



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

October 14, 2021

The Honorable Merrick B. Garland
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Garland:

Earlier this year, our office was made aware of media reports detailing how human smugglers and drug cartels were allegedly using Facebook to encourage and instruct its users to engage in illegal activities. Our office wrote to Facebook to clarify its policies and procedures for preventing such misuse of its platform. On August 30, 2021, we were surprised to receive an in-depth response from the company (attached) stating that its platform “allow[s] people to share information about how to enter a country illegally or request information about how to be smuggled.”

Facebook does claim to “proactively” remove content related to drug trafficking and human smuggling, but it primarily relies “on automated post scanning systems to identify violations.” Facebook identifies no mechanism to distinguish between authorized and unauthorized posts, nor is it clear how it differentiates the two. Ultimately, Facebook’s enforcement mechanism is a paper tiger.

As you know, states are largely preempted from enforcing federal immigration laws and certain criminal statutes related to human smuggling. It is the federal government’s duty to enforce its immigration and criminal laws, and specifically, the Department of Justice’s responsibility to investigate and prosecute these matters. Therefore, our office requests that your Department investigate Facebook’s facilitation of human smuggling at Arizona’s southern border and stop its active encouragement and facilitation of illegal entry.

Arizona is gravely concerned about this unprecedented border crisis. The rapid increase in illegal crossings since this Administration took over in 2021 is most shocking and distressing. Facebook’s policy of allowing posts promoting human smuggling and illegal entry into the United States to regularly reach its billions of users seriously undermines the rule of law. The

company is a direct facilitator, and thus exacerbates, the catastrophe occurring at Arizona's southern border.

Facebook's letter additionally raises serious questions about its understanding of, and its true commitment to prevent, human and sex trafficking. Facebook's letter does not address the heinous issue of sex trafficking, and actually seems to conflate it with illegal entry. While these problems may be related, they are separate crimes that both take a devastating toll on the victims and our communities. Platforms like Facebook are too easily exploited by traffickers, particularly when they do not properly understand, monitor, or remove postings for illegal conduct.

It is important to note that while the federal government bears the responsibility for prosecuting human smuggling, Arizona is not preempted from prosecuting sex trafficking crimes. As a national leader in battling sex trafficking, our office is currently pursuing such investigations and prosecutions in every instance where they are warranted, based on ads or postings from Facebook. To the extent that Facebook is complicit in such activity, our office will pursue all legal means to hold the company accountable. We expect the Department of Justice to take an equally firm stance against Facebook's facilitation of human and sex trafficking.

The people of Arizona and all Border States deserve the due diligence of the federal government in its enforcement of the rule of law. I look forward to your response and commitment that platforms like Facebook will be held accountable to the extent that they facilitate illegal activity in our communities.

Sincerely,

A handwritten signature in blue ink that reads "Mark Brnovich". The signature is stylized, with the first letters of the first and last names being large and prominent. There is a small dash above the 'i' in "Brnovich".

Mark Brnovich