

KLAAS ACTION

REVIEW

THE NEWSLETTER OF THE KLAASKIDS FOUNDATION

A mile a minute....
that is how fast your child can disappear



A MESSAGE FROM MARC

In 2005, Congress passed the REAL ID Act to establish minimum standards for participating states when issuing drivers' licenses and identification cards acceptable for official federal purposes. This was a legislative response to the independent, bipartisan 9/11 Commission's recommendation that the United States improve its system to secure identification documents. The Commission concluded that for terrorists, travel documents are as important as weapons, and the goal was to ensure that people are who they say they are.

Unfortunately, efforts to distort the REAL ID program at the state level are now undermining its ability to fulfill this important goal. When similar tactics were employed to vilify Megan's Law in the 1990s, states that were slow to fulfill the new law that mandated sex offender registration and community notification became magnets for individuals seeking to avoid compliance.

In July 1994, seven-year-old Megan Kanka was kidnapped, raped and murdered by a

recidivist sex offender who lived across the street from her in suburban New Jersey. Megan's mother said that she never would have allowed her daughter to remain unsupervised in the front yard had she known that a heinous criminal lived in her neighborhood. Mrs. Kanka's outrage prompted Megan's Law, legislation that required the states to register convicted sex offenders and share that information with the public. Despite the overall success of Megan's Law, 24% of the 614,006 sex offenders currently required to register are non-compliant. They have provided incorrect information, do not register or have otherwise gone underground.

REAL ID would go far toward making it easier for law enforcement to track and monitor some of America's worst criminals by providing them with a powerful

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THE LEGACY: THREE STRIKES & YOU'RE OUT

Between 1970 and 1994, California consistently posted significantly higher crime rates than the rest of the nation. The senseless and unrelated murders of a young woman and a little girl prompted the citizens of California to create a firewall against violent crime. One legislative result was the controversial "Three Strikes and You're Out" law. After 10 years of implementation California had 2,000,000 fewer crime victims than in the previous decade.

In the summer of 1992, a paroled felon murdered 18-year-old Kimber Reynolds during a botched burglary in Fresno, CA. Three weeks later, Kimber's father Mike convened an informal meeting of law enforcement professionals to discuss California's epidemic of violent crime. Shortly thereafter, he testified before the California legislature with enhanced penalty legislation that he called the "Three Strikes and You're Out" law. Unfortunately, nobody listened.

On November 30, 1993, a violent recidivist offender was arrested and ultimately convicted of kidnapping and killing my daughter, Polly. In December 1993, support of the Three-Strikes sentencing initiative began to thrive. Fueled by outrage over Polly's tragedy, 800,000 signatures, twice the number required, were ultimately turned in. On March 7, 1994, Gov. Pete Wilson signed the legislative version of Three-Strikes into law. In November 1994, California voters passed the ballot proposition by 72%-28%.

The Three-Strikes sentencing structure for career criminals has two main penalty enhancement features. In both,

the prior felony conviction must be serious or violent to qualify as a "strike," but the present crime can be any felony offense. Also, most criminals qualifying pursuant to either provision are not eligible for probation and must serve at least 85% of their mandated prison term. Defendants sentenced under the two and three-strike provisions must first be convicted of a felony offense. The prosecutor must also allege and prove that the prior strike conviction occurred.

Safety Nets

Individuals prosecuted under the Two-Strike and Three-Strike provisions are afforded a series of safety nets to ensure that justice is being applied appropriately and evenly.

The prosecution may request that the court dismiss a felony strike under two circumstances: in the furtherance of justice, or if there is insufficient evidence to prove prior convictions. Judges received discretion to strike prior serious or violent felony convictions as a result of the *Romero* case. The *Romero* court found that a trial court may dismiss strike priors on its own motion in the furtherance of justice or by reducing certain charged felony offenses to misdemeanors. However, the trial judge's exercise of discretion is reversible by the appellate court.

Following conviction and sentencing, a defendant has the right to an appeal and to

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have counsel appointed for this appeal if he or she is indigent. On appeal, a defendant may challenge the sentence on the grounds that the trial court failed to exercise or abused its sentencing discretion. The defendant may also argue that the sentence imposed was unconstitutionally cruel and unusual. Should the defendant's appeal be unsuccessful, he or she may seek a petition for writ of habeas corpus.

Finally, Proposition 36 provides for probation and treatment for defendants charged with and convicted of nonviolent drug offenses. A Three-Strikes' candidate can qualify for drug treatment pursuant to Proposition 36 if he or she has been out of prison for the past five years and during that period has remained free of: parole or probation; a felony conviction (other than narcotics possession); and a misdemeanor conviction involving physical injury or the threat of physical injury.

Dramatic Decline in Crime Rates

Since Three-Strikes was first signed into law, California's crime rate has dropped by a dramatic 45% and the California Crime Index has steadily fallen back to the levels last seen in California in 1965. Similarly, the California homicide rate dropped to levels last recorded in the late 1960s and early 1970s.

In each year since the passage of Three-Strikes, the number of criminal defendants in California who have been convicted of a new felony offense and who had previously suffered a conviction for one serious or violent felony has remained relatively constant.

The annual number of defendants sentenced as third strikers has also varied substantially, from a high of 1,248 in 1996 to a

low of 165 in 2006. In fact, the number has declined every year since 1996. 7,976 third-strike defendants were admitted to state prison from 1994-2006. Overall, that amounts to slightly less than 1% of all of the convicted felons in California during the same time period.

Year	New Third Strikers Per Year	Cumulative Third Strikers
1994	150	150
1995	862	1,012
1996	1,248	2,260
1997	1,151	3,411
1998	1,046	4,457
1999	875	5,332
2000	684	6,016
2001	493	6,509
2002	422	6,931
2003	401	7,332
2004	242	7,574
2005	239	7,813
2006	165	7,978

Beginning in 1994, for the first time in more than 18 years, more parolees began to seek reciprocal supervision in states outside of California than the number of felony parolees from other states who were seeking to reside, and be supervised, in California. That means that since Three-Strikes was first implemented, California has become a net exporter of felony parolees, rather than a net importer.

Naysayers predicted that California's economy would collapse in the wake of the Three-Strikes law. They said that the prison population would double in five years, reaching 250,000. In fact, California's current prison population hovers at around 172,000, which is a 37% increase. In the 10 years prior to Three-Strikes, however, California's prison population expanded by 400%. They said that

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HUMAN TRAFFICKING IN THE USA: SOMEBODY'S DAUGHTER

Human trafficking has been a legislative priority in the U.S. ever since passage of the Trafficking in Victims Protection Act (TVPA) in 2000. The TVPA was based, in large part, upon the theory that the U.S. was considered as a destination country for trafficking in persons.

This assumption dictated the direction of the legislation, decided which agencies would administer the various programs, and which populations would be targeted by its goals of protection, prosecution and prevention. The State Department was charged with overseeing

Human sex trafficking occurs when, "a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age."

and administering the TVPA. Its mission is: create a more secure, democratic, and prosperous world for the benefit of the American people and the international community. A noble mission to be sure, but a mission that is globally directed. To date, \$528 million has

been spent internationally to achieve the primary goals of protecting victims, prosecuting traffickers and preventing future incidents of human trafficking.

Initial estimates cited in the TVPA suggested that approximately 50,000 individuals are trafficked into the U.S. each year. In 2005, the TIP report estimated that 14,500–17,500 individuals are trafficked into the U.S. each year. However, the number of victims assisted, the number of investigations

initiated and the number of successful prosecutions are inconsistent with these numbers. In fact, they are not even close. This calls into question not only the validity of the numbers, but also the theory upon which the law was based. Since 2000, the TVPA has been reauthorized twice, and is shortly to be renewed for a third time.

The 2005 TVPA reauthorization reflected a shift away from global trafficking, as it was amended to cover trafficking in persons that occurs inside the U.S. Our government has since allocated \$76.5 million and directed several federal agencies to advance domestic law enforcement efforts to protect, prosecute and prevent human trafficking.

Why is this important?

Human sex trafficking occurs when, "a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age." Between 1.6 and 2.8 million children run away annually in the U.S., half of which are girls. Within 48 hours of hitting the streets, one-third of these children are lured or recruited into the underground world of prostitution or pornography. The average age at which girls first become victims of prostitution is 12-14. For boys, the entry age is 11-13.

All of this strongly indicates that the U.S. is a source country as well as a destination country for human sex trafficking. This provides broad justification for a growing focus upon the domestic side of this issue.

Unfortunately, most of the services available to U.S. citizens do not relate to the issues faced by young girls in dire straits who

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exist with little hope, few resources and are under the burden of fear and coercion. Those services include:

- State Children's Health Insurance Program;
- Temporary Assistance for Needy Families;
- Supplemental Security Income;
- Health Screening;
- One-Stop Career Center System;
- Crime Victim's Compensation.

In order to truly provide for the rescue and restoration of citizen victims of human sex trafficking we should be providing the following services:

- Emergency, transitional, and long-term housing;
- Protection/safety planning;
- Legal services;
- Medical and mental health services;
- Crisis intervention;
- Emotional support and counseling;
- Social service advocacy;
- Literacy education (school, G.E.D.);
- Employment assistance;
- Clothing and food;
- Assistance in accessing government benefits.

Clearly, the best way to begin addressing this inequity is to amend the 2007 TVPA reauthorization to include expanded services, and requisite funding to victims by doing away with the requirement that links certification with eligibility for services. However, we must also vigorously address the issue in the trenches by providing viable training to law enforcement so that they are able to rescue victims, prosecute traffickers and prevent future incidents.

Since June 2003, the National Center for Missing and Exploited Children (NCMEC) has trained more than 900 law enforcement

participants in how to protect victims of child prostitution. The good news is that the vast majority of all of the children rescued from prostitution are being rescued by local law enforcement, specifically from the agencies that have focused on child prostitution as a trafficking issue. Unfortunately, many agencies, including ICE and some field offices of the FBI, are unaware that child prostitution is a trafficking issue.

Something is wrong with training methods

Law enforcement training curriculums need to be much more clearly defined. With more than 19,000 federal, state and local law enforcement agencies to serve, the training must be much more aggressive and much more proactive. If the NCMEC continues to train law enforcement participants at the current rate of training 180 per year, and assuming that each law enforcement participant represents one agency, it will take more than 100 years to train every one of the 19,000+ federal, state and local law enforcement agencies in the U.S.

How big is the problem?

According to the NCMEC, there are as many as 300,000 child prostitutes in the USA. The NCMEC has participated in the rescue of more than 300 child victims of human trafficking since June 2003, or 0.1% of the total. If they continue rescuing child prostitutes at the same rate, they will have eradicated domestic human trafficking in 5,000 years, once no more children are caught up in the web of child prostitution.

The domestic victims of human sex trafficking are not criminals. Many of them are missing. Many, but not all have run away or

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HUMAN TRAFFICKING IN THE USA: SOMEBODY'S DAUGHTER

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are throwaway children. Approximately 55% of street girls engage in formal prostitution. Of the girls engaged in formal prostitution, 75% work for a pimp.

Pimping involves a complex relationship between a male pimp and one or more women and/or girls. The pimp wields complete control and induces commercial sex acts in order to make money. The pimp attains total control and obedience through intense manipulation that begins during the grooming process. Manipulations include feigned affection, brutal violence, and verbal, psychological, and/or emotional abuse. This breaking-down phase takes a girl from healthy adolescent sexual boundaries to commercial sex with strangers.

The girls are often portrayed as criminals, drug addled crack whores who are incarcerated rather than assisted once law enforcement brings them in off of the street. On the other hand the pimp culture is glamorized through the music and video industry. We create pimp celebrities and legitimize them in mainstream media. It is not so "Hard Out There for a Pimp."

Since 2000, our understanding of the issue has grown immensely. We have learned that the U.S. is as much a supply country as it is a demand country. In fact, we are supplying much of our own demand. However, as a result of the original TVPA of 2000 specifying that services be focused on foreign victims, the program has become entrenched in the Foreign Service sections of the various agencies responsible for delivering services. Non-governmental agencies providing services to foreign victims of trafficking have been the recipient of massive influxes of appropriations,

since 2000, and seem unwilling to recognize and provide services to domestic victim, at the risk of losing millions of dollars.

What We Can Do

One would argue that you cannot put a price on the head of even one child that is rescued from a fate as terrible as human trafficking. As the father of a child who was kidnapped and murdered by a depraved pervert I understand and agree with that argument, but believe that it deflects attention away from the larger picture. Each and every one of these children is somebody's daughter.

The floor has crashed through the ceiling. To lower the bar so far that one promotes a pico-shift as significant progress endangers and diminishes the remaining victims, provides justification for financial irresponsibility, denotes skewed priorities, demeans the intelligence of the public and insults the integrity of the professional community.

President George W. Bush has committed the United States government to lead in combating the serious 21st century challenge of human trafficking. The best way to lead is always by example and acknowledging the extent to which human sex trafficking has affected our own society, and repairing the damage. We must seek legislative solutions and change society's perception. We must impact the victim's mindset as we rescue and recover them. Finally, we must identify and criminalize the traffickers. ■

THE LEGACY: THREES STRIKES & YOU'RE OUT

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California would need to build 20 new prisons, and cause prison costs to bankrupt the state. In fact, California has a net gain of five prisons since 1994. They predicted that Three-Strikes would cause a decrease in education funding. In fact, the Legislative Analyst's Office's statistics on state expenditures for education (kindergarten through 12th grade) show no decrease in funding. Since the passage of Three-Strikes, state expenditures for education have increased 83%.

Attempts to limit the Three-Strikes law have consistently failed. In 1993-1994, California took an active stand against crime,

targeting those who are not deterred by previous convictions and punishments, and made Three-Strikes into law. In the decade since, tens of thousands of serious and violent felons have been stopped, and millions of Californians have been protected. Three Strikes has directly and significantly acted to reduce crime in California. At the same time, during the past 10 years, no new prisons have been opened because of Three-Strikes. The criminal justice system has not crumbled. And although a 45% drop in crime does not come without costs, each victim spared and each life saved is priceless. ■

A MESSAGE FROM MARC

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new tool for deterrence. By providing minimum standards for the current patchwork of state licensing rules and procedures for driver's licenses, the REAL ID Act will make it much more difficult for dangerous people to obtain fraudulent identification documents.

The new, higher standards do not create a national database. State DMV data is proprietary in the sense that no other state can fish for information in another state's database. Data is not shared in a manner that does not conform to the Driver's Privacy Protection Act. Additionally, this is not a national ID card. Driver's licenses are still issued by states and not the federal government. And, states have flexibility regarding card design and security features used on the card. Finally, DMV employees are subject to background checks as a way to weed out insider corruption that steals your personal information for a fraudster's gain.

Residents of the five states that choose not to participate in the REAL ID program should understand the implications of non-compliance. They may become primary destinations for individuals who do not wish to undergo a comprehensive verification process when applying for officially accepted identification. The only way to eliminate this "weak link" status that threatens the safety of our families and our children is for each of those states to adopt the recommendations of the REAL ID Act.

The choice is simple. We can make the most of this opportunity to utilize 21st-century technology that will provide confidence in the security and integrity of credentials issued by participating states. Our other option is to continue with the present system that allows terrorists, registered sex offenders, illegal immigrants and other miscreants to avoid detection by continuing to exploit weak links in our national security system. ■

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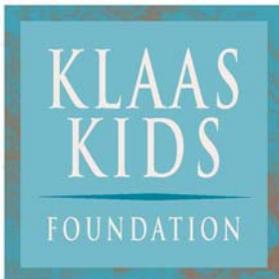
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