



**STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL**

**DEREK SCHMIDT**  
ATTORNEY GENERAL

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Testimony for:  
House Committee on Children and Families  
House Committee on Health and Human Services  
House Committee Corrections and Juvenile Justice  
House Committee on Federal and State Affairs

**Topic: Human Trafficking in Kansas**

Submitted by:  
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Chair of Attorney General Derek Schmidt's Human Trafficking Advisory Board  
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With Supplemental Written Testimony by:  
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Coalition Against Sexual Exploitation (KC-CASE)  
Jerry Kuckelman, Atchison County Attorney

January 17, 2012

Chairs and Members of the Committees:

Thank you for the opportunity to speak on the topic of Human Trafficking in Kansas. I am the Chair of Attorney General Derek Schmidt's Human Trafficking Advisory Board. I have been a prosecutor for twenty-two (22) years, the majority of that time spent prosecuting sex crimes and crimes against children, including cases of human trafficking. The following is an overview of human trafficking in Kansas, a description of current efforts in the battle against human trafficking and a sample of case studies prosecuted at the state level.

**I. What is Human Trafficking?**

Human trafficking is a crime against humanity. It is plain and simple modern day slavery, the exploitation of human beings. Human trafficking involves an act of recruiting, transporting, transferring, harboring or receiving a person through a use of force, coercion or other means, for the purpose of exploiting them. Every year thousands of men, women and children fall into the hands of traffickers, in their own countries and abroad. It happens in Kansas. Every country in the world is affected by trafficking, whether as a country of origin, transit or destination for victims.

Article 3, paragraph (a) of the UNODC Protocol to Prevent, Suppress and Punish Trafficking in Persons defines Trafficking in Persons as follows<sup>1</sup>:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article:
- (d) “Child” shall mean any person under eighteen years of age.

#### **Summary of the Elements of Human Trafficking – Act, Means and Purpose**

Based upon the definition in the Trafficking in Persons Protocol, there are three elements:

##### **The Act** (What is done)

Recruitment, transportation, transfer, harboring, or receipt of persons.

##### **The Means** (How it is done)

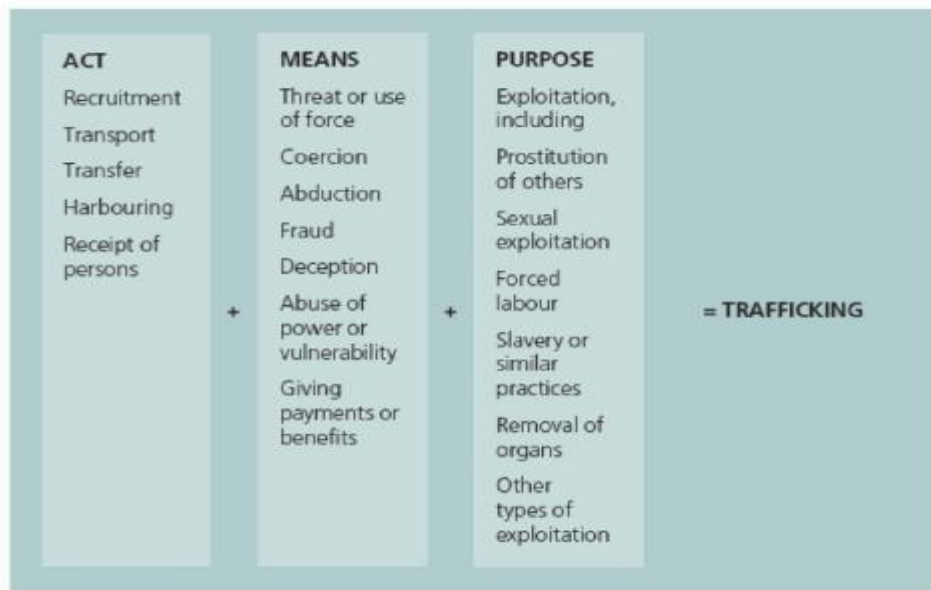
Threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim.

##### **The Purpose** (Why it is done)

For the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labor, slavery or similar practices and the removal of organs.

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<sup>1</sup> United Nations Convention Against Transnational Organized Crime and the Protocols Thereto, United Nations Office on Drugs and Crime (UNODC), Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking in Persons Protocol – TIP), 2004.



## II. Scope of the Problem Generally

Very soon after the establishment of Kansas Human Trafficking Advisory Board in January 2010, the Attorney General’s Office co-sponsored a Call for Community Action Conference with Renewal Forum, Veronica’s Voice, the Kansas City Missouri Police Department, the Catholic diocese of Kansas City and the National Center for the Protection of Children and Families.<sup>2</sup> Then Senator, Governor Sam Brownback was the keynote speaker.<sup>3</sup>

The facts presented from the 2010 conference remain: Human Trafficking is a \$32 billion dollar crime industry worldwide, running a close third behind drug and arms dealing. Each year, between 17,500 and 20,000 men, women and children are trafficked into the United States from more than 48 source countries for purposes of sexual or labor exploitation, according to a report released in June 2007 by the State Department’s Office to Monitor and Combat Trafficking in Persons. But it is no longer just an international problem. The U.S. State Department estimates that more than 250,000 American citizens and legal residents, most of them children under age 18, are being trafficked within this country.

The impetus for the conference was recognition that the Kansas City area was becoming a hub for traffickers and their victims, of which 80 percent are women and girls. Law enforcement professionals from Dallas told attendees that young girls are lured by traffickers by expressions of affection: “Come, be my girlfriend.” Later, “Be my girlfriend” turns into “Be his girlfriend, I need money, and he’ll pay for it.”

Drugs abuse makes victims more difficult to identify and cases more difficult to investigate and prosecute. Physical, sexual and emotional abuse distort the ability of the victims to disclose and/or cooperate with authorities. Troubled youth from broken families or in difficult relationships often become victims of trafficking. Children and adults abducted or lured into sexual exploitation or forced labor

<sup>2</sup> Call for Community Action Conference – Abolishing the Sexual Exploitation of Juveniles in Kansas and Missouri, A Multidisciplinary Response to Child Victims of Trafficking/Prostitution, Kansas City Police Academy, March 15-16, 2010.

<sup>3</sup> Denzer, M. (2010, April). Kansas City to be a model city in human trafficking fight. *The Catholic Key*. Retrieved from <http://catholickey.com>

become disposable. The usual age of a trafficked child's first exploitation is 12-13, with some younger than 9. In these situations, women and children are viewed as disposable commodities.<sup>4</sup>

A good overview of the metamorphosis in the philosophy of law enforcement on victims of sexual exploitation is found in "Somebody's Daughter" by Julian Sher.<sup>5</sup> This metamorphosis includes a greater understanding of the impact of victimization. The book is written by an investigative reporter and includes a discussion of a "high impact" case investigated and prosecuted in federal court. More significant to Kansas, is a discussion of how Dallas began and developed their law enforcement expertise on the fight against human trafficking of young girls.

### **III. Scope of the Problem in Kansas**

Human trafficking is occurring in Kansas at a rate in which the state is currently unprepared to address. Both Wichita and Kansas City have been recognized as major originating cities for human trafficking. Officers located in the Wichita-Sedgwick County Exploited and Missing Child Unit report that sex traffickers often pick up runaways within 48 hours of their being on the streets and transport them to either Dallas or Chicago within 72 hours.<sup>6</sup>

In addition to the sex trade, the vast rural areas in Western Kansas are conducive to human trafficking for forced labor on farms and in food processing plants.<sup>7</sup> While originally noticed in Wichita and Kansas City, human trafficking reports from victim service agencies indicate it is also occurring in many mid-level communities across the state.<sup>8</sup> Domestic violence and sexual assault programs across the state reported working with 26 human trafficking victims in FY 2011:

#### 26 Victims reported from DV and SA programs:

- 19 adult females
- 7 child females

#### Regions:

- Kansas City – 12
- Wichita - 5
- Newton-Hutchinson – 3
- Manhattan – 2
- Garden City - 1

While Wichita and Kansas City have some specialized law enforcement units addressing the problem in their respective communities, the vast majority of Kansas has remained vulnerable ground for human traffickers, with no coordinated linkage to the efforts in the larger Kansas communities.

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<sup>4</sup> Bales, Kevin, *Disposable People: New Slavery in the Global Economy*, University of California Press, 2004, ISBN 9780520243842. See also, "Not My Life," Dir. Robert Bilheimer, Documentary Film. Premier January 19, 2011. This is a 90 minute documentary sponsored by various United Nations and Non Governmental Organizations including the Polaris Project, International Justice Ministries, Unicef, United Nations Office on Drugs and Crime (UNODC), End Human Trafficking Now, Tostan, Agape International Missions, Free the Slaves, Girls Education and Mentoring Service (GEMS), Goodweave, Uniceff, Lexis/Nexis, BD, Terre des hommes, the Somaly Nam Foundation and End Slavery Now. The film includes a segment on a Wichita victim. Her case was prosecuted in federal court in Oklahoma.

<sup>5</sup> Sher, Julian. Somebody's Daughter: The Hidden Story of America's Prostituted Children and the Struggle to Save Them. Chicago Review Press, 2011, 2010.

<sup>6</sup> Detective Kent Bauman, Wichita, interview, Exploited and Missing Childrens Unit (EMCU), 2009

<sup>7</sup> Mike Coan, corporate safety director of ConAgra Red Meat, quoted page 160 of *Fast Food Nation* by Eric Schlosser. (2006).

<sup>8</sup> Victim Service Agency Semi-annual Reports to the Office of Attorney General, 2011.

Both knowledge of the prevalence of trafficking in Kansas and effective response to trafficking remain elusive due to lack of awareness, lack of identification measures, lack of experience in investigating and prosecuting these cases, absence of tracking protocol, and limited strategic response. Kansas law enforcement officers surveyed indicated they feel ill equipped to effectively respond to human trafficking crime and need training in this area. Of those Kansas officers interviewed in a 2009-2010 ongoing face-to-face research survey, 100% expressed a perceived need for training on the following topics associated with human trafficking: current federal and state laws; identifying cases, methods for investigating cases, understanding the rights of victims, and understanding how law enforcement's response to victims impacts the victim's mental health and ability to cooperate with investigations and prosecution.<sup>9</sup>

The estimated and actual numbers listed below provide a snapshot view of the exploitation potential in Kansas.<sup>10</sup>

<b>2300</b>	Estimated Annual Number of Juvenile Victims of Commercial Sexual Exploitation
<b>400</b>	Estimated Annual Number of Adult Victims of Commercial Sexual Exploitation
<b>300</b>	Estimated Annual Number of Victims of Labor Exploitation
<b>2700</b>	American Victims of Exploitation in Kansas
<b>300</b>	Foreign Victims of Exploitation in Kansas
<b>4735</b>	2009 Runaway Children Cases Reported to Law Enforcement
<b>14449</b>	Actual Number of Children with Runaway Episodes
<b>1352</b>	Serious Cases of Abuse (Physical, Sexual, or Psychological) Reported
<b>6052</b>	Registered Sex Offenders in Kansas as of October 7, 2011 <sup>11</sup>

As elsewhere in the country, the vast majority of victims of human trafficking in Kansas are not people from other countries, but our own children. Under federal law, any juvenile subjected to commercial sexual exploitation is a victim of human trafficking. This population of juvenile victims of trafficking is at least 250,000 per year nationwide, versus the estimated number of foreign victims at fewer than 20,000.

#### Human Trafficking News in Kansas

On September 22, 2011, an article appeared in the Wichita Eagle, *Police officials voice concern over spike in local sex trafficking cases*. Wichita Police noted that sex trafficking cases have more than tripled over the past four years, growing in numbers as follows:

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<sup>9</sup> Luttrell, Vicky. Human Trafficking in the Midwest: Experience and Perception Among Kansas Law Enforcement Officers – An Exploratory Study. B.A. thesis. Washburn University, Topeka, 2006. (Unpublished).

<sup>10</sup> Compilation of statistics and projections: Estimates of the victim populations from the Renewal Forum; runaways from KBI missing children/person, actual runaways based on extrapolation of KBI data using NISMART (DOJ research) multiplier, abuse from US Department of Health and Human Services, registered sex offenders from NCMEC study of state registry.

<sup>11</sup> Nicole Dekat, Supervisor/Public Service Administrator II Offender Registration & PI Licensing Unit Kansas Bureau of Investigation.

2006 – 11 cases  
2007 – 10 cases  
2008 – 9 cases  
2009 – 17 cases  
2010 – 22 cases  
2011 – 28 cases<sup>12</sup>

The Wichita Police Department gave a media briefing on the numbers that included an explanation for the increase, a discussion on the difficulty in these investigations and a summary of local proactive measures used to combat the problem. An editorial on the spike in numbers followed:

***Wichita has a sex-trafficking problem***

The idea of Wichita as a hotbed of sex trafficking may seem unfathomable. But the fact that cases have tripled in recent years — from nine in 2008 to 22 in 2010 to 28 already in 2011 — speaks for itself. And it doesn't speak well of Wichita. More staffing next year at the Wichita-Sedgwick County Exploited and Missing Child Unit surely will help, but this trend poses a serious challenge for the community. It's another reason parents need to be attentive to what's going on in their kids' lives, especially online. But its roots are complicated, because many of the girls caught up in this trend start as runaways from abusive homes. Wichita's problem deserves attention from Gov. Sam Brownback, who had such a distinguished record in the U.S. Senate of fighting global human trafficking.<sup>13</sup>

A copy of the WPD Briefing on Human Sex Trafficking from September 21, 2011 is attached to these remarks. A list of Wichita cases from 2004 to 2010 indicating nature of the trafficking and disposition is also attached. Some of the dispositions indicate the difficulties in prosecuting these cases such as lack of cooperation of the victims, no physical evidence, failure to identify any suspect etc.

**IV. AG's Human Trafficking Advisory Board – History and Activities**

Attorney General Derek Schmidt's Human Trafficking Advisory Board (HTAB) was established in January, 2010. The impetus for establishing the board arose out of awareness of an increasing number of human trafficking cases originating from Sedgwick County and in the greater Kansas City Metropolitan area. January 11, 2010 was the second annual national Human Trafficking Awareness Day. Formation of the board was announced the same day. On January 11, 2012, General Schmidt expanded the board, appointing three legislators and representatives of other state agencies to strengthen the Kansas response to human trafficking.

The Kansas HTAB is comprised of a team of experts from a wide range of backgrounds including law enforcement, prosecutors, court personnel, victim advocates, academia, health care, immigration services, legislators, key state agencies and other pertinent parties who have expertise in the field. A list of members of HTAB including contact information is attached to these remarks. The following 37 persons currently serve, subdivided under their areas of expertise:

**Prosecution**

1. Christine M. T. Ladner, Chair HTAB  
Assistant Attorney General  
Criminal Litigation Division  
Office of Attorney General Derek Schmidt  
Topeka, Kansas

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<sup>12</sup> Statistics from WPD Press Briefing on September 21, 2011. Cpt. Michael B. Allred WPD

<sup>13</sup> Holman, R. (2011, September 25). Wichita has a sex-trafficking problem. *The Wichita Eagle*.

2. Marc A. Bennett  
Deputy District Attorney  
Sedgwick County District Attorney  
Wichita, Kansas

### **Education**

3. Laurie Hart, LMSW  
Sexual Violence Prevention Education Grants Coordinator  
Kansas Department of Health and Environment  
Topeka, Kansas
4. Nadia Shapkina  
Professor of Sociology  
Kansas State University  
Manhattan, Kansas
5. Jane Stueve  
School Health Consultant  
Kansas Department of Health and Environment  
Topeka, Kansas

### **Interviewing Expertise/Child Advocacy Center**

6. Diana Schunn, RN, BSN  
Executive Director  
Child Advocacy Center of Sedgwick County  
Wichita, Kansas
7. Kathy Gill-Hopple PhD, ARNP-CNS, SANE-A/P  
Director of Forensic Nursing Services  
Via Christi Hospitals  
Wichita, Kansas
8. Helen Swan  
CAC Coordinator  
Leavenworth Child Advocacy Center  
Leavenworth, Kansas
9. Amy Boydston  
Executive Director  
Kansas Chapter of Child Advocacy Centers  
Lenexa, Kansas

### **Law Enforcement**

10. Kirk Thompson  
Director, Kansas Bureau of Investigation  
Topeka, Kansas
11. Captain Eric Sauer  
Kansas Highway Patrol  
Topeka, Kansas
12. Mike Gee  
Kansas Department of Labor

- Topeka, Kansas
13. Cpt. Brent Allred  
Wichita Police Department  
Wichita, Kansas
  14. Lt. Jeff Weible  
Wichita Police Department  
Exploited and Missing Children Unit  
Wichita, Kansas
  15. Off. Kent Bauman  
Wichita Police Department  
Exploited and Missing Children Unit  
Wichita, Kansas
  15. Det. Dwain Diehl  
Wichita Police Department  
Wichita, Kansas
  16. Sgt. Amy Tracy Osburn  
Sedgwick County Sheriff Office  
Exploited and Missing Children Unit  
Wichita, Kansas
  17. Mark Masterson  
Director of Sedgwick County Department of Corrections  
Wichita, Kansas
  18. Det. Barbara Walk  
Overland Park Police, Criminal Department  
Investigation Division  
Overland Park, Kansas
  19. SA Angie Wilson  
Kansas Bureau of Investigation  
Cyber Crimes Task Force  
Lee's Summit, Missouri

**Victim Services/Advocacy**

20. Anna Pilato  
Deputy Secretary Social and Rehabilitation Services  
Topeka, Kansas
21. Becky Tackett  
Crisis Center Director of Client Services  
Manhattan, Kansas
22. Jim McCollough  
Executive Director, Center for Peace and Justice  
Topeka, Kansas
23. Karen Countryman-Roswurm, LMSW  
Founder and Coordinator of the Anti-Sexual Exploitation Roundtable for Community  
Action (ASERCA)



Wichita Children's Home/Wichita Child Guidance Center  
Coordinator of Anti-Sexual Exploitation Services and Therapist  
Wichita, Kansas

24. Kursten Phelps  
Immigration and Outreach Project Attorney  
Kansas Coalition Against Sexual and Domestic Violence  
Topeka, Kansas
25. Carol Nistler  
Child Victim Advocate  
Johnson County District Attorney's Office  
Olathe, Kansas
26. Dorothy Stucky Halley, LMSW  
Director Victim Services  
Office of Attorney General Derek Schmidt  
Topeka, Kansas
27. Sarah Robinson  
Executive Director  
Wichita Children's Home  
Wichita, Kansas
28. Vicky Luttrell  
Topeka, Kansas

**Immigration and Diversity**

29. Chad Bettes  
Chief of Staff, Kansas Department of Revenue  
Topeka, Kansas
30. Kelly Nash  
Brian Cave Attorney  
Kansas City, Missouri
31. Al Kahill  
Executive Director  
Harvest America Corporation  
Kansas City, Kansas
32. Lewis Kimsey  
State Refugee Coordinator  
Economic and Employment Support Division  
Kansas Department of Social and Rehabilitation Services  
Topeka, Kansas
33. Kursten Phelps  
Immigration Project Attorney  
Kansas Coalition Against Sexual and Domestic Violence  
Topeka, Kansas

**Victim of Human Trafficking and Service Provider**

34. Kristy Childs

Founder and Executive Director Veronica's Voice  
Co-founder of Kansas City Coalition Against Sexual Exploitation (KC-CASE)  
Kansas City, Kansas

### **Policy Development**

35. Sen. Marci Francisco  
Senator for District 2  
Lawrence, Kansas
36. Rep. Steve Brunk  
Representative for District 85  
Wichita, Kansas
37. Rep. Pat Colloton  
Representative for District 28  
Leawood, Kansas

The purpose of the board was to develop a human trafficking task force to address the issues of human trafficking in Kansas. By utilizing a four pronged approach of Prevention, Protection, Prosecution and Partnership, the Kansas HTAB is exploring:

- The development of a public awareness campaign focusing on the hidden issue of human trafficking;
- The identification of victims of trafficking;
- Providing comprehensive and culturally competent services to victims of human trafficking;
- Appropriately addressing the needs of domestic victims of human trafficking;
- Securing adequate resources and support needed to develop a Task Force to effectively investigate cases of human trafficking;
- Developing a statewide structure for collaborative efforts across disciplines and jurisdictions to ensure prosecution of human traffickers.

The establishment of HTAB began as a three year plan as follows:

**Goal 1:** To explore the development and implementation of a task force in Kansas.

**Goal 2:** To explore new funding streams to support a task force.

**Goal 3:** To ensure that Kansas is utilizing best practices in addressing the battle against human trafficking through education of legislators, the courts, professionals in the field and private citizens.

- Guidelines for best practices
- Plan for training developed
- Training plan for law enforcement, advocates, professionals and private citizens executed
- Training plan for prosecutors and court personnel executed
- Expertise provided to law enforcement agencies, advocates and prosecutors through the Office of the Attorney General

**Goal 4:** To assist victims through community coordinated responses to human trafficking in Kansas.

- Coordinated community response teams will be strengthened in communities and will develop strategic plans that are sensitive to the needs of the victim

- Coordinated Community Response Plans will ensure
  - (1) Quality domestic violence and sexual assault services provided to victims requesting services
  - (2) Quality law enforcement investigation of human trafficking
  - (3) Quality prosecution of human trafficking cases.

**Goal 5:** A public awareness campaign will be conducted.

- Develop material for use in schools and communities to promote awareness and eliminate demand. As the level of awareness increases in our communities, the board will work to ensure that important policy changes are made to decrease human trafficking on the local level.

On January 10, 2011, Attorney General Derek Schmidt's administration began. General Schmidt was very supportive of the battle against human trafficking during his time in the legislature, promoting changes to our human trafficking laws to allow for asset forfeiture from traffickers who gained assets from trafficking. He continues to support the work of the board, attending the first available board meeting on January 21, 2011 and as mentioned above, recently expanded the board to include more perspective and expertise from legislators and state agencies.

The board has met on a quarterly basis, rotating meetings between Topeka and Wichita to accommodate travel for the completely volunteer board. The next board meeting, including newly appointed board members, will be January 23, 2012 in Topeka.

Thus far, members of the board have presented numerous trainings statewide on human trafficking to law enforcement, victim service providers, media outlets and in the academic setting. The board has developed a brochure on Human Trafficking which is also available on the Attorney General website, [www.ksag.org](http://www.ksag.org). A copy is attached to these remarks. The board has also developed a public service announcement that is available for presentations.

On March 24, 2011, the board hosted a delegation of lawyers, social workers and other professionals from Moldova, a country particularly susceptible to human trafficking. With the assistance of a translator, the board described activities within their individual areas of expertise. We played the PSA developed by the board to demonstrate how such a media tool could be used in a training context for public awareness. The exchange of information was a very rewarding experience for all concerned.

In May of 2011, the board applied for a substantial grant from the Office of Justice Programs within the U.S. Department of Justice. The proposal was for an Enhanced Collaborative Model to Combat Human Trafficking partnering the Kansas Human Trafficking Advisory Board with the United States Attorney's Office and Veronica's Voice to create a model of anti-exploitation activism for proactive investigations, better victim identification, collaborative efforts from key stakeholders and enhanced community capacity to identify, report, prosecute and accommodate victims. The model was for 1 FTE prosecutor, 1 FTE investigator and 1 FTE human trafficking and victim-witness coordinator position. A great deal of the focus would have been for training to increase capacity of law enforcement officers to recognize human trafficking and identify victims. Data management of the information obtained from the model would have been a great service to more accurately measure the prevalence of human trafficking in Kansas.

Unfortunately, on October 6, 2011 we were advised that we did not receive the funding. To give the Committees an idea of competition for funding, the six grantees were:

City of Arlington, Texas	\$500,000
City of Clearwater, Florida	\$346,259
City of San Jose, California	\$500,000
Erie County Sheriff's Office, Pennsylvania	\$500,000
Metropolitan Police Department (D.C.)	\$500,000

City of Seattle, Washington

\$500,000

From 2010 to 2011, more and more attention has been focused on the topic of human trafficking. Even though we did not receive the grant applied for, the board will continue to work on the issues surrounding human trafficking.

On October 19-20, 2011, board members attended and presented at the Second Annual Call to Community Action in Kansas City. The Kansas Attorney General's Office co-sponsored the event at the Kansas City Police Academy along with The Kansas City Coalition Against Sexual Exploitation, Missouri Attorney General Chris Koster, Veronica's Voice and Renewal Forum. The topic was: Abolishing Commercial Sexual Exploitation in Kansas and Missouri: A Multidisciplinary Response to Victims of Trafficking/Prostitution.

Federal efforts are not duplicative. Kansas has been selected for a nationwide human trafficking enforcement project. Kansas and Missouri have been chosen to participate in a nationwide Human Trafficking Enhanced Enforcement Initiative designed to streamline federal criminal investigations and prosecutions of human trafficking offenses. As part of the initiative, a specialized Anti-Trafficking Coordination Team (ACTeam) has been formed in Kansas and Missouri.<sup>14</sup>

These efforts will not include typically smaller state prosecutions not covered by the federal initiative whose focus is on developing "high impact" cases. One Kansas child trafficked is one too many. Whether her trafficker is prosecuted under federal or state law should not be a factor into adequately assessing and addressing state tools to battle the problem. A plus in Kansas is the high level of collaboration between state and federal authorities. Prosecutors and law enforcement who fight these crimes already have close working relationships. The potential to achieve maximum prosecutorial potential in the arena of human trafficking is very promising because federal and state stakeholders already work well together in prosecuting child pornography cases.

Several grass roots organizations have developed from faith based communities and/or community activists interested in the issue. These nongovernmental organizations (NGO's) hope to raise awareness and assist in the battle against human trafficking.

The Anti-Sexual Exploitation Roundtable for Community Action (ASERCA) organization in Wichita is more data driven and scholarship based resulting in the articulate voice of its founder, Karen Countryman-Roswurm, founder and member of our board. Ms. Countryman-Roswurm coordinates local multi-disciplinary collaborative efforts to prevent, intervene, and reduce domestic sexual exploitation. A few of her research interests include risks and resiliencies of homeless, runaway, and throwaway youth (HRTY); domestic sexual exploitation/human trafficking; methods of utilizing risks and resiliencies of marginalized populations to more effectively intervene through strengths and empowerment practices; cognitive schemata of sexual exploitation and relationship violence survivors; Children in Need of Care and demoralizing practices; etc.<sup>15</sup>

Organized by a community activist, Jennifer White, ICTSOS, grew out of a strong community response to news stories of commercial sexual exploitation of young girls in Wichita. The base of support

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<sup>14</sup> Press Release from the United States Attorney's Office District of Kansas. (July 25, 2011). Federal Team Will Target Human Trafficking in Kansas, Missouri.

<sup>15</sup> Karen Countryman-Roswurm, LMSW, Founder and Coordinator of the Anti-Sexual Exploitation Roundtable for Community Action (ASERCA), Wichita Children's Home/Wichita Child Guidance Center, Coordinator of Anti-Sexual Exploitation Services and Therapist and doctoral candidate Wichita State University, School of Social Work. See <http://webs.wichita.edu/?u=socialwork&p=/FacultyAndStaff/countrymanroswurm>.

developed around social media. ICTSOS raises money and collect donations to help support police and social workers on the front lines of fighting the sexual exploitation of children in Wichita<sup>16</sup>.

While NGO's are an integral part of the collaborative efforts that should be utilized, they should not substitute for the core governmental function of law enforcement to identify victims, investigate and prosecute traffickers. Such functions cannot be "farmed out" to the private or non-profit sector on any sort of independent contractor basis.

## **V. Human Trafficking Laws in Kansas- an Overview**

With the advent of the federal Trafficking Victims protection Act of 2000, it did not take long for Kansas to pass its own stand alone crimes against human trafficking. In 2005, the legislature enacted the crimes of trafficking and human trafficking. The current statute is as follows: K.S.A. 21-5426 (21-3446; 21-3447) **Trafficking**. Sec. 61

(a) **Human Trafficking** is:

- (1) The intentional recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjecting the person to involuntary servitude or forced labor;
- (2) Intentionally benefitting financially or by receiving anything of value from participation in a venture that the person has reason to know has engaged in acts set forth in subsection (a)(1);
- (3) Knowingly coercing employment by obtaining or maintaining labor or services that are performed or provided by another person through any of the following:
  - (A) Causing or threaten gin to cause physical injury to any person;
  - (B) Physically restraining or threatening to physically restrain another person;
  - (C) Abusing or threatening to abuse the law or legal process;
  - (D) Threatening to withhold food, lodging or clothing; or
  - (E) Knowingly destroying concealing, removing confiscation or possessing any actual or purported government identification document of another person;or
- (4) Knowingly holding another person in a condition of peonage in satisfaction of a debt owed the person who is holding such other person.

(b) **Aggravated Trafficking** is:

- (1) Human trafficking, as defined in subsection (a):
  - (A) Involving the commission or attempted commission of kidnapping as defined in subsection (a);
  - (B) committed in whole or in part for the purpose of the sexual gratification of the defendant or another; or

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<sup>16</sup> Sylvester, R. (2011, April 5). Fundraiser will aid kids forced into sex trade. *The Wichita Eagle*. Sylvester, R. (2011, June 10). 'Freeze mob' fights child sex trafficking. *The Wichita Eagle*. Sylvester, R. (2011, November 20, 2011). Volunteers work to ready drop-in center for homeless teens. *The Wichita Eagle*.

(C) resulting in a death; or

(2) **recruiting, harboring, transporting, providing or obtaining, by any means, a person under 18 years of age** knowing that the person, **with or without force, fraud, theta or coercion**, will be used to engage in forced labor, involuntary servitude or sexual gratification of the defendant or another.

#### The Penalties

Human Trafficking is a Severity Level 2 Person Felony

Aggravated Human Trafficking is a Severity Level 1 Person Felony

UNLESS, the offender is at least 18 and the victim < 14, Off- Grid Person Felony

### **VI. How Does Kansas Law Rate?**

There is a quite an array of proposals nationwide on human trafficking statutes to discuss, but much depends on funding. Missouri unveiled a large legislative package in 2011. Comparisons to Kansas were inevitable. Recently, the Kansas City Star published an article criticizing Kansas' law on human trafficking in comparison to other states.<sup>17</sup> Missouri's extensive package includes much of what Kansas already has, but has more. However, it is completely unfunded according to the Missouri Assistant Attorney Generals who presented at the Renewal Forum in October. Missouri added expansive definitions of coercion, "commercial sex act" so that it is not limited to only when something of value is actually given in exchange for sex, but also when something is only promised. The new Missouri law defines "sexual conduct" and has a very expansive definition of "sexual performance."

The most notable features go to the "holistic approach" to combating HT by helping victims and improving the state's response, including:

- restitution provisions
- affirmative defenses to the charge of prostitution due to coercion
- mandated notification to social services
- civil cause of action for actual damages, court costs, attorney's fees and even punitive damages
- a mechanism for the state to recover damages by giving the attorney general the right to a civil cause of action though the AG retains the primacy of the victim by ensuring that the first money collected goes to restitution
- Giving specific procedures for identifying victims, training programs for state employees and contractors, SRS, juvenile courts, state law enforcement, health care professionals and youth shelter administrators.
- Authorizes SRS to evaluate and implement appropriate services for victims to provide services including case management, emergency housing, health care, mental health counseling, alcohol and drug addiction screening and treatment, language interpretation, English language instruction, job training and placement assistance. \$\$\$\$\$

Kansas has:

- Statutes to cover labor trafficking. K.S.A. 21-5426(a)
- Definitions of coercion. K.S.A. 21-5426(a)(3)(A)(B)(C)(D)(E)
- A definition of "peonage" K.S.A. 21-5426(a)(4) and (f) that covers involuntary servitude
- Statues to cover sex trafficking K.S.A. 21-5426(a) and (b) that covers both adults and minors with enhanced penalties for sex trafficking of minors
- Asset forfeiture provisions for the profits of trafficking K.S.A. 60-4104.
- Not by authorized by statute, but we have the AG's Human Trafficking Advisory Board

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<sup>17</sup> McGraw, M. (2011, September 10). Kansas law falls short in combating human trafficking. *The Kansas City Star*.

The scoring system referred to in the Kansas City Star article is based upon static factors identified by the Polaris Project, a nongovernmental organization (NGO) funded in part with money from the 2000 Trafficking Victims and Protection Act. They gave us 4 of 10 points as follows:

Credited Categories:

- Sex Trafficking statute
- Labor Trafficking statute
- Asset Forfeiture
- Lower burden of proof for sex trafficking of minors

Categories still needed:

- Investigative tools
- Training for law enforcement
- Human Trafficking Task Force
- Posting of National Hotline
- Safe Harbor – Protecting Sex Trafficked Minors
- Victim Assistance
- Access to Civil Damages
- Vacating Convictions for Sex Trafficking Victims

The score of only four is somewhat misleading as we have an advisory board formed. The national hotline number is on our website: <http://www.ksag.org/page/about-human-trafficking-in-kansas> via a link to the Polaris Project.

More recently featured in the news is the poor grade Kansas received from Shared Hope International<sup>18</sup>. Shared Hope International, like the Polaris Project, is an NGO whose purpose is to combat human trafficking. Shared Hope gave Kansas an “F.” Missouri got a “B.” ***The grade does not reflect how well states enforce their laws***, only the adequacy of existing laws. The Protected Innocence Initiative Methodology developed by Shared Hope may be found online at <http://www.sharedhope.org>. Shared Hope assigns point values in their grading process to six categories:

- Criminalization of Domestic Minor Sex Trafficking
- Criminal Provisions Addressing Demand
- Criminal Provisions for Traffickers
- Criminal Provisions for Facilitators
- Protective Provisions for Child Victims
- Criminal Justice Tools for Investigation and Prosecution

A close analysis shows that the grade does not reflect current efforts, particularly existing case law.

## **VII. Current Case Law**

The first case to be tried under our aggravated human trafficking statute was *State v. Marlin Williams*, 46 Kan. App. 2d 36, 257 P.3d 849 (2011). (Petition for review filed August 5, 2011). The case came from Wichita. The conviction for aggravated human trafficking is affirmed and the statute was found constitutionally sound. We await the decision of the Kansas Supreme Court.

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<sup>18</sup> Sylvester, R. (2011, December 1). Kansas rates poorly for sex-trafficking laws. *The Wichita Eagle*. McGraw. M. (2011, December 1). States at opposite ends of scale in penalizing sex traffickers. *The Kansas City Star*.

## **VIII. Conclusion**

So often, during the trainings and presentations on the topic of human trafficking, members of the audience ask, "Do we really have that here?" The answer is a resounding, yes, we have that in Kansas. Tools are somewhat in place to begin a more comprehensive approach to tackle the problem. We have stand alone statutes criminalizing the conduct, but we need to do a much better job at identification of victims and training law enforcement, victim service providers and other members of the criminal justice system on how to handle these cases. We already have some tools in the legislative tool box to assist. More should be done. Several NGO's have developed who are keenly interested in assisting on the issue, but the core governmental functions for law enforcement to identify victims, investigate and prosecute traffickers cannot be delegated to civilians. The training and infrastructure needed to accommodate these special victims of exploitation and to prosecute their traffickers is currently not adequate.