



# **Kansas Attorney General Derek Schmidt**

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## **An Overview of Human Trafficking in Kansas with Case Studies**

*Christine M. T. Ladner  
Assistant Attorney General*



Do we have human trafficking in Kansas?



# Human Trafficking

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- “Human Trafficking is a **\$32 billion dollar crime industry** world wide, running a close third behind drug and arms dealing according to the conference’s keynote speaker, U.S. Senator Sam Brownback (R-Kan). Each year, between 17,500 and 20,000 men, women and children are trafficked into the United States from more than 48 source countries for purposes of sexual or labor exploitation, according to a report released in June 2007 by the State Department’s Office to Monitor and Combat Trafficking in Persons. But it is no longer just an international problem, Brownback said. The U.S. State Department estimates that **more than 250,000 American citizens and legal residents, most of them children under age 18, are being trafficked within this country.**” Marty Denzler, *Catholic Key Reporter* (April 2010)



# Human Trafficking

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- What is Human Trafficking?
- Pre-2000, federal law required showing that the victim had been shackled / physically restrained.
- NOW, we have TVPA = Trafficking Victims Protection Act of 2000. Why, how and when did we get this law?



# TVPA 2000 § 103

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The term “severe forms of trafficking in persons” means: (A) sex trafficking in which a **commercial sex act** is induced by force, fraud, or coercion, or in which the person is <18; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for **labor or services**, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Today the U.N. defines as the illegal trade of human beings, of all age groups, through force, fraud or coercion, **for the purposes of commercial sexual exploitation or forced labor.**



# TVPA

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- Funded many things for international victims of trafficking that we do not have for Kansans.
- Services.
- Criminalized conduct.
- Nongovernmental organizations as victim service providers. Polaris Project. Shared Hope International.



# TVPA

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- Protection – victim assistance in the US with federally funded health benefits and other services.
- Prosecution – enhanced crimes and penalties.
- Prevention – provides assistance to foreign countries in drafting laws to punish traffickers.
- Partnership – MDT approach.





# TVPA

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- Reauthorized in 2003: to combat sex tourism
- Reauthorized in 2005: grant resources for victim services to state and local law enforcement – still the emphasis on international victims
- Reauthorized in 2008: for 4 more years and adds more for child victims
- Reauthorized in 2011? Pending





# Kansas Law - 2005

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**SB 72 created new crimes of  
trafficking  
and aggravated trafficking.**



# Human Trafficking 21-5426(a)

- Trafficking is: (1) intentional recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjecting the person to involuntary servitude or forced labor;
- (2) Benefitting financially from the above;
- (3) Forced labor by threat, restraint, withholding food, lodging, clothing, documents, debt by peonage.



21-5426(a)

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Human Trafficking is  
Severity Level 2  
Person Felony



# Agg. Human Trafficking (b)

Human trafficking involving (1) kidnapping, sexual gratification, or resulting in death, or (2) recruiting, harboring, transporting, providing or obtaining, by any means, a person <18 knowing that the person, **with or without force, fraud, threat or coercion** will be used to engage in forced labor, involuntary servitude or sexual gratification of the defendant or another.



21-5426(b)

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Agg. Human Trafficking is  
Severity Level 1  
Person Felony, unless . . .



# Penalties

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21-5426(a) Human Trafficking SL2PF

21-5426(b) Agg. Human Trafficking SL1PF

But if the offender is >18 and the victim is <14, Off Grid . . . . (like 1<sup>st</sup> degree murder)

# SENTENCING RANGE - NONDRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level ↓	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	Misdemeanor 2+	Misdemeanor 1 No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

**Probation Terms are:**

- 36 months recommended for felonies classified in Severity Levels 1-5
- 24 months recommended for felonies classified in Severity Levels 6-7
- 18 months (up to) for felonies classified in Severity Level 8
- 12 months (up to) for felonies classified in Severity Levels 9-10

**Postrelease Supervision Terms are:**

- 36 months for felonies classified in Severity Levels 1-4
- 24 months for felonies classified in Severity Level 5-6
- 12 months for felonies classified in Severity Levels 7-10

**Postrelease for felonies committed before 4/20/95 are:**

- 24 months for felonies classified in Severity Levels 1-6
- 12 months for felonies classified in Severity Level 7-10

LEGEND
Presumptive Probation
Border Box
Presumptive Imprisonment





# Jessica's Law

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- Offender >18
- Victim <14
- Life with a Hard 25, 40 or life
- Lifetime Kansas Open Records Act (KORA) registration
- Lifetime EMD (if parole board determines)
- Federal Penalties?



# Charging

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- What is it?
- Charging considerations depend upon quality investigations
- Charges may not be “trafficking”
- Traditional sex crimes and crimes of violence
- Prosecution depends on preservation of EVIDENCE. What will happen to these victim/witnesses?



# Human Trafficking

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- How to prove?
- In past, our options were:
  - “promoting prostitution” under K.S.A. 21-3513; ok, but low level crime.
  - class A misdemeanor if prostitute is > 16
  - SL7PF if prostitute is >16 and it is 2<sup>nd</sup> offense
  - SL6PF b/t 14 and 16
  - Off Grid if prostitute is <14
  - Conspiracy to commit or aiding and abetting the actual sexual act?



# Issues with A & A

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- Will the john be a credible, cooperative witness?
- DNA from multiple donors
- # of sex acts



# Other Issues

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- “secret” world – participants not eager to come forward
- Longer the victim forced to exist in that environment, the poorer historian she may be, especially as to specific acts submitted to. Ex: Elements “on or about . . .”
- Drugs



# Human Trafficking

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- Today – Aggravated Trafficking, criminalizes **the act of trafficking**, the taking, transporting etc. for the purpose of the illicit act, rather than the illicit act itself (can be a separate charge).
- **Without proof of force, fraud, threat or coercion**
- Some of the other issues remain (secrecy, drugs, transience) but this criminal conduct is far easier to establish than a specific sexual act on a specific day.



# Case Studies

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- Sedgwick County
- 1. Child from Wichita taken to Dallas, Texas.
- 2. Child from Atlanta, Georgia taken to Wichita
- 3. Child from Wichita working in escort service in Wichita





# Dallas

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- Victim from Detroit – moves to Wichita
- Mother – addiction issues
- Aunt – takes over as care giver
- V – pregnant by adult male (now in KDOC)
- V (14 yrs) has issues as sole provider for her child
- Conflict w/ Aunt re Child
- Leads to . . . Runaway (recurring theme in these cases)



# Dallas

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- V on the street
- How to survive? No skills, incomplete education
- Stays w/ acquaintance for short time
- Def approaches her at party
- “What else could I do?”
- She gets in the car



# Dallas

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- He takes her to apartment in Wichita
- “Visual inspection”
- Within hour of meeting Def – he is driving her down I-35 to Dallas
- Hotel in Dallas
- Told:
  - Prices
  - Don’t come back until you have \$XX.00

And, like that, she was on streets of Dallas



# Dallas

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- Dallas cop who was paying attention (recurring theme)
- “What are you doing here?”
- He did not stop at her initial resistance
- Approached her as victim not suspect
- He checked:
  - Trac phone
  - Locations she mentioned (hotel receipt)



# Dallas

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- Back to Wichita (no one at Airport)
- Turned herself into WCH later
- Off. Kent Bauman – investigated
  - Hotel receipt
  - 2<sup>nd</sup> hotel receipt
- S.R.S. got her on her feet
- She motivated to get her own child back



# Dallas

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- Trial
  - Dallas Officer
  - 2 South-Asian Hotel Owners – brought here
  - Victim
- The 2<sup>nd</sup> Receipt – proved very helpful (how could she have known)



# Dallas

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- Mr. Williams: “I’m going to prison for driving a girl in a car?!?!”
- A: Yes





# Dallas

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- Resources
- Expertise of Dallas law enforcement on “the track” and corroboration
- Expert witnesses on prostitution
- LETOT and the Dallas Junior League
- Expertise on interviewing victims



# Appellate Review

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- Affirmed by COA on 7-8-11
- Statute is NOT overbroad.
- Statute is NOT vague.
- Statute is NOT identical to promoting prost.

**BUT**

- Petition for Review filed by defendant on 8-5-11.



# Judge Pierron - COA

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“Agg. HT is “clearly aimed at preventing the exploitation of minor children. The statute only applies where the offender knows that a child will be used to engage in forced labor, involuntary servitude, or sexual gratification of the offender or another. **The State has a compelling interest in the well-being of its children and in the exercise of its police powers may enact legislation to protect children from adult predators.**”

- State could have charged promoting prostitution, but could also proceed under this statute, or have charged both.



# Case Studies - SG

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Marc Bennett

Deputy District Attorney SG

316-660-3683

[mabennet@sedgwick.gov](mailto:mabennet@sedgwick.gov)



**15 HT Cases filed in SG County  
since Williams**



# Atlanta

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- Charged with Agg. Trafficking
- Victim was 15 and from Atlanta, Georgia so sent home to mother
- 90 days later when trial set – contact mother in Georgia
- V is gone again. On streets of Atlanta
- No victim – no case
- Plead to low level PF



# Wichita Escort Service

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- Legal & licensed by the city.
- “Sinful Wish” – real subtle?
- Cop who was paying attention.
- 15 year old with older woman known to engage in prostitution.
- Car stop.





# Wichita Escort Service

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- Her photo layout on website (“Moneymaker” tattoo) and nude color glossy of her on manager’s desk.
- Day Mgr. , Night Mgr. and Pimp all arrested
- Victim granted immunity to testify.
- She uncooperative/ abrasive (issues – pacifier; pregnant now).
- Be aware - not all victims initially happy to receive your help.



# Wichita Escort Service

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- 70 + year old pimp from Salina owned Wichita business
- Plead to prison time
- Two managers plead to sex offenses
- Not expunge-able
- Registered sex offenders



# And more . . .

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- 3-13-11 Both a pimp and the john charged.
- Donald Davis (48) - rape and agg. Human trafficking of a 13-yr-old aka "Babe."
- James M. Cochran (54) – 3 cts rape.
- She got in Davis' Escalade at a QT.



# And more . . .

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- 7-21-11 Michael Neloms (25) – Aggravated Human Trafficking and 2 cts Agg. Indecent Liberties (sex b/t 14 and 16)
- Michael Gress (54) – AIL and Criminal Sodomy.
- At prelim: She had been advertised for escort services over Neloms' computer. Credit card. 20-30 trips to the hotel.



# Victim?

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- Q: Did you consider him your pimp?
- A: No.



# Dismiss and Refile

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“Welcome to the world of Human Trafficking Prostitution.”



# Human Trafficking - Recognition

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- Recognition of trafficking victim. There is no silver bullet but look for the following:
- Children
  - Uncooperative at initial contact
  - No access to personal information
  - “I don’t know my phone #, address, no parents or guardian.”
  - Completely adult controlled by nonrelative.
  - Truant. Not enrolled at all.
  - Runaway. (Check with EMCU, computer data)
  - Prostitution.
  - Will not give Hx, only boyfriend gives Hx.



# What to watch for

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- TRAC phones (pimp's best friend as it serves as his GPS monitor & the sword over her head, without a trace).
- Facts of initial disclosure? How did she come to your attention?
- ER
- Manager of a Kwik Shop
- Hx, Hx, Hx = TRAINING TO LEOS





# Veronica's Voice

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Kristy Childs

Founder and Executive Director

and

Co-Founder of Kansas City  
Coalition Against Sexual  
Exploitation (KC-CASE)



# Child Labor Trafficking

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Jerry Kuckelman

Atchison County Attorney



# January 11, 2010

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- AG Six forms the Kansas Human Trafficking Advisory Board
- **2011 - AG Schmidt** continues HTAB
- Four Pronged Approach
  - Prevention
  - Protection
  - Prosecution
  - Partnership



# January 11, 2012

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- AG Schmidt expands HTAB
- MDT approach to include legislators



# Goals AG HTAB

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- Task Force
- Identify Funding Resources
- Recommendations of Best Practices
- Coordinated Community Response
- Public Awareness
- Decrease Human Trafficking



# Coordinated Response

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- Grassroots organizations and NGO's cropping up
- Based on stats and research: ASERCA
- Based on activism: ICT.SOS
- Polaris Project ranks MO higher than KS
- Shared Hope International gives KS an "F"
- ***There is no statewide coordinated response at this time.***



**“You can’t find what you’re  
not looking for.”**



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Questions?

**Christine Ladner, AAG**  
**[christine.ladner@ksag.org](mailto:christine.ladner@ksag.org)**

**785-296-2215**