



Office of the Kansas Attorney General
120 SW 10th Avenue, 2nd Floor
Topeka, KS 66612-1597
(785) 296-2215 FAX (785) 296-6296
www.KSAG.org

Testimony for Senate Judiciary Committee
SB 61
Christine M. T. Ladner, Assistant Attorney General
January 28, 2013

Chairman King and Members of the Committee:

Thank you for the opportunity to speak in support of SB 61, a comprehensive bill against commercial sexual exploitation and human trafficking. I am Chair of Attorney General Derek Schmidt's Human Trafficking Advisory Board (HTAB).

Soon after the establishment of Kansas Human Trafficking Advisory Board in January, 2010, Kansas was in the spotlight on human trafficking.¹ Human Trafficking is a \$32 billion dollar crime industry worldwide, running a close third behind drug and arms dealing. But it is no longer just an international problem. The U.S. State Department estimates that more than 250,000 American citizens and legal residents, most of them children under age 18, are being trafficked within this country.

In 2010, there was recognition that Wichita and the Kansas City area were becoming hubs for traffickers and their victims; 80 percent of those victims are women and girls. Law enforcement professionals taught us that young girls are lured by traffickers by expressions of affection: "Come, be my girlfriend." Later, "Be my girlfriend" turns into "Be his girlfriend, I need money, and he'll pay for it." These cases are very difficult to prosecute. Drug abuse and chronic runaway status of the victims make these cases more difficult to investigate. Physical, sexual and emotional abuse distorts the ability of the victims to disclose and/or cooperate with authorities. Troubled youth from broken families or in difficult relationships often become victims of trafficking. The usual age of a trafficked child's first exploitation is 12-13, with some younger than 9. In these situations, women and children are viewed as disposable commodities.

¹ Denzer, M. (2010, April). Kansas City to be a model city in human trafficking fight. *The Catholic Key*. Retrieved from <http://catholickey.com>

I. Scope of the Problem in Kansas

Human trafficking is occurring in Kansas at a rate in which the state is currently unprepared to address. Both Wichita and Kansas City have been recognized as major originating cities for human trafficking. Officers located in the Wichita-Sedgwick County Exploited and Missing Child Unit report that sex traffickers often pick up runaways within 48 hours of their being on the streets and transport them to either Dallas or Chicago within 72 hours.²

In addition to the sex trade, the vast rural areas in Western Kansas are conducive to human trafficking for forced labor on farms and in food processing plants.³ While originally noticed in Wichita and Kansas City, human trafficking reports from victim service agencies indicate it is also occurring in many mid-level communities across the state.⁴ Domestic violence and sexual assault programs across the state reported working with 26 human trafficking victims in FY 2011:

26 Victims reported from DV and SA programs:

- 19 adult females
- 7 child females

Regions:

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

While Wichita and Kansas City have some specialized law enforcement units addressing the problem in their respective communities, the vast majority of Kansas has remained vulnerable ground for human traffickers, with no coordinated linkage to the efforts in the larger Kansas communities. Both knowledge of the prevalence of trafficking in Kansas and effective response to trafficking remain elusive due to lack of awareness, lack of identification measures, lack of experience in investigating and prosecuting these cases, absence of tracking protocol, and limited strategic response. Kansas law enforcement officers surveyed indicated they feel ill equipped to effectively respond to human trafficking crime and need training in this area. Of those Kansas officers interviewed in a 2009-2010 ongoing face-to-face research survey, 100% expressed a perceived need for training on the following topics associated with human trafficking: current federal and state laws; identifying cases, methods for investigating cases, understanding the rights of victims, and understanding how law enforcement's response to

² Detective Kent Bauman, Wichita, interview, Exploited and Missing Childrens Unit (EMCU), 2009

³ Mike Coan, corporate safety director of ConAgra Red Meat, quoted page 160 of *Fast Food Nation* by Eric Schlosser. (2006).

⁴ Victim Service Agency Semi-annual Reports to the Office of Attorney General, 2011.

victims impacts the victim's mental health and ability to cooperate with investigations and prosecution.⁵

Data from the Exploited and Missing Children's Unit in Wichita indicates that sex trafficking cases have more than tripled over the past four years, growing in numbers as follows:

2006 – 11 cases
2007 – 10 cases
2008 – 9 cases
2009 – 17 cases
2010 – 22 cases
2011 – 45 cases
2012 – 11 victims, 15 suspects, total of 10 cases⁶

In the fall of 2011, the Wichita Police Department gave a media briefing on the numbers that included an explanation for the increase, a discussion on the difficulty in these investigations and a summary of local proactive measures used to combat the problem. An editorial on the spike in numbers followed:

Wichita has a sex-trafficking problem

The idea of Wichita as a hotbed of sex trafficking may seem unfathomable. But the fact that cases have tripled in recent years — from nine in 2008 to 22 in 2010 to 28 already in 2011 — speaks for itself. And it doesn't speak well of Wichita. More staffing next year at the Wichita-Sedgwick County Exploited and Missing Child Unit surely will help, but this trend poses a serious challenge for the community. It's another reason parents need to be attentive to what's going on in their kids' lives, especially online. But its roots are complicated, because many of the girls caught up in this trend start as runaways from abusive homes. Wichita's problem deserves attention from Gov. Sam Brownback, who had such a distinguished record in the U.S. Senate of fighting global human trafficking.⁷

⁵ Luttrell, Vicky. *Human Trafficking in the Midwest: Experience and Perception Among Kansas Law Enforcement Officers – An Exploratory Study*. B.A. thesis. Washburn University, Topeka, 2006. (Unpublished).

⁶ Statistics from WPD Press Briefing on September 21, 2011. Cpt. Michael B. Allred WPD, updated January 23, 2013 by Lt. Jeff Weible. These statistics are inclusive of cases where EMCU-ICAC have identified high risk victims of potential human trafficking. In 2011, 17 individuals were charged in Sedgwick County with felony crimes related to human trafficking type investigations. Of these, one (1) case was charged in Federal Court. One (1) case involved two (2) suspects charged in District Court with forty (40) felony counts each. In 2012, four (4) of those cases were successfully prosecuted by Sedgwick County District Attorney Marc Bennett: State v. Donald Davis, State v. James Brown, State v. Jennifer Jones Lopez and State v. Michael Gress.

⁷ Holman, R. (2011, September 25). Wichita has a sex-trafficking problem. *The Wichita Eagle*.

II. AG's Human Trafficking Advisory Board – The Beginning

The Attorney General's Human Trafficking Advisory Board (HTAB) was established in January, 2010. The Kansas HTAB is comprised of a team of experts from a wide range of backgrounds including law enforcement, prosecutors, court personnel, victim advocates, academia, health care, immigration services, legislators, key state agencies and other pertinent parties who have expertise in the field.

Immediately upon taking office in 2011, General Schmidt was very supportive of the battle against human trafficking. Formerly during his time in the legislature, he promoted changes to our human trafficking laws to allow for asset forfeiture from traffickers who gained assets from trafficking. General Schmidt attended the first available HTAB meeting on January 21, 2011. He expanded the board, appointing three legislators and representatives of other state agencies to strengthen the Kansas response to human trafficking. General Schmidt tasked HTAB to examine current laws and to propose legislation to strengthen our laws against trafficking and commercial sexual exploitation.

III. HTAB Determines Existing Law Falls Short

HTAB found that Kansas laws were weak when it came to commercial sexual exploitation. The deficits got national attention. Missouri unveiled a large legislative package in 2011. Comparisons to Kansas were inevitable. The Kansas City Star published an article criticizing Kansas' law on human trafficking in comparison to other states.⁸

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

Credited Categories:

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

Categories still needed:

- Investigative tools
- Training for law enforcement
- Human Trafficking Task Force
- Posting of National Hotline
- Safe Harbor – Protecting Sex Trafficked Minors
- Victim Assistance

⁸ McGraw, M. (2011, September 10). Kansas law falls short in combating human trafficking. *The Kansas City Star*.

- Access to Civil Damages
- Vacating Convictions for Sex Trafficking Victims

Also in the news was the poor grade Kansas received from Shared Hope International⁹. Shared Hope International, like the Polaris Project, is an NGO whose purpose is to combat human trafficking. Shared Hope gave Kansas an “F.” Missouri got a “B.” The grade did not reflect how well states enforce their laws, only the adequacy of existing laws.

In 2012, HTAB proposed HB 2779 to address some of the weaknesses, but in the waning days of the 2012 legislative session the bill did not make it out of committee. This gave us the opportunity to fine tune the bill and make it more comprehensive. HTAB formed a very hard working legislative subcommittee. This group took the draft legislation from 2012 and developed the current bill. HTAB found that our current laws aimed at facilitators and purchasers including promoting prostitution and patronizing a prostitute are weak and seldom used. The language “prostitute” implies a promiscuous, less than credible victim, or even worse, the moniker implies that someone who is a “prostitute,” even a child, is no victim at all. The exchange of value for sexual relations is not addressed within our current human trafficking statutes.

After much discussion, HTAB determined that the legislative package should encompass a number of the topics where Kansas ranked low, recognizing that a comprehensive collaborative approach is needed. The legislative tool box should include enhanced criminalization of conduct, but should also include training, a coordinated response among the stakeholders, placement options and victim services, mandatory fines and establishment of a victims assistance fund and other features.

IV. Features of SB61

Taking into consideration the Kansas experience of where we have come from since 2005 when our human trafficking statutes went into effect, the criticism of the NGO’s, the experience and recommendations of the stakeholders who are the “boots on the ground” in this battle, this bill is a starting point that touches on a number of areas within our laws. Key features are:

Training for Law Enforcement, Victim Assistance, Special Protections for Juvenile Victims

- The AG is authorized to coordinate training for law enforcement agencies
- HTAB is designated the official HTAB for Kansas and specifies membership from various key state agencies and stakeholders, including the Governor’s Office
- The establishment of a human trafficking victim’s assistance fund (HTVAF) sourced from mandatory fines paid by defendants who are convicted of commercial sexual exploitation of a child or buying sexual relations
- Special Child in Need of Care treatment under the Juvenile Code for children who have been subjected to human trafficking, aggravated human trafficking or

⁹ Sylvester, R. (2011, December 1). Kansas rates poorly for sex-trafficking laws. *The Wichita Eagle*. McGraw. M. (2011, December 1). States at opposite ends of scale in penalizing sex traffickers. *The Kansas City Star*.

commercial sexual exploitation of a child (CSEC), including staff secure facilities with specially trained staff for this chronic runaway population

- Fast track expungement for those convicted of selling sexual relations if they have been subject to coercion

New Crime of Commercial Sexual Exploitation of a Child to Protect <18's, Enhanced Penalties, Fines, Education

- The new crime of Commercial Sexual Exploitation of a Child is created, increasing the penalties of the former crimes of patronizing a prostitute and promoting prostitution of persons <18 to a Severity Level 5 Person Felony for a 1st offense and Severity Level 2 Person Felony for a 2nd offense
- Commercial Sexual Exploitation of a Child <14 carries the penalties of Jessica's Law: life with a hard 25, life with a hard 40 or life.
- Mandatory fines of \$2500 to \$5000
- All fines go to HTVAF
- Authorizes the National Human Trafficking Resource Center (NHTRC) hotline to be posted in workplaces and posted on the official websites of the Attorney General, the Department of Labor and the Department for Children and Families
- Requires those convicted of commercial sexual exploitation of a child to register under the Kansas Sex Offender Registration Act

Elimination of the Moniker "Prostitute," Affirmative Defense

- Eliminates the word "prostitute" from our laws. The new offense is "selling sexual relations"
- Provides an affirmative defense if the offender was a victim of trafficking or CSEC

Demand Reduction, Enhanced Penalties and Fines, Changing the Concept from "Prostitution" to "Buying and Selling Sexual Relations"

- Changes "promoting prostitution" to "promoting the sale of sexual relations"
- Increases penalty from class A person misdemeanor to a Severity Level 9 Felony for a 1st offense, severity level 7 Person Felony for a 2nd offense
- Mandatory fines of \$2500 to \$5000
- All fines go to HTAV
- Changes "patronizing a prostitute" to "buying sexual relations"
- Increases the penalty from a class C misdemeanor to a class A person misdemeanor for a 1st offense, severity level 9 person felony for a 2nd offense
- Educational programs regarding commercial sexual exploitation (John Schools)

Tools for Law Enforcement, Enhanced Penalties

- Sentencing enhancements: makes sexually motivated aggravated human trafficking and CSEC “sexually violent offenses” for purposes of aggravated habitual sex offender status, life time post release supervision and sex offender registration
- Makes CSEC < 14 subject to the sentencing provisions of Jessica’s Law
- Makes sexually motivated aggravated human trafficking <14 and CSEC <14 a crime of “extreme sexual violence” thereby limiting judges from granting downward departure sentences
- Adds the crimes of human trafficking, aggravated human trafficking, CSEC and buying or selling sexual relations to the list of crimes eligible for wiretap authorization

V. Conclusion

Kansas has stand alone statutes criminalizing *trafficking* conduct, but we need to do a much better job at going after the *facilitators and purchasers* of sex with our children. We need to change the culture of how people view the sale of sex, whether purchased from adults or children. This legislative package targets that class of offenders and provides additional tools for the stakeholders who work with these victims to stop human trafficking and commercial sexual exploitation. The training and infrastructure needed to accommodate these special victims of exploitation and to prosecute their traffickers is currently not adequate. This bill helps. It is particularly aimed at people who buy sex from our children.