal government against the pair.
- Using a controversial and unpopular tactic known as "civil asset forfeiture," the government seized all of Lacey and Larkin's assets through federal courts in California, while pursuing criminal prosecution in Phoenix, to cut the pair off at the knees.

- The government not only seized assets that it claims are proceeds from Backpage, it seized assets that had nothing to do with Backpage, such as bank accounts containing money obtained during several decades of running an alt-newspaper chain, the Village Voice Media, which the two men sold in 2012.
- Prosecutors also seized special bank accounts established to pay the defendants' attorney's fees, severely harming the defendants' ability to defend themselves.
- These seizures have seriously hampered their lawyers' ability to represent the pair in complex litigation involving millions of pages of discovery. The seizures also caused some private attorneys to withdraw from the case.

Background:

- Lacey and Larkin are not criminals. They are veteran newspapermen with 50 years of experience in journalism, publishing and speaking out against authority. Along with others, they established what became the *Phoenix New Times* (PNT) in 1970 as a reaction against the Vietnam War and the Kent State massacre.
- Over time, the two college dropouts transformed PNT into a journalistic juggernaut, acquiring alternative weeklies in other states, and ultimately forming Village Voice Media, a 17-paper chain that included both the *Village Voice* in New York and the *LA Weekly* in Los Angeles.
- Known for its fierce investigative reporting and exposés on powerful individuals such as John and Cindy McCain, S&L swindler Charles Keating, Maricopa County Sheriff Joe Arpaio and Los Angeles Cardinal Roger Mahony, among others, VVM

garnered more than 3,800 awards for writing and journalistic excellence, including a Pulitzer.

- Lacey and Larkin's alternative newsweeklies were free and, like other alt-newsweeklies, they relied on print advertising, including classifieds, from both traditional and non-traditional sources: head shops, mom and pop stores, restaurants, real estate ads, personals, and legal adult advertising, such as strip clubs, escorts, phone sex and massage.
- In the late 1990s and early 2000s, Craigslist.org disrupted the print advertising market by taking classifieds' online and allowing most users to post listings for free.
- In response to Craigslist, Lacey and Larkin founded Backpage.com in 2004 to continue to fund the journalism of their papers and to recoup some of the revenue lost to Craigslist.
- Backpage's users could post ads of legal adult services involving escorts, striptease, erotic massage, phone sex, fetishes, adult films and fantasy role play
- Backpage employed a combination of computer and human moderation to ensure compliance with the site's terms of service, screening millions of ads a month for thousands of inappropriate terms, references and links for malicious content, a common practice for interactive websites.
- In one internal email, a company exec noted that "Sex acts for money ads are deleted."
- Backpage's moderators were so aggressive at one point that they were inadvertently removing "sting" ads posted by law

enforcement for child sex trafficking because the ads violated the site's terms of service.

- Backpage did not object to law enforcement subpoenas and responded within 24 hours, as opposed to Facebook, where the turnaround for subpoenas could take a few weeks.
- Essentially, Backpage was a tool for law enforcement, which allowed the FBI and various other federal, state and local agencies to rescue trafficked persons and to prosecute actual pimps and traffickers.
- About a week after the site was taken down, President Trump signed FOSTA/SESTA into law. The legislation effectively outlawed adult advertising and anything resembling it. As a result of both developments, adult advertising fled overseas, beyond the reach of a U.S. subpoena.
- As a result, the ability of law enforcement officials to effectively work sex trafficking cases has been seriously eroded. There are now more adult ads than ever before, scattered across mainstream social media and on ad platforms in other countries.
- Women and marginal communities have suffered greatly because of the Backpage takedown, and they are in more danger than ever as a result.

Defense attorney [Whitney Bernstein](#) is available for comment or interview at (949) 369-3700.

For more information on Lacey and Larkin and their trial, please see [frontpageconfidential.com](#), written and edited by Stephen Lemons, who is available at (818) 426-4422 or stephenlemons76@protonmail.com