

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on February 16, 2005, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Kansas Legislative Research Department  
Jill Wolters, Office of Revisor of Statutes  
Helen Pedigo, Office of Revisor of Statutes  
Nancy Lister, Committee Secretary

Conferees appearing before the committee:

Kevin Graham, Assistant Attorney General  
Kyle Smith, Kansas Bureau of Investigation  
Mike Farmer, Kansas Catholic Conference  
Marsha Strom, Concerned Women of America  
Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence  
Senator Schmidt  
Callie Denton, Kansas Trial Lawyers Association

Others attending:

See attached list.

Chairman Vratil opened the meeting and the hearing on **SB 147**.

**SB 147 Increasing general time limitation for actions to five years**

Proponents:

Kevin Graham testified on behalf of the Attorney General in support of the bill. The Attorney General requested an amendment be made to change the bill on page 2, line 1, to delete the words "any offense provided in subsection (2)" and replace the words with, "enticement of a child as defined in K.S.A. 21-3509 and amendments thereto". (Attachment 1)

Kyle Smith testified on behalf of the Kansas Bureau of Investigation in support of the bill. Mr. Smith stated that there are many crimes where the prosecutors cannot bring the defendant to trial due to the time limitation and resources. (Attachment 2)

Written testimony was provided in support of the bill from Vernon Chinn, Pratt County Sheriff, Pratt, KS. (Attachment 3)

Chairman Vratil closed the hearing on **SB 147** and opened the hearing on **SB 161**.

**SB 161 Immunity from liability for entities for whom offenders perform community service**

Senator Schmidt stated the bill was introduced on behalf of C. Fred Lorenz, Chief Judge, 31<sup>st</sup> Judicial District. The bill limits the liability of organizations who agree to host offenders doing community service. Senator Schmidt stated that the written testimony from Judge Lorenz provides further explanation for the need of the bill.

Written testimony was provided in support of the bill by Judge C. Fred Lorenz. (Attachment 4)

Opponent:

Callie Denton, Kansas Trial Lawyers Association (KTLA), testified opposing the bill. Ms. Denton stated that the KTLA is concerned about any bill that attempts to limit liability and provide immunity for conduct that is otherwise harmful. The KTLA attached a balloon amendment as an alternative that would clarify the bill limiting the liability to government entities and nonprofit organizations. The balloon recommendation removes the words "willful or wanton misconduct or intentionally tortious" and replaces with the word

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on February 16, 2005, in Room 123-S of the Capitol.

“negligent”. ([Attachment 5](#))

Chairman Vratil closed the hearing on **SB 161** and opened the hearing on **SB 151**.

**SB 151 Crimes of trafficking and aggravated trafficking**

Kevin Graham, Assistant Attorney General, testified in support of the bill. He stated that the bill deals with taking people against their will for forced labor and involuntary servitude or for sexual exploitation. This bill would provide serious criminal sanctions for individuals caught committing this crime.

Kyle Smith, Kansas Bureau of Investigations, testified in support of the bill. Mr. Smith stated that Kansas does not have a current law to prosecute, for example, individuals caught with a trailer load of immigrants. As a result, the Immigration and Naturalization services get the call to pick up the victims for deportation, and the smuggler who preys on the victims slips away. The bill would provide a tool to investigate and prosecute these criminals. ([Attachment 6](#))

Mike Farmer, Kansas Catholic Conference, testified in support of the bill. Mr. Farmer quoted from *Strangers No Longer, a Pastoral Letter Concerning Migration*, from the U.S. Catholic Bishops and the Bishops of Mexico: “Trafficking in persons- in which men, women, and children from all over the globe are transported to other countries for the purposes of forced prostitution or labor- inherently rejects the dignity of the human person and exploits conditions of global poverty.” ([Attachment 7](#))

Marsha Strom, Concerned Women for America of Kansas, testified in support of the bill. Ms. Strom stated that an informational packet was provided to each Committee member and she urged them to read it. ([Attachment 8](#))

Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence, testified in support of the bill. Ms. Barnett requested a balloon amendment be considered that under aggravated trafficking a person would be charged if it involved a child under the age of 18, and that it wouldn’t matter whether they were forced or threatened. ([Attachment 9](#))

Kris Kobach, Professor of Law, University of Missouri, testified in support of the bill. Professor Kobach stated he served as Counsel to U.S. Attorney General John Ashcroft at the U.S. Department of Justice during 2001-2003.

Professor Kobach stated that the United States Government dramatically improved the prosecutorial and relief efforts with Congress’s passage of the Trafficking Victims Protection Act (TVPA) of 2000. Professor Kobach shared several case examples of successful prosecutions. In conclusion, Professor Kobach stated that it was important for states to pass a state statute for several reasons: it allows more prosecutions to be brought with a state law in place; a state law serves to define the crime clearly and give guidance to state and local law enforcement, whose efforts are often the first step in uncovering human trafficking; cases may arise in which human trafficking offenses are part of a larger set of crimes. Prosecution of the defendants for these state crimes, along with the trafficking crimes, in a single state jurisdiction may offer the best prosecution strategy. ([Attachments 10 & 11](#))

Written testimony was provided in support of the bill from: The Honorable Sam Brownback ([Attachment 12](#)); Chad Betts, Office to Monitor and Combat Trafficking in Persons ([Attachment 13](#)); Dr. Janice Shaw Crouse, Ph.D., Concerned Women of America ([Attachment 14](#)); Robin Read, National Foundation for Women Legislators, Inc. ([Attachment 15](#)); Melinda Lewis, El Centro. ([Attachment 16](#))

Chairman Vratil closed the hearing on **SB 151** and asked the Committee to consider **SB 52** for final action.

**Final Action:**

**SB 52 Providing employer contribution for health insurance for senior judges**

Senator O’Connor stated that her records show the Committee was considering a possible amendment to the

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on February 16, 2005, in Room 123-S of the Capitol.

bill on page 1, line 27, changing the word "shall" to "may". Chairman Vratil stated he had proposed the change to give the court the discretion rather than to require the employer contribution. There was a motion to amend the bill making this change. Senator O'Connor moved, seconded by Senator Donovan, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator Goodwin moved, seconded by Senator Schmidt, and the motion carried.

**Final Action:**

**SB 71 Creating the crime of automated teller machine robbery and aggravated automated teller machine robbery**

Senator Journey stated that the Committee was considering a possible amendment to the bill on page 1, line 16, to strike the words, "to affect" and replace with the words, "through the use of". There was a motion to amend the bill making this change. Senator Journey moved, seconded by Senator Bruce, and the motion carried. There was a motion to amend the bill on page 1, line 18, by striking "IV" and inserting "V", making the crime a step lower. Senator Goodwin moved, seconded by Senator Haley, but the motion did not carry. There was a motion to recommend the bill favorably as amended. Senator Journey moved, seconded by Senator O'Connor, and the motion carried.

**Final Action:**

**SR 1820 Resolution requesting that the United States supreme court grant certiorari in the Marsh case**

Chairman Vratil asked the Committee to consider action on the proposed Senate Resolution introduced the day before by Senator Schmidt. (Attachment 17) Senator Schmidt described the resolution, which would be from the body of the Kansas Senate encouraging the U.S. Supreme Court to grant *certiorari* to hear the *Marsh* appeal. A motion was made to introduce the resolution and recommend it favorably. Senator Schmidt moved, seconded by Senator Umbarger, and the motion carried.

Chairman Vratil adjourned the meeting at 10:30 A.M. The next meeting is scheduled for February 17, 2005.

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SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2/16/05

NAME	REPRESENTING
Colleen Harrell	KCC
Sandy Barnett	KCSOV
KRIS KOBACI	UMKC SCHOOL OF LAW
Marsha Strahm	CWA of Mo.
Mike Farmer	Kansas Catholic Conference
J BUSTEN	KSC
B HANNON	KSC
P. BRIGGS	KSC
Joyce Grover	KCSOV
Almas Saaved	KCSOV
Marie Landry	KCSOV
Angilica Maloney	KCSOV
Jeff Bottoborg	Polsinelli, Skelton & Holt
Brek Jurek	Leadership MC
Mathieu Wisling	Leadership MC
Frank Scott	Leadership MC
Donna Reed	-
Martin Kauer	Havel's Parental Report



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

PHILL KLINE  
ATTORNEY GENERAL

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February 16, 2005

SENATE JUDICIARY COMMITTEE  
Testimony in Support of  
Senate Bill No. 147

Dear Chairman Vratil and Members of the Senate Judiciary Committee:

Thank you for allowing me to appear today in support of SB 147, a bill requested by Attorney General Phill Kline that would lengthen the Kansas statute of limitations for the filing of charges in the majority of felony and misdemeanor crimes from the current two-year limit to a period of five years.

Under current law, at K.S.A. 2004 Supp. 21-3106, Kansas prosecutors must file charges within the two years following the commission of most crimes committed in our State or the case will be lost and even if evidence is later uncovered revealing the identity of the criminal who committed the crime, that individual can not be prosecuted for the offense. For example, if your home is burglarized and law enforcement is not able to identify the individual who committed the burglary for more than two years, that burglar can not be prosecuted for the crime. Even if three years later an eye witness comes forward with videotape of the burglary and the burglar signs a confession the burglar can not be charged and can not be convicted, because the statute of limitations on the crime has expired.

The Kansas Legislature has long recognized that the statute of limitations should be longer than two years for a number of different types of crimes. The primary example is that under current Kansas law the crime of murder has no statute of limitations. Whether charges are filed against a murder defendant the day after the murder, or 20 years later, the defendant can still be prosecuted and convicted for the murder if sufficient evidence is discovered and a jury is convinced beyond a reasonable doubt of the defendant's guilt. The rationale behind having no statute of limitations for murder is generally based on the two major arguments of the serious nature of the crime and the fact that crucial evidence of the crime often may not be discovered for years after the crime occurs.

It should be noted and considered that a "statute of limitations" prescribing a specific length of time in which criminal charges must be filed or the case abandoned is a statutory right. The Kansas statute of limitations is not mandated by either the United States or Kansas constitutions. Statutes of limitations vary widely from state to state,

and the courts have consistently held that states have the right and authority not only to establish statutes of limitations, but to change them as well. Statutes of limitations on the filing of crimes are controlled entirely by the legislative process and the lengths of particular time limitations for the filing of criminal cases can (and have) been amended on many occasions. For example, the Legislature has provided an extended statute of limitations of 10 years in cases involving fraud or theft from the Kansas Public Retirement System. Ordinarily, the crime of Theft, KSA 21-3701, would have to be charged within two years of the commission of the crime, but thanks to the provision of KSA 2004 Supp. 21-3106(3), if the victim of that Theft offense is KPERS (and only if the victim is KPERS) law enforcement and prosecutors will have up to 10 years to identify the offender and file charges. This special provision for KPERS was added to the statute out of recognition that it may take a number of years for an act of embezzlement or fraud against KPERS to be discovered, and additional time would likely be necessary for law enforcement authorities to appropriately investigate the case and identify a suspect. That same rationale is at the very heart of why SB 147 was requested by the Attorney General and why the bill should be enacted.

In the past three and a half years since the 9/11 attacks, the resources available to combat a variety of criminal enterprises have been rearranged and re-targeted at the federal level in order to address the needs of Homeland Security and or national defense. As a consequence, assistance from federal entities such as the Federal Bureau of Investigation (FBI) and the Secret Service that have been relied upon for many years to aid in the investigation and prosecution of "white-collar" crime and public corruption have been greatly reduced. For nearly 20 years the stated number one priority of the FBI was combating major white-collar crime and public corruption. However, the latest "FBI Priorities" list (see attached) now ranks white-collar crime as the FBI's number 7 priority.

Not only do state authorities now face a reduced capacity for assistance from federal agencies concerning white-collar and public corruption crimes, but federal authorities are now openly seeking assistance from the states in handling crimes that were traditionally handled exclusively by federal law enforcement agencies and prosecutors. In recent weeks representatives from the Secret Service have contacted the Kansas Attorney General's Office and state authorities across the U.S. requesting that the individual states enact statutes to criminalize the possession or passing of counterfeit U.S. currency. Counterfeiting has traditionally been a crime investigated and prosecuted almost exclusively at the federal level, but due to re-tasking of the Secret Services resources following 9/11, the agency is now actively seeking assistance from the states. [See attachment, HB 2214 introduced this year by Rep. Patricia Kilpatrick.] Similarly, the Kansas Attorney General's Office was recently contacted by the U.S. Department of Defense seeking prosecution assistance on a white-collar case involving a federal contractor defrauding sub-contractors. One big difference between prosecuting these offenses at the federal level and trying to prosecute them at the state level in Kansas is that the federal system currently has a 5-year statute of limitations while Kansas only allows two years to have the case filed.

An important tool that the Legislature can give to Kansas prosecutors taking on these additional very complex and time consuming cases would be to pass SB 147 and provide for a longer, 5-year statute of limitations for the filing of charges. Just as is the case in crimes involving KPERS, modern white-collar crimes such as embezzlement from a business, repeated thefts from a family member or identity theft can sometimes take years to discover and a great deal of time to properly investigate before charges can be filed. While modern computer systems sometimes make it possible to back-track a criminal's illegal acts, those same computers provide a skilled criminal with the ability to cover up many financial transactions and often evade discovery of crimes for a long period of time.

An example I can point to (due to having prosecuted the case myself) was an embezzlement scheme in Smith County where a trusted employee of a more than a century old business had been stealing from the business accounts for numerous years. The offender's thefts amounted to nearly \$100,000 that was identified in just the preceding three years. Due to the two-year statute of limitations for Theft crimes, charges could only be brought for the crimes in the most recent two years. An audit of the company's records confirmed that additional thefts had taken place possibly as far back as 4 or 5 years and may have raised the total amount of losses considerably. The good news is that the State did obtain convictions in that case on 10 counts, but the victims had to accept the fact that under current law it was not possible to charge or punish the defendant for many of his crimes.

To address one concern that has been voiced about the possibility of extending the current statute of limitations, it is my opinion that any action the Legislature might take this year to extend the statute of limitations would not be retroactive. In the case of Utah v. Lusk, 37 P.3<sup>rd</sup> 1103, the Utah Supreme Court ruled that a 1996 amendment to the Utah statute of limitations extending the statute from 4 years to 8 years for some crimes could only act to extend the time period for cases where the statute of limitations had not expired at the time the change in law took effect. Thus, if the prior statute of limitations had been 4 years and a crime had taken place 3 years before the statute of limitations was extended to 8 years, then the state would have a total of 5 years remaining to file charges in that crime. However, the Utah court held that if a crime had been committed and the existing statute of limitations had expired before the law was changed (i.e. statute of limitations had been 4 years and the crime happened 6 years ago) then that crime would not become "rechargeable" by the passage of a law extending the statute of limitations to 8 years. While I could not find an opinion where the Kansas Supreme Court had addressed this specific question, the Utah court's opinion is well reasoned and provides suitable guidance on this issue.

As a final note, there is one amendment that should be made to SB 147 due to language that was inadvertently omitted in the bill draft. On page 2 of the bill, in line 1, the words "any offense provided in subsection (2)" should be deleted, and those words replaced with the following: "enticement of a child as defined in KSA 21-23509 and amendments thereto." This amendment is necessary to insure that the current

provisions of the statute that extend the statute of limitations for sex crimes where DNA is discovered are still covered by that provision.

On behalf of Attorney General Phill Kline, I encourage the sub-committee to support SB 27 (with the proposed amendment) and to recommend the bill favorably for passage to the full committee.

Respectfully,

OFFICE OF THE ATTORNEY GENERAL  
PHILL KLINE

A handwritten signature in black ink, appearing to read "Kevin A. Graham", with a long horizontal flourish extending to the right.

Kevin A. Graham  
Assistant Attorney General  
Director of Governmental Affairs





## Kansas Bureau of Investigation

Larry Welch  
*Director*

### Senate Judiciary Committee

Phill Kline  
*Attorney General*

#### Testimony in Support of SB 147

Kyle G. Smith  
Special Assistant Attorney General and Special Agent  
Kansas Bureau of Investigation  
February 16, 2005

Chairman Vratil and Members of the Committee,

I appear today on behalf of the KBI in support of SB 147, bringing the Kansas law on statute of limitations out of the dark ages and into modern realities. The two-year statute of limitations was developed under England's common law, at a time when most people couldn't read or write. Then it made sense to limit prosecutions to fairly recent occurrences where the memories would be fresh. But in this day of ubiquitous video cameras and digital recorders, not to mention DNA testing, the idea that criminals should go free simply because our law still reflects the thinking of 4 centuries ago is sad.

At the KBI we frequently work complex cases involving multiple organizations in several states. Obtaining records from other states is sometimes difficult and slow. Many times some or all of the crimes discovered cannot be charged as the two-year statute of limitations has run. Certainly there are times where cases should not be prosecuted due to the passage of time and loss of evidence. But where there is compelling and probative evidence, this loophole in our criminal justice system should be plugged.

Thank you for your consideration. I'd be happy to answer any of your questions.

Written testimony on Senate Bill 147, by Vernon Chinn, Pratt County Sheriff, Pratt, Ks.  
Senate Judiciary Committee  
Chairman Vratil

I am asking this committee to support Senate Bill 147. Due to the difficulty with investigating embezzlement and other "white collar" crime, this is a much needed law. These types of crimes are on the increase as there is a better than average chance you won't be prosecuted if caught, due to the time frame of the crime and the time it is reported. Of course the ones committing these crimes are counting on just that, usually having already moved on to a new target, or even hopes of starting a new life without the past being revealed. However the victim is left holding the cost with no hope of recovery.

In Pratt alone we have had two cases where we desperately needed more time. One case involving embezzlement from a local agriculture chemical plant, the crime had been ongoing for over 4 years before the company detected the problem and reported it. The investigation went on for several weeks, before we could present the case to the prosecutor. Had this not been an ongoing crime, we would have not been able to proceed, as the statute of limitations would have run out.

In a case that we are currently involved in, it was 14 months old, at the time it was reported, with an investigation that lasted a couple of months.

Often times these crimes are not noticed until the employee has moved on and a new employee takes over a particular set of books, finding the gap.

Please support this bill, as it will be a major asset to law enforcement in our continuing efforts to investigate and prepare for prosecution these types of crimes.

Thank you for your time and consideration in this matter.



Vernon Chinn  
Pratt County Sheriff

THE THIRTY-FIRST JUDICIAL DISTRICT  
OF KANSAS

Second Division

AREA CODE 620

Hon. C. FRED LORENTZ  
Chief Judge  
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ERIE OFFICE 244-3831 FAX 244-3830  
IOLA OFFICE 365-1425 FAX 365-1429  
YATES CENTER OFFICE 625-8610 FAX 625-8674

February 10, 2005

Hon. Terry Bruce  
Kansas Senate  
Room 143 - N  
State Capital Building  
Topeka, KS 66612

SB 161 pg 3  
Submitted by  
Senator Schmidt

Re: SB 146 (Screening Panels)

Dear Senator Bruce:

Sen. Derek Schmidt called me to advise you will be holding hearings on the referenced senate bill regarding health care provider screening panels.

Enclosed is a copy of a letter I had mailed to Sen. Vratil regarding my reasons for suggesting the bill. If you could let me know as soon as possible when it will be scheduled for hearing I will try to be there. It will depend on my court schedule.

I particularly wanted to call your attention to the fact that the same language appears regarding professional malpractice screening panels. If there is support for the passage of the bill, then I suggest it be amended to include both health care and professional screening panels.

If I cannot attend I would be happy to submit my letter to Sen. Vratil in support of the bill. If you think something more is needed, please let me know.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Fred Lorentz".

C. Fred Lorentz

Senate Judiciary

2-16-05  
Attachment 4

# THE THIRTY-FIRST JUDICIAL DISTRICT OF KANSAS

Second Division

Hon. C. FRED LORENTZ  
Chief Judge  
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YATES CENTER OFFICE	625-8610	FAX 625-8674

February 9, 2005

Hon. John Vratil, Chair  
Senate Judiciary Committee  
Room 522 – S  
State Capital Building  
Topeka, KS 66612

Re: Senate Bills 146 and 161

Dear Senator Vratil:

Senator Derek Schmidt, at my request, caused the referenced bills to be introduced. I felt it might be helpful to the committee to know my reasons for making those bill requests.

Senate Bill 146

I have had cause on several occasions to convene screening panels in both medical and professional malpractice cases. Although the proposed bill deals with medical screening panels, the same reasoning applies to professional panels and the bill should be amended to include those. The compensation sections are identical and are found in K.S.A. 65-4907 and 60-3508 respectively.

As it now stands, regardless of the amount of time spent by an attorney appointed as chairman of the panel, he or she will be paid the statutory amount of \$500. I have had some attorneys turn down appointments as chairmen due to the amount of time spent. In a recent professional screening panel involving an extremely complicated engineering issue, the parties agreed to compensate the chairman in excess of \$2,000 due to the number of hours and meetings involved. With strict compliance under the statute, I'm not sure that should have been allowed.

All I'm suggesting in the bill is that the \$500 current statutory fee be the starting point, but allow the court some leeway to consider time spent and usual hourly rates in determining compensation for the statutorily required attorney chair in those cases involving additional time.

I did not offer anything similar for the professional/medical members of the panel as they receive some intrinsic value in supporting the panels, however, I wouldn't be opposed to something similar for them.

Senate Bill 161

Our district, and I am sure many others across the state, have active community service programs. I have been very disappointed over the years in the resistance of some organizations to make use of community service workers.

Several years ago, at my suggestion, some legislation was introduced on this subject, but all it did was provide worker's compensation coverage to community service workers. That really doesn't address the problem.

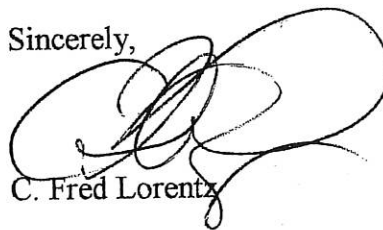
As examples, I can think of few things that would be as effective as seeing juveniles or young adults washing school buses in front of the school on a Saturday morning, or picking up trash after a football game. It would be effective both in providing some embarrassment to the community service worker thus tending to lessen his propensity to re-offend, and at the same time, would be an object lesson to those who wouldn't want to see themselves in a similar situation. An additional benefit would be for citizens to "see" that offenders are contributing to the welfare of their community.

We use most of our community service workers in the city's recycle center where they do good work, but no one ever sees them. I have over the years tried to suggest that other entities make use of them, but the liability question is always the concern they raise.

My hope is that by making it clear, by statute, that the organization isn't liable for injury to a community service worker performing court required community service, short of willful or wanton conduct or intentional tort, then those organizations will be more receptive to using them. It would be a "good deal" all around.

If I can be helpful in any other way, please let me know.

Sincerely,



C. Fred Lorentz

Submitted  
by  
CALLIE DENTON

To: Chairman Vratil and Members of the Senate Judiciary Committee  
From: Kansas Trial Lawyers Association  
Date: February 16, 2005  
Re: **SB 161**

The Kansas Trial Lawyers Association supports the current civil justice system wherein wrong-doers are held fully accountable for the harm and the damage that they cause.

SB 161 provides for immunity for governmental entities, nonprofit organizations, businesses, or individuals for harm to or acts and omissions of an offender performing community service, unless the governmental entity, nonprofit organization, business, or individual has acted with willful and wanton misconduct or intentionally tortious conduct.

KTLA is concerned about any bill that attempts to limit liability and provide immunity for conduct that is otherwise harmful, and therefore we must oppose passage of SB 161. We need to better understand what benefit the citizens of Kansas would receive by limiting the liability of wrongdoers. We don't yet understand what problem SB 161 is attempting to solve but suggest that extending immunity except for intentional or willful misconduct is an extreme solution.

KTLA urges the committee to oppose SB 161. In the alternative, we would suggest amending the bill to provide that governmental entities, nonprofit organizations, businesses, or individuals are not immune from negligent acts.

We respectfully request your opposition to SB 161.

Senate Judiciary  
2-16-05  
Attachment 5

AMENDMENT

*Session of 2005*

**SENATE BILL No. 161**

By Committee on Judiciary

2-1

AN ACT concerning civil procedure; relating to the liability of certain entities for services performed by offenders.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. If an adult offender or juvenile offender has been sentenced to perform community service by the court, and such offender is performing such services for a governmental entity, nonprofit organization,

business entity or individual, such governmental entity, nonprofit organization, business entity or individual shall not be liable for damages

in a civil action for injuries suffered by such offender or for acts or omissions by such offender unless such governmental entity, nonprofit organization, business entity or individual actions constitute ~~willful or~~

~~wanton misconduct or intentionally tortious~~ negligent conduct.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Kansas Trial Lawyers Association

Senate Judiciary Hearing

2-16-05



## Kansas Bureau of Investigation

Larry Welch  
*Director*

### Senate Judiciary Committee

Phill Kline  
*Attorney General*

#### Testimony in Support of SB 151

Kyle G. Smith

Special Assistant Attorney General and Special Agent

Kansas Bureau of Investigation

February 16, 2005

Chairman Vratil and Members of the Committee,

I appear today on behalf of the KBI in support of SB 151 which addresses the fortunately rare offense of human trafficking. Such cases appear all too regularly in media accounts and I fear that it is simply a matter of time before such activity is unearthed here.

The KBI was created to provide local law enforcement with resources to help in unusual cases. So we are called upon for everything from working methamphetamine labs, undercover operations to complex financial cases and wiretaps. Sooner or later, some local sheriff or highway patrol trooper is going to call me and after they stop a trailer load of immigrants and ask what the crime is? And I'll have to tell them that under current law the activities described in SB 151 are not prohibited by any other Kansas statute. So we'll call Immigration and Naturalization services who will eventually come get the victims for deportation while the smugglers who prey on human misery slip away.

These cases are extremely difficult to uncover and work, as the victims are usually extremely isolated with little or no English. Further, many come from a societal background where indentured servitude and even sexual exploitation is their expected lot in life. The people who profit from this horrendous trade need to be punished. With fewer and fewer federal resources available due to their refocus on terrorism, I'm afraid it will fall to the states to investigate and prosecute these criminals. SB 151 gives us the tool to do that.

Thank you for your attention and time. I would be happy to try and answer any questions.





6301 ANTIOCH • MERRIAM, KANSAS 66202 • PHONE/FAX 913-722-6633 • WWW.KSCATHCONF.ORG

***Senate Judiciary Committee  
Testimony in Support of S.B. 151***

Chairman Vratil and members of the committee:

Thank you for the opportunity to testify in favor of S.B. 151, which defines the crimes of trafficking and would add them to the Kansas Criminal Code as felonies with prescribed penalties. My name is Mike Farmer and I am the Executive Director of the Kansas Catholic Conference, the public policy office of the Catholic Church in Kansas.

The Bishops of Kansas join the U.S. Conference of Catholic Bishops in condemning this practice and supporting policy efforts worldwide to eliminate trafficking in human persons.

***Strangers No Longer***, a Pastoral Letter Concerning Migration, from the U.S. Catholic Bishops and the Bishops of Mexico states:

“Trafficking in persons – in which men, women, and children from all over the globe are transported to other countries for the purposes of forced prostitution or labor – inherently rejects the dignity of the human person and exploits conditions of global poverty.”

The U.S. government estimates over 700,000 persons annually are being trafficked worldwide, with about 17,000 in the United States. Of those trafficked in the U.S., it is estimated that one third are children.

Human trafficking has been defined as a modern-day form of slavery. Victims of human trafficking are subjected to force, fraud, or coercion, for the purpose of sexual exploitation or forced labor. Jim Nicholson, U.S. Ambassador to the Vatican reports “trafficking in people is the third most profitable criminal enterprise worldwide, after arms and drug dealing; it’s being done by organized crime”.

MOST REVEREND RONALD M. GILMORE, S.T.L., D.D.  
DIOCESE OF DODGE CITY

MOST REVEREND JAMES P. KELEHER, S.T.D.  
*Chairman of Board*  
ARCHDIOCESE OF KANSAS CITY IN KANSAS

MOST REVEREND JOSEPH F. NAUMANN, D.D.  
COADJUTOR ARCHBISHOP  
ARCHDIOCESE OF KANSAS CITY IN KANSAS

MOST REVEREND PAUL S. COAKLEY, S.T.L., D.D.  
DIOCESE OF SALINA

MICHAEL P. FARMER  
*Executive Director*

REVEREND MSGF  
DIOCESAN ADMIN

MOST REVEREND MARION F. FORST, D.D.  
RETIRED

MOST REVEREND GEORGE K. FITZSIMONS, D.D.  
RETIRED

MOST REVEREND  
BISHOP EME

Senate Judiciary  
2-16-05  
Attachment 7

The United States Congress has enacted bills to fight trafficking, such as the Trafficking Victims Protection Act of 2000, the Protect Act of 2003, and the Domestic Trafficking Victims Protection Act of 2004. Several states, especially Border States have also acted to end these practices.

The U.S. Conference of Catholic Bishops (USCCB) through its Migration and Refugee Services has joined with others to form the *Coalition of Catholic Organizations Against Human Trafficking*, a coalition united to eliminate human trafficking through public education, advocacy, and service to the victims. Also internationally, the United Nations has put into force the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*.

Much is being done, but much more is needed. The root of migration is oftentimes extreme poverty, the allure of possible jobs, for a freer and more humane life in the countries of destination.

In your deliberations I would ask you to consider the comments of the Holy Father to Archbishop Jean-Louis Tauran on the occasion of the 2002 *International Conference "Twenty-first Century Slavery – The Human Rights Dimension to Trafficking in Human Beings"*. In his letter Pope John Paul II said, "The trade in human persons constitutes a shocking offence against human dignity and a grave violation of fundamental human rights."

He further states:

"The present Conference reflects the growing international consensus that the issue of human trafficking must be addressed by promoting effective juridical instruments to halt this iniquitous trade, to punish those who profit from it, and to assist the reintegration of its victims." (The full text of this letter is attached.)

Kansas has an opportunity to reinforce the efforts by the United States Government, international, religious, and other organizations by making human trafficking a criminal offense with penalties. The Kansas Catholic Conference urges your support of S.B. 151 to help eradicate this social injustice to so many men, women and children.

Thank you.

Mike Farmer  
Executive Director



**To Archbishop Jean-Louis Tauran**

**Secretary for Relations with States**

On the occasion of the International Conference "Twenty-First Century Slavery -The Human Rights Dimension to Trafficking in Human Beings", I ask you kindly to convey to all present my warm greetings and the assurance of my close personal interest. The trade in human persons constitutes a shocking offence against human dignity and a grave violation of fundamental human rights. Already the Second Vatican Council had pointed to "slavery, prostitution, the selling of women and children, and disgraceful working conditions where people are treated as instruments of gain rather than free and responsible persons" as "infamies" which "poison human society, debase their perpetrators" and constitute "a supreme dishonour to the Creator" (*Gaudium et Spes*, 27). Such situations are an affront to fundamental values which are shared by all cultures and peoples, values rooted in the very nature of the human person. The alarming increase in the trade in human beings is one of the pressing political, social and economic problems associated with the process of globalization; it presents a serious threat to the security of individual nations and a question of international justice which cannot be deferred. The present Conference reflects the growing international consensus that the issue of human trafficking must be addressed by promoting effective juridical instruments to halt this iniquitous trade, to punish those who profit from it, and to assist the reintegration of its victims. At the same time, the Conference offers a significant opportunity for sustained reflection on the complex human rights issues raised by trafficking. Who can deny that the victims of this crime are often the poorest and most defenceless members of the human family, the "least" of our brothers and sisters? In particular, the sexual exploitation of women and children is a particularly repugnant aspect of this trade, and must be recognized as an intrinsic violation of human dignity and rights. The disturbing tendency to treat prostitution as a business or industry not only contributes to the trade in human beings, but is itself evidence of a growing tendency to detach freedom from the moral law and to reduce the rich mystery of human sexuality to a mere commodity. For this reason, I am confident that the Conference, while treating the significant political and juridical issues involved in responding to this modern plague, will also explore the profound ethical questions raised by trafficking in human beings. Attention needs to be paid to the deeper causes of the increased "demand" which fuels the market for human slavery and tolerates the human cost which results. A sound approach to the issues involved will lead also to an examination of the lifestyles and models of behaviour, particularly with regard to the image of women, which generate what has become a veritable industry of sexual exploitation in the developed countries. Similarly, in the less developed countries from which most of the victims come, there is a need to develop more effective mechanisms for the prevention of trafficking in persons and the reintegration of its victims. With encouragement and hope I offer cordial good wishes for the work of the Conference. Upon the organizers and all taking part I cordially invoke an abundance of divine blessings. From the Vatican, 15 May 2002

*James Cardinal Ruffini*



Submitted by  
MARSHA  
STROM

February 16, 2005

Members of the Judiciary Committee:

Kansas has a long and bloody history of being in the forefront of issues involving slavery. Kansans bled and died for the right of persons of African descent to have personhood and to live in freedom. Many Kansans put life and property on the line to ensure that Kansas would be a free state.

Today we are experiencing modern-day slavery on a world-wide scale. Women and children are being trafficked across national boundaries every day for the purpose of enslaving them for servitude or for sex. In the case of those unfortunate persons lured by the promise of jobs and money, once they are beyond the help of families and friends, they are coerced or forced into prostitution and servitude. Once outside their own country, they have no passports (those enslaving them take them); they have no means of getting help as in many countries the police are a part of the problem; they cannot speak the language and they are too ashamed to seek help.

Trafficking is a \$9.5 billion industry, one of the top three revenue sources for organized crime. Current estimates say that between 14,500 and 17,000 women and children are trafficked into the United States annually. Women comprise 80 percent of those trafficked with 50 percent of those being children; of these 70 percent are used for sexual exploitation.

Lest we think this is just an international problem and a problem for big cities, let's take a look at Wichita, Kansas. According to an article in the **Wichita Eagle**, January 21, 2005, a man is facing trial for transporting minors for prostitution and the sex trafficking of children. Wichita police worked with the FBI to break the prostitution/trafficking ring in a yearlong operation entitled "Stormy Nights." This man lured several girls from a high school in Wichita with promises of "day trips." They were then held in various hotels and forced to work as prostitutes at truck stops in Oklahoma. They were given drugs, provocative clothing and even sold to other pimps. One, when she tried to get away, was tracked down, beaten, choked, threatened, and dragged back. At least one is only 13 years old and the others no more than 16 years old.

At the turn of the century women helped lead the fight to abolish the "White Slave Trade" and literally shut it down. Now is the time to do it again.

Kansas has always been at the forefront of the issue of human rights. We urge you to support SB 151 in order to protect the most vulnerable in our society from exploitation and slavery.

Concerned Women for America of Kansas  
P.O. Box 11233  
Shawnee Mission, KS 66207  
913-491-1380  
Judy Smith, State Director

Senate Judiciary

2-16-05

Attachment 8

The Horrifying Reality of Sex Trafficking 12/10/2004  
By Elaine McGinnis

Dr. Janice Crouse answers questions on modern-day slavery.

*Concerned Women for America's (CWA's) 25th anniversary convention in September 2004 included a panel with Senior Fellow Janice Shaw Crouse of the Beverly LaHaye Institute and Tanya Ditty, CWA's Georgia state director, on the horrors of sex trafficking. At the end of the discussion, the audience submitted questions to the panel. Regrettably, due to the limited time and over whelming audience response, the panel was unable to answer all of the many questions. Therefore, Dr. Crouse agreed to answer the remaining questions on our Web site. Below is a synopsis of the information the panel covered and the remaining questions. (Since more than 40 questions were submitted, we combined similar ones.)*

### **Synopsis**

#### **What is trafficking?**

Trafficking is modern-day slavery. *The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*, defines it as: "The recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other 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."

Sex traffickers lure victims from their poverty-stricken homes with the promise of good jobs, marriage or educational opportunities but then force them into slave labor or prostitution. Others are sold by their parents or spouses looking for compensation. Once transported to the destination country, the victims are imprisoned, beaten, raped and convinced they have nowhere to flee. Their passports are confiscated; usually, they don't speak the language and have no idea where they are located.

It is estimated that 600,000-800,000 men, women and children are trafficked internationally each year; another 2-4 million are transported within countries. Women compose 80 percent of those trafficked, 50 percent are children, and 70 percent of those women and children are used for sexual exploitation. The U.S. State Department estimates that 14,500-17,500 people are trafficked into the United States annually.

#### **Questions From Audience**

##### **You say this is big business—why doesn't it get as much attention as drug trafficking and what is the United States doing to prevent sex trafficking?**

This issue has gained increasing awareness under the Bush administration, which has established a State Department office to oversee efforts to combat trafficking worldwide, has increased efforts to prosecute traffickers in the United States, and has designated funding to eradicate sex trafficking. The administration has committed \$50 million to

support organizations that are rescuing women and children from exploitation, and giving them shelter and medical treatment and the hope of a new life.

The State Department is releasing the Trafficking in Persons (TIP) report annually and continues to increase the scope of the report. The report now evaluates nations within three tiers, depending upon their compliance with legislation and effectiveness in combating trafficking. Adopting several suggestions from Concerned Women for America, the report now profiles heroes who help trafficking victims, protecting them or helping them to restore their lives after the abuse and horrific crimes against them. It also includes pictures from numerous countries to help personalize the crime for people who knew little about this underworld criminal activity.

Congress enacted bills to fight trafficking, such as the Trafficking Victims Protection Act of 2000, the Domestic Trafficking Victims Protection Act of 2004, and the Protect Act of 2003. CWA actively lobbied for all of these bills.

The U.S. Department of Health and Human Services' Rescue and Restore campaign began with three cities — among them Atlanta, where Tanya Ditty, state director for CWA of Georgia, is the point person. The program has expanded and is now active in Portland, Seattle, Phoenix, Atlanta, Philadelphia, Newark, Tampa, San Francisco and Milwaukee, and actively battles trafficking. They provide shelter, counseling and other services for victims and work to increase awareness of the atrocities of trafficking. The Trafficking Information and Referral Hotline has answered 1,171 calls from worried citizens, social service providers and possible victims.

### **What stance have President Bush and Democratic Party leaders taken on trafficking?**

This issue has unified political parties, conservatives and liberals. Groups from all aspects of the ideological spectrum are working together to end trafficking. Various groups agree on the problem; however, they take different approaches. These approaches are based on different philosophical, ideological, moral or faith-based foundations.

The Bush administration targets all three aspects of trafficking: the supply, the traffickers and the demand. The supply side addresses the conditions that drive trafficking. Programs are implemented that alert communities to the dangers of trafficking, improve educational opportunities and school systems, promote equality of rights, educate targeted communities on their legal rights, and create better and broader life opportunities for possible victims.

At the trafficking level, law enforcement programs identify and interdict trafficking routes, clarify legal definitions and coordinate law enforcement responsibilities, prosecute traffickers and those who aid and abet them, and fight public corruption that facilitates and profits from the trade.

The demand aspect works to identify and prosecute traffickers. Programs are implemented to bring awareness in destination countries to make it harder for trafficking to be concealed or ignored.

The Democratic Party is also committed to ending trafficking; however the two parties differ in their attitudes about prostitution. The Democratic Party supports legalizing prostitution to end trafficking. The Bush administration adamantly opposes this approach; President Bush has stated in several speeches — most notably in one at the United Nations — that “prostitution is inherently harmful to women.” He has stipulated that no grants will be given to groups that support abortion or prostitution. Further, the prosecution of criminals in trafficking has dramatically increased under the Bush administration, as have programs to assist the victims.

**What studies are being done to prove that legalized prostitution increases sex trafficking?**

The State Department’s TIP report confirms that through research by academic, scientific and nongovernmental organizations (NGOs) there is a “direct link between prostitution and trafficking.” Prostitution “contributes to trafficking in persons by serving as a front behind which traffickers for sexual exploitation operate,” the report states. The International Organization for Migration estimates that 500,000 women are annually sold into prostitution in Europe.

Research shows that legalizing prostitution does not remedy the problem of sex trafficking but rather increases it. Where prostitution is legalized, the price for sexual services includes medical examinations, brothel rent and registration fees. In efforts to circumvent these fees, a black market for prostitution emerges. The black market provides cheaper prices, and pimps do not need to adhere to the health codes or age limits the countries set into place.

All of this information, of course, is logical. In the more developed nations, girls and women do not usually choose to go into prostitution because they have opportunities; in addition, they are usually protected so only runaway girls and others in vulnerable situations are in danger of getting lured into the trap of pimps and johns. Thus, the traffickers go to countries where destitute people are looking for a chance to improve their lives. They are prey to the unscrupulous criminals who lure, entrap, lie, ensnare and seduce the unsuspecting and vulnerable children and women. They take them into an isolated place, steal their passports and beat them into submission, so that they will do anything they are told.

Countries with legalized prostitution have three to 10 times as many non-registered women prostitutes as registered prostitutes. Many non-registered women are victims of sex trafficking.

**Does research prove that pornography is behind this because so many people think that pornography is harmless?**

The Department of Justice and the National Center for Missing and Exploited Children both recognize that pornography is an element that adds to the serious problem of sex trafficking. Many traffickers are found with filming equipment and cameras to create and sell pornography. Increasingly, pornographers are seeking younger and younger girls and

boys for their films and pictures; thus, they have to go where the children are unprotected and vulnerable to capture.

**If porn fuels demand, what, if anything, is being done to curb Internet porn?**

The Department of Justice has expressed its intent to prosecute major pornographic Internet companies that violate decency laws; their reports indicate a significant increase in prosecutions. One company, Extreme Associates, is currently being prosecuted and other investigations are underway. For more on this topic, including CWA's concerns over enforcement and ways for citizens to encourage enforcement, see *DOJ Busts Internet Web Site for Obscenity* and *Porn Industry Moans for Good Reason*.

**Can you address the fact that sex slavery is alive and well on our military bases and in American industry?**

Sex trafficking in the military began to rise during the Vietnam War. During the war the military base in Fayetteville, North Carolina, became known as "Fayettnam" due to the large numbers of Asian prostitutes trafficked to the base.

An advocate against trafficking reported that sex trafficking in the military is directly linked to servicemen who marry prostituted women from around military bases in foreign countries. They bring these women to the United States and hand them over to work as prostitutes around military bases. These international wives lack the education and working and language skills to understand their rights.

Reports from social services say that American military wives directly prostitute the foreign women around military bases.

During the Bush administration, new laws have put stringent restrictions on the military's involvement in prostitution, punishing personnel who engage a prostitute. There is an understanding that prostitution feeds sex trafficking and an understanding that the behavior of our military in other nations reflects on the reputation of the entire United States.

**Where do the "30 men a day" (that some of the victims are forced to serve) come from?**

Men in the United States who solicit the service of sex slaves come from all socio-economic classes and range from the ages of 15-90, reports the Coalition Against Trafficking Women. The specific "30 a day" reference came from a ring that was caught near San Diego, where migrant workers were laboring in strawberry fields. The ring trafficked girls from Mexico who provided "service" for the migrant works in the "nests" laid out in nearby "reed fields."

**Once rescued, what happens to the victims of trafficking?**

There are a number of programs within the United States to aid victims of trafficking. The Office for Victims of Crime (OVC) offers victims support, protection services and education resources to trafficking victims and victim service providers.



Within the Department of Health and Human Services (HHS), the Office of Refugee Resettlement (ORR) provides grant funding to several NGOs and service providers who offer direct assistance to trafficking victims.

The Unaccompanied Refugee Minor Program, under HHS, assists juvenile victims of trafficking.

However, international rescue efforts may not provide long-term security. Many countries are unable to protect victims due to lack of adequate facilities and many are deported because they lack documentation. These victims are often re-trafficked and subjugated to further abuse.

**Dr. Crouse, where can I learn more about what is going on in this issue?**

Concerned Women for America (CWA) is firmly committed to the “abolition” effort and continually lobbies to strengthen laws against trafficking and to bring awareness to this issue. I work on two different national coalitions to end trafficking and write about this problem regularly. CWA’s Web site stays updated on the latest efforts to fight trafficking and is a good education resource. The State Department is also a good resource to learn about sex trafficking and measures taken to combat it.

**How can I become involved on a local level?**

It is important to increase awareness about the horrors of sexual trafficking. The best approach is to teach our own girls how to protect themselves. Young women must be educated that, contrary to the feminist myth, girls are more vulnerable than guys. These criminals especially prey upon female runaways. The traffickers know how to spot vulnerable young women and coerce them into prostitution. They hang around malls, train and bus stations and other places where teenagers congregate and they are experts at spotting the most vulnerable of our children.

Also, work to get your local civic groups involved in spotting possible victims and reporting suspicious activity to local police. Traffickers know where to hide and not be suspected.

**What can I do if I suspect someone is a victim of trafficking?**

The Rescue and Restore program with the U.S. Department of Health and Human Services created a Trafficking and Information and Referral Hotline, 1.888.373.1888, which connects victims of trafficking to NGOs who can help victims in their local area.

Ending Modern-Day Slavery  
Some Solutions to Sex Trafficking 9/23/2004  
By Janice Shaw Crouse, Ph.D.

We must show new energy in fighting back an old evil.

The first question many people ask when they hear about modern sex slavery and the evil of the sex-trafficking industry is: "What is being done? Somebody has to stop these atrocities!" I am always pleased to say that the United States has stepped up to the plate. I am even more pleased to add that I am on the frontlines of the battle and that our organization, Concerned Women for America (CWA), is firmly committed to the "abolition" effort.

Millions of Americans are like I was almost a decade ago when I was asked to join a national task force to combat sex trafficking; at the time, I had no idea what sex trafficking meant! Since then, the problem has seared my heart. I have spoken about this issue across the country and through a variety of print and broadcast media in an effort to bring awareness, to help the victims and to end this evil.

### **What is *Trafficking*?**

Before looking at the efforts to abolish modern-day slavery, we must answer the question, "What is trafficking?"

Trafficking is modern-day slavery. *The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*, defines it as: "The recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms, of coercion, of abduction, of frauds, 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."

Sex traffickers lure victims from their poverty-stricken homes with the promise of good jobs, but then force them into slave labor or prostitution. Others are sold by their parents or spouses looking for compensation. Once transported to the destination country, the victims are imprisoned, beaten, raped and convinced they have nowhere to flee. Their passports are confiscated; usually, they don't speak the language and have no idea where they are located.

The United Nations estimates that human trafficking is a \$9.5 billion industry, which is among the top three revenue sources for organized crime.

The effects of trafficking reach beyond the victims' suffering. Trafficking undermines the social order of countries. It results in the breakdown of families, human dignity and public health. It also fuels organized crime and deprives countries of human capital.

In 2003, I was an official United States delegate to the United Nations Commission on the Status of Women, where the major issue confronting that worldwide body was the increase in sexual trafficking of women and girls. There representatives from around the

world confronted the fact that millions of women and children are forced into sex slavery by evil criminals who make billions of dollars every year by using human beings as slaves. Sex trafficking is worldwide in scope with nearly a million people - mostly women and children - kidnapped, coerced, cajoled, trapped, seduced into taking a chance with a stranger and going from a poor nation to a more developed one. The victims think that they will work as a waitress, model, actress, nanny or in some other respectable occupation. They end up being prostitutes - beaten and abused repeatedly until they are totally brainwashed and subservient.

Current estimates say that between 14,500 and 17,500 people are trafficked into the United States annually. Up to 600,000 to 800,000 people are transported internationally and forced to work as slaves, and an estimated 2-4 million men, women and children are trafficked within countries. The majority of these victims are women and children. Women compose 80 percent of the victims and 50 percent are children; 70 percent of these women and children are used for sexual exploitation.

### **Strategies for Abolishing Sex Slavery**

The United States is targeting all aspects of trafficking in an effort to end the trade in human beings. Various agencies within the U.S. government are working together to stop the supply, find and prosecute the traffickers, and end the demand for prostitutes, which feeds the whole sex-trafficking industry.

#### **(1) Stop the Supply - Awareness Campaigns**

To end the supply, programs are implemented that alert communities to the dangers of trafficking, improve educational opportunities, and educate targeted communities on their legal rights. Public attention drawn to the problem of modern-day slavery is the key to ending the demand of human traffickers. Programs are implemented to bring awareness to the problem, making it harder to conceal or ignore trafficking.

#### **(2) Find and Prosecute the Traffickers**

Local, state, national and international cooperation and coordination is forming in an effort to recruit volunteers to fight against slavery. Law enforcement programs identify and prohibit trafficking routes, forcefully prosecute traffickers and those who aid and abet them, and fight public corruption. CWA was at the forefront of enacting the anti-trafficking bills in Congress - bills like the Trafficking Victims Protection Act of 2000 and the Domestic Trafficking Victims Protection Act of 2004.

Each year CWA helps to shape the State Department's *Trafficking in Persons* (TIP) report by offering suggestions for greater effectiveness in presenting the information and in helping to collect it. The TIP document now evaluates nations within three tiers, depending upon their compliance with the legislation and effectiveness in combating trafficking. The report presents profiles of heroes who help trafficking victims, protecting them or helping them to restore their lives after the abuse and horrific crimes against them.

This year, the Department of Justice is making significant progress in both prosecuting criminals and protecting victims in the United States.

### **(3) End the Demand for Prostitutes**

CWA also works to eliminate federal funding for organizations that claim to be working against human trafficking but then support the legalization of prostitution, a leading cause of trafficking. Now, no nation can get funding from the U.S. government if it promotes prostitution. The Bush administration has committed \$50 million to support organizations that are rescuing women and children from exploitation, and giving them shelter and medical treatment and the hope of the new life. Criminals face up to 30 years in prison and countries face sanctions when they turn a blind eye to sex trafficking. Through the Protect Act of 2003, American pedophiles who prey on foreign children can be prosecuted in the United States.

Secretary of State Colin Powell said, "We intend to ... combat the trafficking of persons around the globe through improved laws, regulation, monitoring, enforcement, and the protection of victims." President Bush called this problem "a special kind of evil in the abuse and exploitation of the most innocent and vulnerable." He added, "We must show new energy in fighting back an old evil. Nearly two centuries after the abolition of the transatlantic slave trade and more than a century after slavery was officially ended in its last strongholds, the trade in human beings for any purpose must not be allowed to thrive in our time."

Unless we care for these precious women and children, no one will do something about their tragedy. Except for us, they will be abused until they are used up - and then they will be discarded - their lives destroyed and their futures hopeless. How can we offer them less than a full rescue - not just a way out, but a way of transcending the evil that has imprisoned them?

For the past three years, the U.S. Department of State has issued an annual report assessing international sex trafficking and evaluating national efforts to combat trading in persons in countries around the world. The United States has assumed leadership in combating this modern scourge of human slavery. Previously, though, there has been no published assessment of trafficking within the United States. For the first time, the U.S. Department of Justice has issued an "Assessment of U.S. Activities to Combat Trafficking in Persons." Just released this week, the document is a milestone in the effort to stop the underworld of prostitution and forced labor along with the kidnapping, abduction and unbelievable cruelty that is integral to this heinous crime.

The Justice Department report (JD-TIP) acknowledges the difficulties inherent in tracking commercial sexual and labor exploitation because of the nature of the crimes, where and when they take place. Obviously, however, trafficking is fed by organized crime and it is dramatically expanding from its underground, sleazy environment into international arenas of technological and transnational enterprises. The increased sophistication of the crime syndicates, however, poorly conceals the evil activity and the cruel, dehumanizing exploitation that are perpetrating on what President Bush has called "the most vulnerable members of the global society."

The JD-TIP reports a basic fact that is already well-known — the United States is primarily a destination country. This means that the demand for prostitutes in the U.S. feeds the criminal abductions of young girls from other countries. The JD-TIP assesses U.S. efforts to prevent trafficking, to prosecute the criminals and to assist the victims.

The Year 2000 Trafficking Victims Protection Act (TVPA) was a major step forward in acknowledging the trafficking problem in the U.S. and putting into place laws that would make it possible to combat the problem. Previously, there was nothing to give "teeth" to protection and prosecution efforts; nor was there anything substantive that would assist victims. The TVPA has provisions to help victims, specifies penalties for criminal activity, provides assistance to those countries that are working to combat trafficking, and institutes sanctions for those countries that refuse to cooperate in protecting women and children from trafficking. In addition, the law mandates interagency cooperation and a "new, comprehensive approach to the problem."

Significantly, the Executive Branch of the U.S. government has been a driving force behind these new approaches and the President's commitment has been clear in his formal declaration, a National Security Presidential Directive on Trafficking in Persons, as well as in his outspoken advocacy of eradicating trafficking. By establishing an office in the State Department specifically to address sexual trafficking and by appointing former Representative John Miller to head the effort, the United States is making great strides forward and significance progress is being made on numerous fronts. The foundation of these efforts is good information; the State Department's Trafficking in Persons report and the new Justice Department Assessment of sex trafficking in the

United States provide vital information necessary for understanding the extent and nature of the problem and knowing where and how to address the problem.

According to the JD-TIP, approximately 18,000 to 20,000 people are trafficked into the United States annually. With improved methods of data collection and methodology, this figure provides a benchmark from which to track trends and monitor the success of anti-trafficking efforts in the future.

In addition, the President has established a cabinet-level task force to combat and monitor trafficking in persons. Along with a senior policy advisory group that will coordinate and advise on key policy and program issues, efforts should be better coordinated and implemented in the future. Specifically, the United States effort includes:

### **Protections for and Assistance to Victims of Trafficking**

- Victims will have access to benefits and services
- Efforts will be made to provide victims with knowledge about their rights as well as the protections available to them
- Repatriation will be provided for victims who choose to go home
- Immigration relief is available to victims
- Nongovernmental organizations and the public will provide outreach and training

### **Investigations and Prosecutions of Traffickers**

- The JD-TIP provides detailed information about the human trafficking cases under investigation – admittedly labor and time-intensive criminal investigations that face numerous barriers of language and culture. The TVPA has enabled the government to uncover and prosecute cases more effectively.
  - o In March 2003 there were 128 investigations underway – nearly twice as many as in January 2001.
  - o The Department of Justice has initiated more than double the number of trafficking prosecutions (20 vs. 9), involving more than three times the number of defendants (79 vs. 24) than prior to TVPA.
  - o The number of defendants successfully prosecuted increased more than two-fold (51 vs. 23) and more than doubled the number of cases filed (11 vs. 5), quadrupled the number of defendants charged (53 vs. 13), and tripled the number of defendants successfully prosecuted (38 vs. 12) since TVPA.
  - o While these accomplishments are lauded and mark significant progress, the JD-TIP acknowledges that the number of cases is low in comparison to the estimated magnitude of the problem.
- Sentences in trafficking cases

- o The TVPA provides sentencing guidelines, created mandatory restitution and forfeiture provisions — all aspects of the law that will “ensure that defendants convicted of trafficking in persons receive sentences that reflect the seriousness of their crimes.”

- o In November 2002, amendments to the TVPA provided increased sentencing for using weapons.

- Training federal and local law enforcement

- o This provision is necessary because the new laws and more complete information necessitate different approaches and procedures.

- Prevention of trafficking

- o Ideally, prevention of trafficking is the most effective barrier to this cruel human rights violation.

- The United States hosted an international conference in February 2003, “Pathbreaking Strategies in the Global Fight Against Sex Trafficking.” Held in Washington, DC, over 113 countries were represented and more than 400 activists summarized the best practices around the world for combating trafficking in persons.

- o Education is necessary for people to understand the scope of the problem and how traffickers work. In Fiscal Year 2002, the United States supported approximately 200 anti-trafficking programs totaling more than \$55.8 million benefiting over 75 countries (compared to 118 programs in 55 countries in 2001).

- o In the past two years, the U.S. has invested over \$100 million on anti-trafficking efforts.

### **Conclusion:**

Attorney General John Ashcroft said, “Those who traffic in human lives treat people as easily expendable and highly profitable. But behind each dollar sign is a human tragedy.” The anti-trafficking efforts of the United States are designed to end the human tragedy of trafficking in persons. The Trafficking in Persons office, the TIP report, and now, the assessment published by the Justice Department are all basic elements that are essential in the fight to restore human rights to those vulnerable women and children who are targeted by the basest criminals around the world for the unspeakable crime of abduction for human slavery.

**Dr. Janice Shaw Crouse** has been active in anti-trafficking efforts for over a decade. She works closely with both U.S. officials and with non-governmental organizations in cooperative efforts. She was an official United States Delegate to the 2003 United Nations Commission on the Status of Women where the major issue confronting that worldwide body was the increase in sexual trafficking of women and girls. Her articles and reports on sexual trafficking and other issues are posted at [www.cwfa.org](http://www.cwfa.org).

The Scourge of Sexual Trafficking 4/14/2003  
By Janice Crouse, Ph.D.

### America's Other War and Its Coalition of Willing Combatants

With attention focused on the war in Iraq and the impressive victory for U.S. forces in that arena, another war has not received the attention that it deserves – the war for abolition of sex slaves. Trafficking in human beings is an atrocious crime — one that offends all human sensibilities and is an affront to human dignity and human rights. A U.S. led war, another “coalition of the willing,” is on its way to an equally astonishing victory against an evil regime — the underworld sexual trafficking mafia.

In the war to free women and children from the threat of sexual slavery, two battle victories were won this week.

On April 10, Congress passed legislation (S 151) that includes provisions that will make it easier to prosecute sex offenders and those who exploit children through sex tourism. Amazingly, repeat sex offenders could face life imprisonment. The most recognizable aspect of the legislation is the Amber Alert dimension, but the new provisions related to sex tourism are equally important for children and women. The burdens of proving “intent” related to traveling to engage in sex with a minor and the burden of proving knowledge about the age of the victim have been eased and the penalties have been increased. These new provisions strengthen authorities in their efforts to protect victims and prosecute the criminals who are getting rich off the misery and horrendous exploitation of children and women.

On April 9, the Senate Foreign Relations Subcommittee on East Asian and Pacific Affairs heard testimony reviewing U.S. policy on sexual trafficking of women and children in East Asia and beyond. The underground trade in human beings is largely an under-the-radar-type of endeavor common to world-class evil. Every major city in the world is a battleground where girls as young as 9 years old are forced to serve the depravities of perverts for the profit of pimps and criminals. According to the U.S. State Department more than 700,000 human beings are lured, kidnapped or trapped into the horror that is sexual slavery. The good news, according to John Miller, director of the State Department's Office to Monitor and Combat Trafficking in Persons (TIP), is that almost all governments “are aware of this transnational problem and seek cooperative solutions.” Bilateral and regional teamwork in addressing this transnational crime holds promise, but tremendous challenges remain in the areas of protection and prevention as well as prosecution. There are systemic problems — such as the involvement and cooperation of local law enforcement and public officials — inherent in this multi-billion dollar industry that hamper the war to eradicate sexual trafficking, but for the first time, there is hope for its eradication.

During fiscal year 2002, the United States spent over \$11 million for anti-trafficking programs in the East Asia Pacific region and impressive programmatic successes resulted. The work of Under Secretary of State Paula Dobriansky, the leadership of John Miller, director of the TIP office, and the advice and expertise of Dr. Laura Lederer are enforcing the provisions of the Trafficking Victims Protection Act and providing the



necessary expertise and resolve. Their combined efforts are sending a clear message about the seriousness of TIP legislation: that those countries that fail to make progress in the trafficking war, those countries that remain in Tier 3 of the TIP report, will “face the loss of non-humanitarian and non-trade related aid.”

At the recent United Nations Commission on the Status of Women, Ambassador Ellen Sauerbrey and I, (a private sector delegate appointed by President Bush) worked on one of the Commission’s two focuses: sexual trafficking of girls and women. Several nations wanted to de-link prostitution and sexual trafficking by identifying prostitution as a positive career-option for women and calling prostitute, “sex workers.” There were efforts, too, to minimize the impact of pornography on the demand for prostitution and trafficking. The United States held firmly to President Bush’s policy, stated clearly in his February Presidential Directive, that prostitution and related activities are inherently harmful and dehumanizing and that they contribute to trafficking in persons and sex tourism.

The Departments of Justice, Health and Human Services, the United States Agency for International Development and other government entities and non-governmental organizations (including Concerned Women for America) are joining forces in the war against sexual trafficking. The problem is much broader than the tragedy unleashed on masses of young, innocent girls. As Donna Hughes, Professor of Women’s Studies at the University of Rhode Island, said so effectively in her testimony before the House Subcommittee on April 9, trafficking is inextricably linked to AIDS, a world-wide pandemic where condoms, a Band-Aid solution at best, are offered to the public and in brothels as the only solution for personal and societal safety. Amazingly, many public health workers consider it sufficient to provide condoms and medical services to girls and women in sexual captivity, ignoring the fact that they are in bondage to pimps and criminals. House bill 1298, the so-called Global AIDS bill, has a provision — thanks to Congressman Chris Smith — that will prevent these funds from going to groups that do not oppose prostitution and sexual trafficking.

The “coalition of the willing” in the war against sexual trafficking is building, its forces are getting better informed, better trained and better prepared. The fight is becoming increasingly more sophisticated as implementation strategies are better targeted. The outcome is more hopeful as political resolve is firming up and the coalition is becoming more broad-based and effective. But there are still challenges from those who want to normalize prostitution and fail to see the links to sexual trafficking. There are challenges from those who excuse military and police involvement and remain ignorant of the sex tourism aspect of the problem. There is also a challenge in that the extent of the problem in the United States is virtually unknown among our citizenry, yet 50,000 women and girls are trafficked into America every year.

Gary Hagen, President of the International Justice Mission, calls sexual trafficking the “ugliest and most preventable man-made disaster in our world today.” He tells of going into a brothel to investigate a sex trafficking ring and promptly being offered for a very modest price, a dozen children between the ages of 6 and 12 for sexual services. Hagen also claims that the industry thrives only because authorities tolerate its presence. We’ve

got to find all those who profit from the scourge of sexual trafficking and we must prosecute and convict them and all those who help them do their ugly work.

While I was in New York recently, a cab driver asked why I was there. When I explained that I was at the United Nations working to combat sexual trafficking, he grunted incredulously and said that if the police really wanted to do something about the problem all they had to do was talk to cab drivers. On any given night, he said, cab drivers could identify dozens of young girls and women who were obviously controlled by pimps; he said that they didn't speak English, didn't know where they were, where they were going and were scared numb and speechless. They were, he said, practically zombies because of the obvious abuse they suffered and the way they were being used. That cab driver was disgusted with the authorities for letting the practice continue.

Several days later, I intentionally brought the subject up with the driver of the cab taking me to the train station for my trip back home. That driver got progressively more angry as I asked questions and finally shouted at me that there was no way to prove anything. He went on and on about how proof is necessary and police ought not to snoop around cab drivers. He was obviously very uncomfortable with my questions, though they were objective, merely curious questions that were asked in a dispassionate tone of voice and in a non-confrontational manner. He stopped two blocks short of my destination, dumped my suitcases out in the street, grinned at me struggling to right my luggage, grabbed his fee, jumped back in his cab and sped off.

We've yet to uncover all the dimensions and the extent of the problem, but we will. We must!



## KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

220 SW 33<sup>rd</sup> Street, Suite 100 Topeka, Kansas 66611  
785-232-9784 • FAX 785-266-1874 • [coalition@kcsdv.org](mailto:coalition@kcsdv.org)

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Senate Bill 151  
Proponent  
February 16, 2005

Chairman Vratil and Members of the Senate Judiciary Committee:

The Kansas Coalition Against Sexual and Domestic Violence (KCSDV) is a statewide non-profit organization whose membership is the 30 sexual assault and domestic violence programs serving victims across the state.

KCSDV is also a member of the National Advisory Board on Human Trafficking convened by the Florida Coalition Against Domestic Violence. We have served on this Advisory Board for two and a half years. The FCADV project's purpose is to examine the crossover in issues and service provision for victims of human trafficking and domestic violence/sexual assault. Specifically, the Florida project is developing training curricula, materials, and housing options specifically for domestic violence and sexual assault programs that may come in contact with victims of human trafficking. KCSDV's role on this Advisory Board is to bring a rural perspective to the issue, from a state that is not known to have a "sex trafficking problem."

Victims of trafficking may in fact be "hiding in plain sight," forced to work in bars, in massage parlors, as household help, in factories, or on the street. KCSDV has received calls from member programs that believe they are seeing victims of human trafficking. Because these victims are in such extreme danger from organized crime rings, I cannot in good conscience give you any detailed information about any of the circumstances of the individual women and children who have been assisted by our programs or where these programs are located in the state. I will tell you however that the violence inflicted upon a victim of human trafficking differs very little from that inflicted on a victim of sexual and domestic violence. A woman may be sold to her husband when the trafficker is done with her. The husband then beats her. A trafficking victim may be forced to work in a factory or field while being subjected to sexual, physical and psychological abuse. A child may be sold to a brothel. A trafficking victim may be forced into prostitution and regularly raped by her trafficker.

Since we began working with the Florida Coalition Against Domestic Violence Human Trafficking Advisory Board, KCSDV has taken several steps to improve both recognition of the issue in Kansas as well as improvement of the services provided to the victims, including:

- Participation in developing a national training curriculum made available to domestic violence and sexual assault program nationwide
- Training KCSDV staff on sex trafficking issues, including attendance at a national training as well as the FCADV training

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- Contacting and arranging for Kansas attorneys to be available to represent trafficking victims should the need arise
- Responding to the FBI on shaping investigative techniques so that victims and advocates in rural communities are not further exposed to the extreme dangers inherent in trafficking
- Conducting training sessions for member programs that include information on identifying trafficking victims and providing appropriate services
- Educating staff and attorneys on immigration remedies and issues that specifically impact victims of trafficking
- Working with the state office on refugee resettlement on procedures for certifying trafficking victims who may qualify for certain immigration remedies
- Adapting national trafficking training and resource materials with local information

There is much work to be done. Kansas law enforcement officers, prosecutors, and victim advocates all need additional training on identifying and assisting victims of trafficking. Specific protocols that address safety and accountability also need to be developed so victims of trafficking are not subjected to greater dangers as the state attempts to intervene.

Most believe that Kansas does not have an extremely high-volume of human trafficking. Having said that, there is no way to know just how many trafficking victims there are or where they are in the state. In our experience and in the experience of programs in other states, federal law enforcement officials are only going to be able to focus on the high profile, high-volume trafficking rings. By creating a state crime of human trafficking, local law enforcement officials will also be able to intervene on behalf of some of the most vulnerable victims we are seeing across Kansas.

We support passage of Senate Bill 151.

Sandy Barnett  
Executive Director

**Statement of  
Kris W. Kobach  
Professor of Law  
University of Missouri (Kansas City)**

**Before the Kansas Senate Committee on the Judiciary**

**Regarding Proposed Human Trafficking Legislation**

**February 16, 2005**

## **Introduction**

Mr. Chairman and Members of the Committee, I come before you today in my capacity as a Professor of Constitutional Law and Legislation at the University of Missouri (Kansas City). During 2001-2003, I served as Counsel to U.S. Attorney General John Ashcroft at the U.S. Department of Justice.

## **The Scope and Nature of Human Trafficking**

It is estimated by the U.S. Department of Justice that 600,000 to 800,000 people are trafficked across international borders each year having been bought, sold, transported or held in slavery-like conditions for sex and labor exploitation. Between 14,500 and 17,500 people are trafficked annually into the United States. The nature of this crime – underground, with severe and coercive pressure on victims to remain silent – contributes to an inability to determine the precise number of trafficking victims. The typical human trafficking scenario involves victims entrapped in commercial sexual exploitation such as prostitution, labor exploitation in sweatshops, domestic servitude, forced construction work or forced agricultural work.

The victims come from every region of the world. However, certain countries dominate the list of known victims' nationalities. In FY 2002, according to U.S. Government figures, two nationalities were especially prevalent: Honduras (36%) and Mexico (35%). In FY 2003, the top nationalities were India (38%), Vietnam (11%), Mexico (9%), Indonesia (5%), Tongo (5%), Zambia (5%), and Thailand (4%). Approximately 80 percent of the victims are female.

The destinations of trafficking victims in the United States are spread throughout the country. The Department of Justice has initiated human trafficking investigations in 45 of the 50 states, including Kansas. The largest concentrations of victims are found in the California, New York, Florida, Texas, and Oklahoma. The existence of frequent

human trafficking into the states of Texas and Oklahoma, so close to Kansas's southern border, certainly raises the urgency of the issue for the state of Kansas.

### **The Federal Legal Framework**

Trafficking is typically linked to other criminal activities such as document fraud, money laundering, and migrant smuggling. And of course slavery and involuntary servitude have been outlawed in the United States since 1865 with the adoption of the 13<sup>th</sup> Amendment to the U.S. Constitution. Although these crimes allowed the U.S. government to punish human trafficking to a degree, the U.S. Government dramatically improved our prosecutorial and relief efforts with Congress's passage of the Trafficking Victims Protection Act of 2000 ("TVPA"), signed into law on October 28, 2000. The TVPA enhanced three aspects of federal government activity to combat trafficking in persons:

- (1) Victim Assistance.** The TVPA made trafficking victims eligible for the same federally-funded health and other benefits available to refugees; created the T nonimmigrant status ("T Visa") for certain trafficking victims who cooperate with law enforcement in the investigation and prosecution of trafficking; and allowed T nonimmigrant status holders to adjust to permanent resident status.
- (2) Criminal Penalties.** The TVPA defined new crimes and enhanced penalties for existing crimes. Such crimes include forced labor; trafficking with respect to peonage, slavery, involuntary servitude, or forced labor; sex trafficking of children or by force, fraud or coercion. Importantly, the TVPA provided for mandatory restitution and forfeiture.
- (3) Foreign Assistance.** The TVPA provided for assistance to foreign countries in drafting laws to prohibit human trafficking, and to strengthen investigation and prosecution of traffickers.

The Trafficking Victims Protection Re-authorization Act of 2003 ("TVPRA"), signed into law by President Bush on December 19, 2003, reauthorized some provisions

of the TVPA. It also mandated new information campaigns to combat sex tourism, modified the federal criminal law, and created a new civil action provision that allows trafficking victims to sue their traffickers in federal district court. In addition, the TVPRA's section 6(a) required a report from the Attorney General to Congress to be submitted to Congress every year beginning on May 1, 2004.

### **Enforcement Statistics**

Since the passage of the TVPA, and with the considerable attention devoted to this issue by the Justice Department under the leadership of Attorney General Ashcroft, there has been a marked increase in the Department's human trafficking caseload. In FY 1993, only 12 trafficking investigations were initiated. In contrast, in 2003, there were 82 investigations initiated. The number of defendants recently charged by the U.S. government in trafficking prosecutions was 38 in FY 2001, 41 in FY 2002, and 31 in FY 2003. Although these numbers are a significant increase over earlier years, they also illustrate just how far we have to go, when 14,500-17,500 people are trafficked into the United States each year.

Another measure of human trafficking and U.S. Government efforts to deal with it, may be seen in applications for benefits. One is the T visa, which allows a recipient victim who complies with reasonable requests for assistance in investigation and prosecution of the crime to remain lawfully in the United States for three years. After that time, the victim may seek to adjust his immigration status to lawful permanent resident. In FY 2003, the U.S. Government received 601 applications for T nonimmigrant status, approved 297, and denied 30.

### **Case Examples**

*United States v. Soto-Huarte.* In February 2003, law enforcement official in Texas encountered two women who were stripped, gang-raped, and dropped off near a roadway. U.S. Immigration and Customs Enforcement (ICE) then launched an



investigation and identified two additional female victims and rescued them. Further investigation by ICE, the FBI, and federal prosecutors revealed that, from January through March 2003, alien smugglers had brought unsuspecting illegal aliens across the U.S.-Mexico border to trailer “safehouses” where women were kept and forced to cook, clean, and submit to rapes at the hands of the smugglers. Seven defendants pled guilty, one of whom fled after entering his plea and is a fugitive. The sentencing for the other six defendants ranged from 23 years to four months in prison. The ringleaders were also required to pay restitution to the victims.

*United States v. Juan and Jose Rojas.* In this case, two defendants were charged with importing a young Mexican female into the United States (Georgia) with the intention of forcing her into prostitution. The defendants allegedly persuaded her and possibly other young women to come to the United States to work in a restaurant. The defendants then denied the victims food and threatened them with harm and abandonment if they indicated any unwillingness to work as prostitutes.

*United States v. Kil Soo Lee.* This is the largest trafficking prosecution ever brought by the Department of Justice. In 2003, a 22-count indictment was brought against five defendants charged with subjecting workers to involuntary servitude in a garment factory in American Samoa. Specifically, the indictment, filed in federal court in Hawaii, charged that the defendants brought over 250 Vietnamese and Chinese nationals, mostly young women, to work as sewing machine operators in a Daewoosa garment factory. The victims, some of whom were held for up to two years, were forced to work through extreme food deprivation, beatings, and physical restraint. The victims were held in barracks on a guarded company compound. One victim had an eye gouged out by a defendant who struck her with a jagged pipe in order to punish her for refusing to comply with the defendants’ orders.

## **The Need for a State Statute Criminalizing Human Trafficking**

One might reasonably ask why the state of Kansas should pass a state statute criminalizing human trafficking, when so much enforcement activity is going on at the federal level, and when by definition the crime involves interstate and international travel. However there is an important role for states to play, and the U.S. Department of Justice is encouraging states to pass statutes criminalizing human trafficking. First and foremost, this overlap of state and federal crimes allows for more prosecutions to be brought, as state prosecutorial resources can be mobilized to fight human trafficking where appropriate. Second, a state law serves to define the crime clearly and gives guidance to state and local law enforcement, whose efforts are often the first step in uncovering human trafficking. Third, cases may arise in which human trafficking offenses are part of a larger set of crimes. Prosecution of the defendants for these state crimes, along with the trafficking crimes, in a single state jurisdiction may offer the best prosecution strategy.



# Department of Justice

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## BUSH ADMINISTRATION HOSTS FIRST NATIONAL TRAINING CONFERENCE TO COMBAT HUMAN TRAFFICKING

### *President George W. Bush And Attorney General John Ashcroft Address Conference*

**TAMPA** - Today, President Bush joined Attorney General Ashcroft and other senior Bush Administration officials at the first-ever national training conference on human trafficking: *Human Trafficking into the United States: Rescuing Women and Children from Slavery*. Hosted by the Justice Department, the conference brought together over 500 attendees, comprised of the hundreds of state, local and federal officials who work together to combat human trafficking in communities across America. Trafficking in persons, a modern day form of slavery, is a serious problem in the United States and throughout the world. Each year, an estimated 600,000-800,000 men, women, and children are trafficked against their will across international borders. Of those, 14,500-17,500 are trafficked into America. Victims are forced into prostitution, or to work in sweatshops, quarries, as domestic labor, or child soldiers, and in many forms of involuntary servitude.

Throughout the past three years, the Bush Administration has taken strong steps to combat trafficking at home and abroad. Today at the conference, the Bush Administration announced new steps and resources to combat human trafficking. These initiatives include \$14 million to law enforcement to help human trafficking victims, \$4.5 million for organizations to assist victims, new interagency cooperation to ensure the timely delivery of benefits and services to victims, a model state law criminalizing human trafficking, new training resources, new task forces, as well as greatly increased investigations and prosecutions of human trafficking.

“From the very beginning of his Administration, President Bush has spoken forcefully and eloquently about the brutal crime of human trafficking,” said Attorney General John Ashcroft. “We will protect the victims, prosecute the perpetrators, and build partnerships to address, attack and prevent human trafficking. These steps send a clear message that America will repel aggressively assaults on our core values of freedom and respect for human dignity. We have had success in the past three years, but we understand that these efforts are only the beginning. It is critical that we work together to track down those who hide their barbaric businesses in the shadows, and to help their victims.”

- **\$14 Million for Law Enforcement Agencies and Service Providers To Help Trafficking Victims:** The Bush Administration today announced Department of Justice funding to support and implement local efforts to identify, rescue, and restore victims of trafficking. The Justice Department will make available \$14 million to law enforcement agencies and service providers.

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and as many as 25 communities across the country will be eligible to receive this funding. This money will support anti-trafficking efforts to identify, rescue and restore victims of trafficking in communities across the country. The Office of Justice Programs' Bureau of Justice Assistance and the Office for Victims of Crime (OVC) will administer the new grant program.

- **\$4.5 Million for Organizations To Help Trafficking Victims:** Today, the Justice Department awarded \$4.5 million to nine local organizations that provide shelter where victims of trafficking can find refuge in the interval between rescue and the determination of eligibility for public assistance and other benefits. The grant program provides comprehensive services for victims of trafficking by building on existing community resources, to strengthen the collaboration and cooperation among existing agencies and organizations that serve trafficking victims; to provide training to criminal justice personnel, social service providers and the public of the rights and needs of trafficking victims; and to support the ability of trafficking victims to cooperate with law enforcement and prosecutors in the investigation and prosecution of trafficking cases. The Office of Justice Programs' Bureau of Justice Assistance and the Office for Victims of Crime (OVC) is administering this grant program. Grant recipients include:

Bilateral Safety Corridor Coalition, CA: \$500,696

Safe Horizon: \$500,000  
(For work in the five boroughs of NYC)

New York State Office of Temporary and Disability Assistance: \$500,000  
(For work in the state of NY, minus NYC's five boroughs)

International Institute of Boston, MA: \$500,000

International Rescue Committee, NY: \$499,999  
(For work in the state of WA)

World Relief Corporation, Baltimore, MD \$499,998  
(For work in AL, FL, KY, MD, MS, NC, LA, TN, TX, SC, OK)

U.S. Conference on Catholic Bishops, Washington, DC: \$413,298  
(For work in MD, DE, PA and NJ)

U.S. Conference on Catholic Bishops, Washington, DC: \$372,237  
(For work in OR)

Refugee Women's Network, Inc.: \$311,708  
(For work in GA)

- **Cooperation to Combat Trafficking:** To ensure the smooth and timely delivery of benefits and services to trafficking victims as well as comprehensive investigations and prosecutions, the Departments of Justice, Health and Human Services, and Homeland Security are working together to share information and provide benefits to victims most in need. In addition, the charter for the Human Smuggling and Trafficking Center went into effect July 2004 and brings together representatives from law enforcement, intelligence, and diplomacy to combat alien smuggling, trafficking in persons, and terrorist travel networks.
- **Comprehensive Anti-Trafficking State Laws:** While many states have laws that address various aspects of the crime of trafficking in persons, comprehensive anti-trafficking statutes are needed



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X to deter and punish the wide range of coercive tactics used by traffickers. To meet this need, the Justice Department has drafted a model anti-trafficking statute for states. Texas, Washington, Minnesota, Missouri, and Florida already have comprehensive state trafficking laws.

- **Increased Investigations and Prosecutions of Human Traffickers:** The Bush Administration has greatly increased human trafficking prosecutions. From FY 2001-2003, the Justice Department initiated prosecutions of 110 persons, nearly a three-fold increase compared to the previous three years. Of those, 78 involved allegations of sex trafficking. From FY 2001 to now, the Department obtained convictions and guilty pleas from 107 individuals. From FY 2001-2003, the Department opened 210 new investigations, more than double the number opened in the previous three years. At present, the Department has 168 open investigations into possible human trafficking crimes, more than twice as many as were open in January 2001.
- **Anti-Trafficking Training for Law Enforcement and Organizations that Help Victims:** The Department of Justice provides anti-trafficking training to federal, state and local prosecutors, as well as law enforcement agents and officers, to non-governmental organizations and to officials of foreign governments. The training program will be made available to trafficking response teams attending the conference to enhance their efforts. The Justice Department is also developing a model curriculum for the victim-centered approach to identifying and rescuing trafficking victims and investigating and prosecuting their traffickers and abusers.
- **Anti-Trafficking Task Forces:** To combat trafficking, the Bush Administration has convened anti-trafficking task force coalitions in Philadelphia, Phoenix, Atlanta, and Tampa and will create a dozen additional task forces this year. These task forces bring together federal, state, local, and non-governmental sectors to combat trafficking and provide comprehensive assistance to victims. Additionally, public service announcements have been issued in Spanish, Russian, Polish, Chinese, and Korean to inform victims of their rights.

These new efforts will support the Bush Administration's ongoing initiatives to combat human trafficking and provide assistance to trafficking victims. Since 2001, President Bush has provided more than \$35 million to 36 faith-based and community organizations across the country to aid victims of trafficking with services such as emergency shelter, legal, mental, and health services, as well as English-proficiency instruction. In addition, the Department of Health and Human Services has launched a referral hotline to help victims. The Administration has also worked to provide immigration relief for trafficking victims through a new class of visa (T-visas) that allows trafficking victims to remain in the U.S. for three years with work authorization and access to benefits and services. Additionally, on an international level, President Bush's budget has provided more than \$295 million to support anti-trafficking programs in more than 120 countries since 2001.

The conference was attended by trafficking response teams made up of federal, state and local law enforcement, prosecutors and victim service providers from at least twenty-one cities with known concentration of trafficking victims. Teams came from communities including Atlanta, GA; Charlotte, NC; Chicago, IL; El Paso, TX; Houston, TX; Las Vegas, NV; Long Island, NY; Los Angeles, CA; Miami, FL; Newark, NJ; New Orleans, LA; New York, NY; Metropolitan Washington, DC; Philadelphia, PA; Phoenix, AZ; Richmond, VA; San Diego, CA; San Francisco, CA; St. Louis, MO; Seattle, WA and Tampa, FL. These teams learned how to uncover and investigate cases, as well as how to provide services to trafficking victims. The conference emphasized the importance of combating trafficking using a victim-centered approach. Rescuing victims requires proactive law enforcement strategies and an understanding of the collaborative approach to human trafficking that includes community members, first responders, restorative care service providers, victim advocates, as well as state, local, and federal law enforcement.

The latest U.S. government interagency report on human trafficking, *Assessment of U.S.*

*Government Activities to Combat Trafficking in Persons* can be found at  
[www.usdoj.gov/trafficking.htm](http://www.usdoj.gov/trafficking.htm) <<http://www.usdoj.gov/trafficking.htm>>.

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04-489



# Sam Brownback

UNITED STATES SENATOR ■ KANSAS

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## BROWNBACK STATEMENT ON HUMAN TRAFFICKING

“U.S. Congressional action has raised awareness of the issue of human trafficking to some extent,” U.S. Senator Sam Brownback said. “‘The Victims of Trafficking Protection Act’ (Public Law 106-386) established a monitoring system and sanctions for countries that fail to take minimal efforts to combat trafficking as well as a framework for combating trafficking within the United States. ‘The PROTECT Act’ (Public Law 108-21) makes it a crime for any person traveling abroad or entering into the United States to do so for sex tourism involving children.

“Much of the world either is not aware of or remains indifferent to this horrid problem. The President’s speech in front of the world community at the United Nations helped to greatly raise the profile of this issue and was a historic moment in the war against human trafficking.

“I wish to applaud members of the Kansas Legislature for working to combat human trafficking at the state level. It is a true testament to the strides that we have made in ending modern-day slavery and I hope other states around the country will also consider taking action against this type of organized crime.”

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**From:** "Royal, Hannah (Brownback)" <Hannah\_Royal@brownback.senate.gov>  
**To:** <morrisonj@house.state.ks.us>  
**Date:** Mon, Feb 14, 2005 4:01 PM  
**Subject:** Brownback's Quote...

Please find the following quote on the issue of Trafficking...

U.S. Congressional action has raised awareness of the issue of human trafficking to some extent. "The Victims of Trafficking Protection Act" (Public Law 106-386) established a monitoring system and sanctions for countries that fail to take minimal efforts to combat trafficking as well as a framework for combating trafficking within the United States. "The PROTECT Act" (Public Law 108-21), makes it a crime for any person traveling abroad or entering into the United States to do so for sex tourism involving children.

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I wish to applaud members of the Kansas Legislature for working to combat human trafficking at the State level. It is a true testament to the strides that we have made in ending modern-day slavery and I hope other States around the country will also consider taking action against this type of organized crime.

---

Hannah W. Royal

Legislative Assistant

Senator Sam Brownback (KS)

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**Trafficking in Persons:  
Modern-day Slavery's Threat to Human Rights, Health, and Safety**

Testimony by Chad Bettes  
Office to Monitor and Combat Trafficking in Persons  
U.S. Department of State

Senate Committee on the Judiciary  
February 16, 2005

Thank you, Mr. Chairman, and special thanks to Sen. Nick Jordan and Rep. Judy Morrison for your leadership in introducing this bill to combat trafficking in persons.

It is an honor to be in my home state to talk about American leadership in the global effort to eradicate trafficking in persons. I am particularly proud to see us living up to our state's abolitionist roots in taking the lead in addressing such a despicable crime.

When we discuss trafficking in persons, it is important that we be clear about what we are talking about. We are talking about people trafficked from freedom into nothing less than modern-day slavery — by force, fraud and coercion.

It is nearly impossible for me to begin this discussion without presenting the human face of the issue, because it is, after all, real women, real children, and real men we are fighting for.

When you see, as I have, young girls and boys like Khan, who have been trafficked into forced labor, subjected to inhumane working conditions, brutally abused, even scarred by industrial chemicals deliberately poured on them, you must speak out on their behalf.

When you see, as I have, teenage girls and young women like Srey Po, who have been trafficked into commercial sexual exploitation, threatened with their lives and the lives of their children, forced to service unthinkable numbers of men day after day, and cruelly treated, you are compelled to oppose this crime.

When you see, as I have, people from all corners of the globe, trafficked — bought and sold — forced into domestic servitude, child soldiering, camel jockeying, and other devastating situations, you become nothing less than a 21st century abolitionist.

This is not a crime only foreign countries must face. It is a crime we all must face because an estimated 600,000 to 800,000 people each year are trafficked across international borders, and 14,500 to 17,500 are trafficked into the United States. Many more are trafficked within country borders, including our own. This is a crime that knows no borders — indeed there have even been troubling allegations of human trafficking right here in our own state in recent months.

President Bush has eloquently set the tone for U.S. action on this issue. At the United Nations General Assembly in September, he said to the world, "We must show new energy in fighting back an old evil. Nearly two centuries after the abolition of the transatlantic slave trade, and more than a century after slavery was officially ended in its last strongholds, the trade in human beings for any purpose must not be allowed to thrive in our time."

I would like to give you a brief overview of U.S. Government efforts to fight back this old evil, and then what might be done to address this evil in Kansas.

In the State Department's Office to Monitor and Combat Trafficking in Persons, which was created by Congress in the Trafficking Victims Protection Act of 2000, we are monitoring worldwide human trafficking patterns and issuing an annual report in order to stimulate increased action by foreign governments and regional coordination. The report has become an invaluable diplomatic tool the State Department uses to accelerate progress abroad. For instance, in the months leading up to and directly following our last two *Trafficking in Persons Reports*, we have seen a surge in government activity around the world: the passage of new anti-trafficking laws, increased prosecutions of traffickers, national public service announcements and much more. We don't think it is a coincidence that increased anti-trafficking efforts coincided with a sanctions clause coming into effect in 2003: Countries that do not make minimal efforts to confront slavery face the threat of losing certain U.S. assistance.

In addition to the report, a second core function of our office is coordinating U.S. financial assistance to support anti-trafficking programs around the world. With fiscal year 2003 funding, U.S. taxpayers provided more than \$70 million to anti-trafficking in persons efforts, boosting our total to more than \$150 million over two years. USAID and the Departments of State, Labor, Justice, and Homeland Security are involved in these efforts in foreign countries. In fact, 11 U.S. government agencies involved in anti-trafficking in persons efforts have developed a strategic plan to guide our government's anti-TIP efforts. We are investing in prevention, protection, and prosecution to stop the flow of new people into trafficking, to ensure they are safe once rescued from slavery, and to ensure justice is served by putting traffickers in jail for significant amounts of time.

Finally, we take our mandate to increase public outreach very seriously. We are reaching millions of people around the world through media, public speaking engagements, and other communications efforts. This public outreach is leveraged to increase the effectiveness of the report and assistance programs. It is shining a bright light on this problem, accelerating our momentum.

The reason for our vigorous federal action is the multidimensional threat human trafficking poses. Not only is it a grave threat to human rights, it is a threat to the public health through the spread of disease and our safety and security due to the huge profits generated for organized crime.

This threat is real in Kansas. As I mentioned a moment ago, recent reports of shocking human trafficking allegations have surfaced here, including charges of a 20-year-old man and his father luring 13- to 16-year-old girls from Wichita to Oklahoma and forcing them to become truck-stop prostitutes.

The Department of Justice has taken the lead to date in aggressively investigating and prosecuting human trafficking cases in the U.S., and I will let law enforcement experts primarily speak to the prosecution aspects of this issue. But, according to our law enforcement colleagues at the local, state, and national levels, as we learn more about the human trafficking phenomenon, as we arrest more traffickers, we realize how important it is to have comprehensive anti-TIP state laws.

Current state statutes do not always cover the range of activities traffickers engage in. For example, a trafficking crime can involve kidnapping and prostitution, but these might be in unrelated parts of the state code. State laws specific to human trafficking help ensure there are no legal gaps in our efforts to confront trafficking at home.

The reality is that the bulk of law enforcement is done at the state level. Each county or district has a prosecutor enforcing state law. Consider murder, rape, prostitution — typical crimes handled at the local and state levels.

Federal crimes typically involve interstate commerce and constitutional rights, for example. There is no way for federal prosecutorial resources to catch all the trafficking cases in Kansas.

Local police officers don't necessarily focus on the breadth of federal law and may not be fully trained in federal law. Understandably, these officers won't necessarily ask the kind of questions that would be necessary to indicate the violation of a federal law such as the Trafficking Victims Protection Act.

The U.S. Department of Health and Human Services is in the midst of an anti-TIP pilot program targeting audiences such as local law enforcement and health care workers. One of the themes of the program is "Look Beneath the Surface" because, to identify victims of modern-day slavery, you have to probe the conditions in which, for example, a woman being used in prostitution got there, how she is being controlled or coerced, what are the conditions of her potential servitude.

Imagine a woman used in prostitution being picked up in a vice bust. If it seems she is in this country illegally, she will probably be treated like a criminal. But if she was deceived, forced, or coerced into prostitution, chances are she is a victim of human trafficking.

Untrained, or unaware of the Trafficking Victims Protection Act, local law enforcement can easily miss the true nature of the crime.

By passing comprehensive state laws, we close legal gaps, we create the need for comprehensive local training regarding the many faces of the trafficking crime, we increase the penalties traffickers face, and we bundle disparate legal elements that must be brought to bear in the dual functions of identifying/prosecuting criminals while protecting victims.

Historian Allan Nevins said, "That Kansas has had a special character and peculiar destiny most of her citizens have always believed." It is my hope Kansas will live up to her special character and peculiar destiny — indeed her free-state legacy — by joining Washington, Texas, Missouri, and Florida in enacting state anti-trafficking laws as recommended by the Department of Justice.

The importance of this action cannot be underestimated because of the serious multidimensional threat human trafficking poses to human rights, public health, and the safety and security of our communities. It is a crime that has troubling implications, not just to Khan and Srey Po and the alleged teenage victims in the Wichita case, but to us all.

## WRITTEN TESTIMONY KANSAS LEGISLATURE

*Senate Judiciary Committee  
Senate Bill 151*

***Dr. Janice Shaw Crouse, Ph.D.***  
*Senior Fellow, Concerned Women for America*

Dr. Crouse has spent over a decade working to combat sex trafficking by serving in two national task forces and working to pass national legislation [the 2000 Trafficking Victims Protection Act (TVPA) and its 2003 reauthorization] that would increase efforts worldwide. She also works as a nongovernmental organization representative with the State Department in its efforts. In addition, she conducts research and analyses, writes articles, conducts media interviews, and provides commentary. She has twice been an official U.S. delegate to the United Nations where sex trafficking has been at the top of the agenda. She is currently director of a federal grant to provide training to Mexican leaders to combat trafficking into the United States through its Southern borders.

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Every year by estimates of the United States State Department, between 14,000 -17,000 children and women are brought into the United States for what the President has called “modern-day slavery.” Some estimates run as high as 50,000 per year. Sex trafficking is a scourge that is little known among most Americans because it happens under the “radar” of public scrutiny and off the beaten pathways of polite society — primarily in the sleazy parts of our cities, on the side streets of our towns, in trailers off seldom-traveled rural roads, and in shacks located in isolated areas of the nation’s countryside.

We cannot combat this terrible crime unless we recognize that it is happening and learn about its victims who are primarily vulnerable children and women who are preyed upon by very sophisticated networks of evil criminals who are making nearly \$10 billion a year — much of it used to finance organized crime — and there are documented ties to terrorism. The United Nations estimates that trafficking in persons is one of the top three sources of revenue for organized crime (behind drugs and weapons). The human beings lured into being trafficked end up in prostitution, sweatshops, farms, domestic work or other forms of involuntary servitude. Most are treated brutally and repeatedly degraded. Over half of the victims end up trafficked for sexual exploitation; some are forced to serve up to 30 men a day. Millions are trafficked within their home countries.

The toll on individuals caught in this tragedy is terrible enough; that toll is compounded by the broader impact — the human and social toll — disease, drug addiction, physical and emotional

damage, sexually transmitted diseases, including HIV/AIDS, social breakdown, loss of educational opportunity, productivity and earning power. Plus, the nature of the crime — preying on the most vulnerable, the world's poorest and most hopeless children and women — is unconscionable and despicable.

It is important to note that the fight against sex trafficking heated up only four years ago when President Bush established an office in the State Department to address the problem and the U.S. government got serious about the “three P’s”— prosecution, protection and prevention. We also address the “three R’s” of compassion for victims — rescue, removal and reintegration. For the first time, there is a record of convictions for perpetrators as well as hotline, shelters and rehabilitation programs for victims. Last year (2004), there were 153 on-going trafficking investigations being conducted in the Criminal Section of the Civil Rights Division (two times more than three years earlier). Since 2001, the U.S. Department of Justice has charged more than 150 human traffickers and secured convictions for 109 defendants; that is twice the number of those convicted during the previous four years. With more than 240 anti-trafficking programs in over 75 countries (2003 figures), at a cost of nearly \$150 million, the United States is providing training, educational and awareness programs, equipment for law enforcement, shelters, crisis centers, safe houses, counseling and rehabilitation programs.

Currently in the United States, there is an interagency cooperative effort — called the Senior Policy Operating Group on Trafficking in Persons (SPROG) — where cabinet-level personnel work together to coordinate efforts to be maximally effective in ending trafficking in persons. The group includes: Federal Law Enforcement, the Attorney General, the Federal Bureau of Investigation (FBI), Immigration and Customs Enforcement Bureau (ICE), the Department of Health and Human Services (HHS), the Department of Justice (DOJ), the Department of Labor (DOL), the Department of Defense (DOD), the Central Intelligence Agency (CIA), the Department of Homeland Security (DHS), the U.S. Agency for International Development (USAID) and the Office of Management and Budget (OMB).

The United States has also passed the PROTECT Act making it a crime for any person to enter the U.S., or for any citizen to travel abroad, for the purpose of sex tourism involving children. Such crimes can result in 30-year prison terms and the act has already jailed pedophiles. Our government has committed \$50 million to end sex trafficking and is leading international efforts.

We have learned much about the problem over the past four years. One tragic lesson we have learned is that our efforts are not always keeping up with the growth of the problem.

That is why Senate Bill 151 is so important.

Trafficking in persons is a human rights violation and every major city in America is affected. Many states have experienced problems similar to the two recent well-publicized incidents in Kansas.

The U.S. gets victims through both Canada and Mexico as well as through immigration at major airports. Canadian officials estimate that around 1,500 to 2,200 persons are trafficking through Canada into the U.S. every year, though observers think that these numbers significantly understate



the problem.

We know that, at the present time, there are 25 distinct Russian organized-crime groups operating in the U.S., with 250 pending investigations targeting Russian gangs in 27 states.<sup>1</sup>

Five people have been accused of planning to traffic two Chinese women to Arkansas.<sup>2</sup> In Pennsylvania, a lawyer was charged with imprisoning two Honduran women that he met through magazine ads. He is also accused of abusing the women's children in his home as well as imprisoning other foreign women. His home had bars on the windows and deadbolts on the doors.<sup>3</sup>

At least five Latvian women were trafficked to Chicago; they were held in slavery-like conditions and forced to strip in nightclubs. The women would earn as much as \$600 per night, but were forced to give all but \$20 to the traffickers. The State Attorney General in Ohio reported that in the more than 2,500 youths reported missing in that state; more than 60 percent are considered "endangered" and usually end up as prostitutes.<sup>4</sup>

The much smaller city Minneapolis has more strip clubs than larger-city Chicago, and the city has at least 200 escort services, including street dwellings called "chicken shacks" where quick prostitution activity is conducted. Social workers report that Korean-run massage parlors and saunas and Vietnamese- and Spanish-speaking sex industries are more underground, but are located even in rural southwestern Minnesota towns. There is known pimp pressure on the migrant farm workers from Mexico and large domestic trafficking rings. Both Georgia and Florida are known areas where women trafficked from abroad are set up in brothels and where sex industries are dependent upon trafficked women.

In early February 2005, a Michigan couple was indicted for keeping a 14-year-old Cameroonian girl in involuntary servitude. Frequently, such criminals promise the American dream to vulnerable girls and women and then, when the victims are under their control, the perpetrators abuse and degrade them. In New Jersey, five teens from Mexico were forced into prostitution after being lured into the U.S. with expressions of love, promises of marriage and a good life in America. Instead, the girls were given false birth certificates, were not allowed to leave the premises, and were abused and forced to work as prostitutes.

Clearly, trafficking in persons is, as President Bush stated at the opening of the United Nations General Assembly in September 2003, "a special kind of evil in the abuse and exploitation of the most innocent and vulnerable."

Through Senate Bill 151, the Kansas Legislature is leading the way in the United States to increased awareness of the evil phenomenon of modern-day slavery and, through its legislation, is making it possible to bring an end to this crime that is causing so much tragedy for so many vulnerable children and women.

<sup>1</sup> Barbara Starr, "Former Soviet Union a Playground for Organized Crime: A Gangster's Paradise," *ABC News*, 14 September 1998.

<sup>2</sup> Associated Press, 8 July 1998.

<sup>3</sup> Associated Press, 16 August 1997.

<sup>4</sup> "Danger for Prostitutes Increasing, Most Starting Younger," *Beacon Journal* (Akron, Ohio), 21 September 1997.

## JANICE CROUSE

**Janice Shaw Crouse, Ph.D.**, Senior Fellow at the Beverly LaHaye Institute, the think tank for Concerned Women for America, is a recognized authority on domestic issues, the United Nations, cultural and women's concerns. In May, 2002, she was appointed as a U.S. delegate to the United Nations Children's Summit. Subsequently, she was appointed by the President to the U.S. delegation to the 2003 United Nations Commission on the Status of Women. The Heritage Foundation nominated her for the 2003 Bradley Prize for her influence on contemporary issues. During the first Bush Administration, she was a Presidential Speech Writer, authoring major presidential policy addresses as well as drafting and editing the Presidential White Paper on Welfare Reform.

She is frequently a guest lecturer on college campuses — including most recently Princeton, Harvard, Tulane, Erskine, Asbury, and Georgetown — and at United Nations related conventions like the World Congress of Families III in Mexico City and the commemoration of the International Year of the Family in Kuala Lumpur. She is author of "*Gaining Ground: A Profile of American Women in the Twentieth Century*." The book that she co-authored, "*A Different Kind of Strength*," was a Conservative Book of the Month selection in 2000 and has been printed in two foreign editions. Her paperback, *The Strength of a Godly Woman*, is one of Harvest House Publishers top-five picks.

Her opinion editorials and columns have appeared in major newspapers across the nation as well as in journals and magazines — including the *Washington Post*, *The Washington Times*, *Insight*, *First Things*, *Touchstone*, *USA Today*, *Christianity Today*, *Marriage Partnership*, *Family Voice*, *Citizen*. She has been featured in many of those same publications and others, including *Congressional Quarterly*. She has been interviewed on numerous national radio and television programs including the major television networks as well as C-Span, Fox, MSNBC and CNN. She has authored scholarly and think-tank publications and Congressional Testimony. Prior to the White House, Dr. Crouse wrote for the Honorable Louis W. Sullivan, Secretary of Health and Human Services (HHS) where she coined the phrase, "Healthy Start."

Dr. Crouse was selected to launch CWA's think tank in May 1999 in recognition of the need for a conservative organization solely devoted to conducting quality research on issues of concern to women. Believing in the unity of truth, the Institute recognizes the power of good data and analysis to inform and substantiate policy positions. Before coming to BLI, Dr. Crouse was President of Crouse Communications, a public relations and political analysis firm serving organizations in the United States and throughout the world. Dr. Crouse directed the work of the Ecumenical Coalition on Women and Society, a project of the Institute on Religion and Democracy. Through ECWS, she drafted, edited and produced the ***Christian Women's Declaration*** and spearheaded the development and execution of IRD's Washington Summit, a conference for women leaders. Previously she was the Project Director for the ECWS team attending the 1995 Fourth United Nations World Conference on Women in Beijing. In addition, she produced the ***Beijing Bulletin***, an analysis of the events of the conference that was faxed daily to over 1250 opinion leaders in the United States. In addition to her work in preparation for the conference, analyzing the issues related to the Platform and planning strategy for influencing the conference, Dr. Crouse served as the stateside contact person and spokesperson. She also helped lead team to the 1998 World United Methodist Women's Assembly. Dr. Crouse co-lead a six-member team to the World Council of Churches Eighth Assembly in Harare, Zimbabwe. She attends and writes daily commentaries on United Nations meetings and national political conventions.

Previously, Dr. Crouse was Associate Vice President for Academic Affairs at Taylor University where, among other duties, she was responsible for faculty development and academic programs for a 94-member faculty. She was formerly Professor and Debate Coach at Asbury College and at Ball State University where she was selected as a mentor teacher and her debate team was ranked in the top ten nationally. She received a National Community Leadership Award from the United States Chamber of Commerce. She is a former Woman of the Year and is listed in Who's Who Among American Women. She is a member of the Board of Trustees of Asbury College. She is a member of the Board of Directors for Good News. She serves on four national Task Forces and Coalitions on national and international issues: Against Sexual Trafficking, Against Abuse of Women, Promoting Human Rights, and Promoting Religious Freedom.

Through her speaking and writing, Dr. Crouse addresses the need to strengthen those cultural institutions that instill values in our nation's citizens — family, church, school and community. The National Press Club's compendium of experts describes Dr. Crouse as having "brought insight, keen perception and wisdom to domestic, family, political and women's issues since the early 1990s as a Presidential speechwriter for Bush 41, United Nations delegate, think tank fellow, television commentator, speaker, author and columnist. Her common sense, refreshing honesty and intriguing perspective on cultural and political issues expose spin to reveal truth in a way that has earned respect and made her a popular cultural analyst. Known for applying her strong intellect and articulating her solid faith with candor and humor, she is a conservative leader who appeals across ideological and religious barriers."

1015 Fifteenth Street, N.W., Suite 1103, Washington, DC, 20005 — phone: 202-289-4182 — email: JCrouse@cwfa.org

14-4



# Memo

Submitted  
by Robin Read

**To:** Chairman John Vratil  
Senate Judiciary Committee

**From:** Robin Read  
President & CEO, NFWL

**Date:** February 15, 2005

**Re:** S 151 introduced by Senator Nick Jordan in support of Rep. Judy Morrison

I have enclosed a letter for your review, regarding a hearing to take place on February 16, 2005, where testimony will be heard on S 151, legislation on the issue of Human Trafficking.

The Chairs of the National Foundation for Women Legislators' (NFWL) Policy Committee on Crime, Justice, Terrorism, and Substance Abuse, have asked me to pass this letter of support to you for the legislation introduced by Senator Nick Jordan in support of Representative Judy Morrison.

Women legislators nationwide have taken this initiative under their wings and are raising awareness in their states. NFWL's members have shown their support for legislation that will prevent the spread of human trafficking and we are proud of the good work that Representative Morrison is doing, in conjunction with the support of the U.S. Departments of Justice, Health and Human Services, State, and Homeland Security.

Our legislators have learned that human trafficking is an issue nationwide – it is not contained only in border communities and other “likely places.” They have found that human trafficking is rampant in many unlikely locations as well and know how important it is to take preventative measures to curb the spread of this practice.

Please do not hesitate to call on me at any time if you have any questions. I can be reached in my office at (202) 293-3040 ext. 0. Thank you.



February 14, 2005

Chairman John Vratil  
 Senate Judiciary Committee  
 Kansas State Capitol  
 300 SW 10<sup>th</sup> Street  
 Topeka, KS 66612

Dear Chairman Vratil,

On behalf of the National Foundation for Women Legislators' (NFWL) Policy Committee on Crime, Justice, Terrorism, and Substance Abuse, we respectfully request that you consider S151 and support Senator Nick Jordan and Representative Judy Morrison's effort to prevent the spread of human trafficking in Kansas.

In July 2004, Representative Judy Morrison was one of only fifteen women legislators selected to join NFWL's Task Force on Human Trafficking and participate in the first national conference on Human Trafficking where she received detailed training on this important policy issue. Hosted by the U.S. Department of Justice (DOJ), this meeting was attended by President George W. Bush, Florida Governor Jeb Bush, Attorney General John Ashcroft, Under Secretary of State Paula Dobriansky, Under Secretary of Homeland Security Asa Hutchinson, and many other officials.

NFWL's Crime, Justice, Terrorism, and Substance Abuse Policy Committee commends Representative Morrison for her tremendous efforts to educate her colleagues in the legislature, along with law enforcement officials, and constituents throughout the state of Kansas about this issue of trafficking.

Human trafficking is an issue that must be addressed at the state level. Public awareness campaigns led by state legislators, like Representative Morrison, aid local law enforcement officials in locating victims of human trafficking and the offenders who are responsible for the spread of this practice. It is imperative that state laws are in place so that local officials have the ability to apprehend and prosecute traffickers, as they are identified by victims.

According to the U.S. Department of State, 800,000 to 900,000 victims annually are trafficked across international borders world-wide, and between 18,000 and 20,000 of those victims are trafficked into the United States. The victims include women, men and children. Victims are generally trafficked into the U.S. from Asia, Central and South America, and Eastern Europe. According to the U.S. Department of Health and Human Services, many victims of trafficking are forced to work in prostitution or sex entertainment. Trafficking also takes place as labor exploitation, such as domestic servitude, sweatshop factories, or migrant agricultural work. Traffickers use force, fraud and coercion to compel women, men and children to engage in these activities.



We look forward to the passage of S151, introduced by Senator Nick Jordan in support of Representative Judy Morrison. If you should have any questions regarding the issue of human trafficking and support of NFWL's Crime, Justice, Terrorism, and Substance Abuse for the passage of this Bill, please do not hesitate to contact NFWL President & CEO, Robin Read, at any time. Ms. Read may be reached at (202) 293-3040.

Thank you for your time and consideration.

Sincerely,

Rep. Phyllis Katsakiores (NH)  
CJTSA Committee Co-Chair

Rick Pendery  
CJTSA Committee Co-Chair

Joy Westrum  
CJTSA Committee Co-Chair

15-3

# El Centro, Inc.

*The Center for Continuous Family Improvement*

Submitted by *Melinda Lewis*

**Administration and  
Computer Learning  
Center**

650 Minnesota Avenue  
Kansas City, KS 66101  
913-677-0100  
[www.ElCentroInc.com](http://www.ElCentroInc.com)

**The Academy for Children**  
1330 S. 30th Street  
Kansas City, KS 66106  
913-677-1115  
913-677-7090 fax

**Academy for Children,  
Choo Choo Child Care**  
219 S. Mill Street  
Kansas City, KS 66101  
913-371-1744  
913-371-1866 fax

**Academy for Children,  
Donnelly College**  
608 North 18th Street  
Kansas City, KS 66102  
913-281-1700

**Casa de Rosina Apartments**  
851 Barnett  
Kansas City, KS 66101

**ECI Development, Inc.**  
2100 Metropolitan Ave.  
Kansas City, KS 66106  
913-677-1120  
913-677-0051 fax

**El Centro, Inc. Argentine**  
1333 S. 27th Street.  
Kansas City, KS 66106  
913-677-0177  
913-362-8520 fax

**El Centro, Inc. Family Center,  
Johnson County**  
9525 Metcalf Avenue  
Overland Park, KS 66212  
913-381-2861  
913-381-2914 fax

**Macías-Flores Family Center**  
290 S. 10th Street  
Kansas City, KS 66102  
913-281-1186  
913-281-1259 fax



February 18, 2005

Chairman John Vratil and Honorable Members of the Senate Judiciary Committee,

El Centro, Inc. wishes to express our support for SB151, legislation that would define the crime of trafficking and, we hope, reduce incidences of sexual violence and forced labor associated with the smuggling of human beings. Tragically, criminals seeking to exploit desperate and vulnerable people who are trying to get to the United States for a chance to build a better life for themselves and their families have discovered the great profit potential in this illicit activity. The consequences can be devastating. While it is impossible for us to track precisely the damage inflicted by traffickers, due to the hidden nature of the crimes, we know anecdotally of young women who are raped by those who transport them to the U.S. and of many immigrants who live in fear for years (often, even after having obtained legal immigration status) of the gangs who return to extort additional payments from those who were their cargo. We have also heard from immigrants who come to the U.S. with a smuggler, under the promise of a decent-paying job, and are then forced to "repay" their passage with months or even years of unpaid or very poorly-paid hard work. It is no exaggeration to call this indentured servitude, and certainly it runs contrary to our collective sentiment as a nation of immigrants, a nation of laws, and a people who believe in the worth of all human beings.

While these problems may be more pervasive in border states such as Texas and Arizona or in the immigrant-receiving states of California, New York, and Florida, where entire industries support and profit from human trafficking, we can no longer deny the reach of these networks into Kansas. If we can provide law enforcement officers with a new tool to use against those who traffic in human beings, hopefully we can prevent these criminals from ever establishing a strong foothold in our state and send the message that Kansas considers it abhorrent to think of people brought here under violent, sexually abusive, or exploitative conditions.

Clearly, Congress must act to address the problems in immigration law that feed this criminal enterprise and create conditions that facilitate its perpetration. Certainly we believe that such action is an important part of addressing human trafficking. However, we must also recognize that, where there is profit to be made in bringing people to the U.S. for prostitution, forced labor, or economic exploitation, criminal networks will find ways to lure vulnerable individuals into these traps. In order to comprehensively confront the tragedy that is human trafficking, we must codify these crimes in statute, send the message that Kansas will not tolerate such actions, encourage vigorous prosecution of abuses where they occur, and address the underlying dynamics. Each piece is essential, and we believe that SB151 is an important step in that direction.

Sincerely,

*Mission Statement: The purpose of El Centro and its subsidiaries is to create and sustain educational, social, and economic opportunities for fami*

Senate Judiciary

2-16-05

Attachment 16

February 18, 2005

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Sincerely,

Melinda Lewis  
Director of Policy Advocacy and Research, El Centro, Inc.

16-2

y 18, 2005

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Sincerely,

Melinda Lewis

Director of Policy Advocacy and Research, El Centro, Inc.

16-3



copy

PROPOSED SENATE RESOLUTION NO. \_\_\_\_\_

By Submitted by CHAIRMAN Vratil

A RESOLUTION Requesting the United States supreme court to grant certiorari and reverse the Kansas supreme court's ruling in State v. Marsh.

WHEREAS, The current Kansas death penalty law was enacted in 1994 and was challenged in State v. Kleypas, 272 Kan. 894, decided by the Kansas supreme court December 28, 2001; and

WHEREAS, The Kansas supreme court unanimously affirmed Kleypas' conviction but set aside his death sentence because of a faulty jury verdict form; and

WHEREAS, The Kleypas court split 4-3 on a constitutional challenge to the death penalty statute based on the manner in which jurors were instructed to weigh aggravating and mitigating circumstances when deciding whether to impose a death sentence, but all seven Kansas justices in the Kleypas court found the Kansas death penalty law to be constitutional, either on its face or as construed; and

WHEREAS, The Kleypas majority, consisting of Justices Tyler C. Lockett, Donald L. Allegrucci, Fred N. Six, and Edward Larson, did not invalidate the Kansas death penalty statute, but held that the so-called "weighing equation," as applied, was unconstitutional: "Our decision does not require that we invalidate K.S.A. 21-4624 or the death penalty itself. We do not find K.S.A. 21-4624(e) to be unconstitutional on its face, but rather, we find that the weighing equation impermissibly mandates the death penalty when the jury finds that the mitigating and aggravating circumstances are in equipoise."; and

WHEREAS, The Kleypas dissent, written by Justice Davis and joined by Chief Justice McFarland and Justice Abbott, did not invalidate the Kansas death penalty statute because "the weighing equation was constitutional as written." The dissent further noted that the United States supreme court has held that as long as the weighing equation does not preclude the jury from considering relevant mitigating evidence, the specific method of balancing the aggravating and mitigating factors may be left up to the state; and

WHEREAS, In reaching the decision, the court reasoned that the Kansas legislature intended to enact a constitutional death penalty law and thus concluded that K.S.A. 21-4624(e) is not void on its face, but only in its application. The majority held that by requiring the "tie" to go to the defendant, the intent of the legislature may be carried out in a constitutional manner: "By simply invalidating the weighing equation and construing K.S.A. 21-4624(e) to provide that if the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A. 21-4625 exists and, further, that such aggravating circumstance or circumstances outweigh any mitigating circumstance found to exist, the defendant shall be sentenced to death, the intent of the legislature is carried out in a constitutional manner. So construed, we hold that K.S.A. 21-4624 does not violate the Eighth amendment prohibition against cruel and unusual punishment," the court concluded; and

WHEREAS, The Kleypas court held that the wording of a verdict form was confusing, misleading and inconsistent with Kansas law and improperly implied to a jury that the jury, in order to spare Kleypas' life, was required to be unanimous in its decisions against death. To cure that infirmity, the court provided substitute language for verdict forms to be used in all death penalty cases in Kansas. The revised verdict form, consistent with Kansas law, makes it clear that a single juror may block a death verdict; and

WHEREAS, After the Kleypas case was decided, both the senate judiciary committee and the house judiciary committee conducted hearings regarding the Kleypas decision and the Kansas death penalty law. In addition to hearings during the 2002 legislative session, the matter was studied further during interim committee hearings in the autumn of 2004. The focus of the hearings was to determine what legislative response, if any, was needed to ensure the constitutionality of the Kansas death penalty law in light of the Kleypas decision; and

WHEREAS, Based on testimony received during those hearings,

the legislature relied on the Kleypas court's decision and concluded that no amendment to statute was necessary because the Kleypas court has upheld the constitutionality of the death penalty statute and had cured the apparent flaw in the weighing equation by revising future jury instructions; and

WHEREAS, Only three years after deciding the Kleypas case the Kansas supreme court decided State v. Marsh, opinion number 81,135, on December 17, 2004; and

WHEREAS, In Marsh, the supreme court ruled 4-3 that the Kansas death penalty statute is unconstitutional because of its inclusion of the "weighing equation" - the same defect that the supreme court purported to cure with the prospective change in jury instructions it ordered in Kleypas; and

WHEREAS, In Marsh, the majority agrees with the four justices who decided in 2001's State v. Kleypas that the statute as written violated the eighth and fourteenth amendments but, unlike in Kleypas, the Marsh majority proceeded to invalidate the entire statute rather than severing the weighing equation provision from the remainder of the statute and allowing a change in jury instructions to cure the flaw; and

WHEREAS, The three justices who dissented in Marsh (Justice Davis, Chief Justice McFarland and Justice Nuss) continue to believe the death penalty statute, as written, is constitutional: "There seems to be a general feeling among the majority that the weighing equation which mandates death in the highly unlikely event that the jury finds the aggravating and mitigating factors to be exactly equal in weight is somehow 'unfair.' While it is certainly within the province of this court to interpret the eighth amendment, we cannot do so in a vacuum. We cannot simply rely on our inchoate feelings, but instead have a duty to examine, analyze, and apply the United States supreme court's jurisprudence on the matter."; and

WHEREAS, The Marsh majority states that the United States supreme court has never directly addressed the issue of the weighing equation presented in Kleypas and again in Marsh; and

WHEREAS, Chief Justice McFarland says in her separate dissent that legally the Court should follow the Kleypas precedent: "In Kleypas, in a 4 to 3 decision, all seven justices agreed the Kansas death penalty law was constitutional, either as construed in a very minor respect (majority) or as written (dissent). To now strike down the Kansas death penalty law, is, in my opinion, wholly inappropriate and unjustified."; and

WHEREAS, Justice Nuss also writes separately and says the United States supreme court has already implicitly approved of the death penalty sentencing scheme adopted in Kansas. In his opinion, an Arizona weighing equation "functionally identical" to the Kansas equation was approved by the United States supreme court in its 1990 Walton v. Arizona decision, and Walton therefore controls the result in Marsh; and

WHEREAS, It may be beyond the power of the legislature to amend the Kansas statute retroactively in order to apply a clearly constitutional death penalty law to the seven persons now on death row. Only a decision by the United States supreme court to overturn the Kansas supreme court's decision in Marsh is likely to result in the continued application of the death penalty law to those persons already sentenced to death; and

WHEREAS, The State of Kansas finds itself in this predicament not because of any change in the death penalty law but because of a change in the composition of the Kansas supreme court between the Kleypas and Marsh decisions; and

WHEREAS, Manifest injustice will result if the United States supreme court declines to review the Marsh case on appeal; and

WHEREAS, We believe that the Kansas death penalty law meets the requirements of the Kansas constitution and the United States constitution: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That, based on the evidence presented, we do hereby acknowledge and affirm that the opinion of the Kansas senate is that the Kansas death penalty law as written is constitutional and that if any

single provision of that law is found to be unconstitutional that provision should be severed from the rest and other provisions of the statute upheld; and

Be it further resolved: That, the Kansas supreme court and the United States supreme court should be informed that the Kansas legislature relied on the Kansas supreme court's decision in State v. Kleypas in deciding not to amend the Kansas death penalty law to alter the weighing equation provisions during hearings in 2002 and 2004; and

Be it further resolved: That, the Kansas senate respectfully requests that United States supreme court grant certiorari to hear the Marsh case and find Kansas death penalty law constitutional as written or, in the alternative, as applied through the cure imposed by the Kansas supreme court in the Kleypas decision.