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NOTE

MODERN-DAY SLAVERY: HUMAN TRAFFICKING IN OKLAHOMA

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I. INTRODUCTION

After Mark Elam, Director of Oklahomans Against Trafficking Humans (O.A.T.H.), spoke to a group of Oklahoma middle school students about the dangers of talking to strangers online, a young boy approached him. This child explained his current family situation and how, during the presentation, he realized he was a victim of human trafficking. From a very young age, this child's family forced him to engage in commercial sex acts in order to pay for his mother's drug habit. This is the dim reality that a young Oklahoma child grew accustomed to—a horrific example of what human trafficking can look like in our very own backyard.

The Oklahoma legislature attempted to reduce the trafficking of persons throughout Oklahoma by enacting statutes aimed at prosecuting human trafficking violators, but these actions have proven insufficient.

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Oklahoma needs to take a serious stand against human trafficking by eliminating all forms of trafficking in persons within Oklahoma's own borders. The Oklahoma legislature could enact provisions modeled after the successful program in Illinois. Specifically, the legislature needs to implement effective programs to: (1) educate its own legislators and professionals; (2) train law enforcement officers; (3) create informational and educational programs for the community at large; (4) create revenue programs that will help pay for the anti-trafficking efforts throughout the state; and (5) prosecute human trafficking violations effectively.

This Note explores the current human trafficking problem in Oklahoma and potential methods that the legislature could use to combat it. Part II of this Note provides an overview of the human trafficking problem in the United States and in Oklahoma. Subsection A of Part II focuses on the United States as a whole, while subsection B focuses on Oklahoma in particular. Part III examines various federal and state laws aimed at combating human trafficking by analyzing the effectiveness of each. Subsection A of Part III analyzes the Trafficking Victims Protection Act of 2000.¹ Subsections B and C of Part III examine the current human trafficking laws in Oklahoma and Illinois to highlight the areas of Oklahoma law that need revision. Part IV addresses the reform needed in Oklahoma in order to more effectively and efficiently combat the human trafficking problem at the state level. Specifically, Part IV discusses the reasons why change is necessary, how any changes should be implemented, and the potential difficulties to such reform. Finally, Part V concludes that human trafficking cannot be eliminated overnight because it has become one of the most prolific organized crimes in the world; however, action at all levels must start immediately in order to prevent human trafficking from escalating to an uncontrollable level.

II. BACKGROUND OF HUMAN TRAFFICKING IN THE UNITED STATES AND OKLAHOMA

A. Human Trafficking in the United States

Thirty million people are enslaved around the world.² The trafficking of persons is not happening solely in developing countries; it is

1. Trafficking Victims Protection Act of 2000, 22 U.S.C. §§ 7101–7112 (2006).

2. DAVID BATSTONE, NOT FOR SALE: THE RETURN OF THE GLOBAL SLAVE TRADE—AND HOW WE CAN FIGHT IT 1 (1st rev. ed. 2010).

happening in the United States and in Oklahoma every day. There are over 300,000 children in the United States currently at risk for sexual exploitation.³ Human trafficking knows no “boundaries nor borders”;⁴ victims come in all forms, including men, women, children, young, old, rich, poor, foreigners, or nationals.⁵ Traffickers also come in a variety of forms, such as business owners, organized crime leaders, civic leaders, and even family members.⁶ This evil must be recognized worldwide in order to effectively eliminate the human trafficking industry. At the rate world governments and organizations are working, this catastrophe has no end; it will only continue to flourish. The current rescue rate stands at .001%, with over three hundred organizations and governments working to stop human trafficking globally.⁷ In 2006 there were 5,808 human trafficking prosecutions globally, resulting in only 3,160 convictions.⁸ This translates into only one conviction for every 800 trafficking victims.⁹ This is a devastatingly low prosecution and conviction rate worldwide.

Human trafficking has become the second largest and the fastest growing criminal activity in the world.¹⁰ It is an estimated \$32 billion per year industry.¹¹ The State Department reported that “approximately 800,000–900,000 people annually are trafficked across international borders worldwide and between 18,000 and 20,000 of those victims are trafficked into the United States.”¹² These estimations do not include the

3. *OJP Fact Sheet*, U.S. DEP’T JUSTICE (Dec. 2011), http://www.ojp.usdoj.gov/newsroom/factsheets/ojpbs_humantrafficking.html.

4. *Developments in the Law—Jobs and Borders*, 118 HARV. L. REV. 2171, 2186 (2005) [hereinafter “*Developments in the Law*”] (quoting ASSESSMENT OF U.S. GOVERNMENT ACTIVITIES TO COMBAT TRAFFICKING IN PERSONS 4 (2004), available at http://www.justice.gov/archive/ag/annualreports/tr2004/us_assessment_2004.pdf).

5. *The Victims*, POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/overview/the-victims> (last visited Feb. 3, 2013).

6. *The Traffickers*, POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/overview/the-traffickers> (last visited Feb. 3, 2013).

7. Interview with Mark Elam, Director, Oklahomans Against Trafficking Humans (O.A.T.H.), in Okla. City, Okla. (Nov. 10, 2011).

8. *Human Trafficking in Oklahoma*, HARRAH POLICE DEP’T, <http://www.harrahpolicedept.com/Human-trafficking.html> (last visited Feb. 3, 2013).

9. *Id.*

10. *Human Trafficking*, POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/overview> (last visited Feb. 3, 2013).

11. *Trafficking in Persons: Ten Years of Partnering to Combat Modern Slavery*, U.S. DEP’T STATE (June 14, 2010), <http://www.state.gov/r/pa/scp/fs/2010/143115.htm>.

12. U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 7 (2003), available at <http://www.state.gov/documents/organization/21555.pdf>.

number of citizens trafficked within the borders of the United States each year.

Human trafficking does not simply refer to the movement of people across or within borders. Rather, it encompasses the various forms of enslavement that victims are subjected to.¹³ Human trafficking has been referred to as “compelled service” and occurs when a person profits from the control and exploitation of another.¹⁴ Some victims are forced into sexual exploitation through kidnapping or are “sold by their own families.”¹⁵ Others voluntarily migrate or are smuggled into a new country in hopes of a better life.¹⁶

A person does not have to be taken across international borders in order to be considered a victim of human trafficking.¹⁷ People can become victims of human trafficking within their native country or even home state. In the United States this distinction is apparent in our laws; separate titles of the United States Code contain the human trafficking and smuggling offenses.¹⁸ It is important to note that the movement of a person is not a required component in the crime of human trafficking.¹⁹

The human trafficking industry has become very prevalent throughout the world, and there are more people enslaved today than during the trans-Atlantic slave trade.²⁰ This pervasiveness is due to the lower risks and higher profits traffickers can receive compared to other profitable organized crimes.²¹ Worldwide demand for cheap labor and

13. *What is Modern Slavery?*, U.S. DEP’T STATE., <http://www.state.gov/j/tip/what/index.htm> (last visited Feb. 3, 2013).

14. *Human Trafficking*, *supra* note 10.

15. *Developments in the Law*, *supra* note 4, at 2184–85 (citing FRANCIS T. MIKO, CONG. RESEARCH SERV., RL30545, *TRAFFICKING IN WOMEN AND CHILDREN: THE U.S. AND INTERNATIONAL RESPONSE* 2–3 (2004)).

16. *Id.* at 2184–85 (citing FRANCIS T. MIKO, CONG. RESEARCH SERV., RL30545, *TRAFFICKING IN WOMEN AND CHILDREN: THE U.S. AND INTERNATIONAL RESPONSE* 3 (2004); Aiko Joshi, *The Face of Human Trafficking*, 13 *HASTINGS WOMEN’S L.J.* 31, 31 (2002)).

17. *What is Modern Slavery?*, *supra* note 13.

18. *See* 18 U.S.C. §§ 1581–1595 (2006) (outlining peonage, slavery, and human trafficking offenses); 8 U.S.C. §§ 1321–1330 (2006) (outlining general immigration and smuggling offenses).

19. *Human Trafficking FAQs*, POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/human-trafficking-faqs> (last visited Feb. 3, 2013) (“Is human trafficking a crime that must involve some form of travel, transportation, or movement across state or national borders? No.”).

20. *Modern-Day Slavery*, TRAFFICJAM, <http://trafficjam.org> (last visited Feb. 3, 2013).

21. Stephanie Richard, Note, *State Legislation and Human Trafficking: Helpful or Harmful?*, 38 *U. MICH. J.L. REFORM* 447, 449 (2005) (citing Bo Cooper, *A New Approach*

commercial sex fosters the human trafficking industry.²² In modern equivalents, a slave would have cost about \$40,000 during the height of the trans-Atlantic slave trade, whereas a trafficking victim today can be bought for \$90.²³ Compared to trafficking drugs or arms, the same person can be sold multiple times which relates to larger benefits for the traffickers.²⁴ Humans are trafficked for multiple reasons and in various ways, including labor trafficking, sex trafficking, child trafficking, child pornography, and intimate-partner trafficking.²⁵ When a husband forces his wife to sell herself for sex so he can keep up his drug habit, that is intimate-partner trafficking. When parents sell their teenage daughter for sexual services in order to pay rent, that is familial sex trafficking. When, instead of going to school and receiving a quality education, a child in this country is forced to work in the family restaurant in poor conditions or forced to pick crops in hot summer weather for twelve hours a day, that is child labor trafficking. Human trafficking can occur on a very simple level—in one's own home—and it can occur on a global scale; human trafficking literally has no boundaries.

Labor trafficking is the trafficking of foreign nationals for involuntary servitude.²⁶ Victims may perform domestic or industrial work.²⁷ Many victims typically work in a family home as a nanny or housekeeper. Other victims may be forced to work in a particular industry, such as farming or manufacturing, under inhumane conditions. When these trafficked men, women, and children are sent to the crop farm or manufacturing plant, it is because the conditions are so horrendous that no human being would ever work under those conditions voluntarily or for any amount of money. Picking crops in 100-degree weather for twelve hours a day seven days a week, with little food, water, and shelter is physically and mentally exhausting labor. Even worse,

to Protection and Law Enforcement Under the Victims of Trafficking and Violence Protection Act, 51 EMORY L.J. 1041, 1046 (2002)).

22. *Why Trafficking Exists*, POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/overview/why-trafficking-exists> (last visited Feb. 3, 2013).

23. *About Slavery: Modern Slavery*, FREE THE SLAVES, <http://www.freetheslaves.net/SSLPage.aspx?pid=301> (last visited Feb. 3, 2013).

24. *Developments in the Law*, *supra* note 4, at 2186 (citing Kelly E. Hyland, *Protecting Human Victims of Trafficking: An American Framework*, 16 BERKELEY WOMEN'S L.J. 29, 38 (2001)).

25. Interview with Elam, *supra* note 7.

26. See 22 U.S.C. § 7102(8)(B) (2006).

27. *Labor Trafficking in the US*, POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/labor-trafficking-in-the-us> (last visited Feb. 3, 2013).

trafficking victims rarely receive any form of payment for their labor and having no choice as to whether they can leave. Working in a cramped factory during the middle of summer with no air conditioning, with equipment that is not up to standard, and with little to no training is a very dangerous environment to work in, regardless of where in the world it happens. But it is happening in our local communities and in our state: That is the current condition of labor trafficking in the United States.

The Trafficking Victims Protection Act identifies labor trafficking as a severe form of trafficking in persons.²⁸ Many of those trafficked are brought into a new country legally but then exploited for purposes beyond the scope of the visa.²⁹ Most foreign nationals are trafficked with the promise of a new life, good pay, and a steady job; they migrate voluntarily not realizing what they are signing up for.³⁰ When these victims reach the destination country their passports are confiscated and they are forced to work in poor conditions for long hours and little pay.³¹ This leaves many victims with little choice but to obey their trafficker. Many labor trafficking cases are treated as visa fraud and therefore are neither seen nor understood as a human trafficking problem.

Human trafficking for sexual exploitation is a rampant problem in the United States and Oklahoma. The Trafficking Victims Protection Act defines sex trafficking as a commercial sex act that “is induced by force, fraud, or coercion” and is considered a severe form of trafficking in persons.³² A commercial sex act is defined as “any sex act on account of which anything of value is given to or received by any person.”³³ Roughly seventy percent of all human trafficking victims around the world are women and young girls, and most of them are forced into the commercial sex industry.³⁴ Half of the victims trafficked into the United

28. 22 U.S.C. § 7102(8)(B).

29. *Factories/Manufacturing*, POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/labor-trafficking-in-the-us/factories> (last visited Feb. 3, 2013).

30. *Developments in the Law*, *supra* note 4, at 2184–85 (citing FRANCIS T. MIKO, CONG. RESEARCH SERV., RL30545, TRAFFICKING IN WOMEN AND CHILDREN: THE U.S. AND INTERNATIONAL RESPONSE 3 (2004); Joshi, *supra* note 16, at 31).

31. FRANCIS T. MIKO, CONG. RESEARCH SERV., RL30545, TRAFFICKING IN WOMEN AND CHILDREN: THE U.S. AND INTERNATIONAL RESPONSE 3–4 (2004).

32. 22 U.S.C. § 7102(8)(A) (2006).

33. *Id.* § 7102(3).

34. *Developments in the Law*, *supra* note 4, at 2187 (citing U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 15 (2004), available at <http://www.state.gov/documents/organization/34158.pdf>).

2013]

Modern Day Slavery

111

States are forced into the commercial sex industry as well.³⁵ However, this does not include the United States citizens who are victims of human trafficking because few studies focus on victims of human trafficking who are U.S. citizens.³⁶ At least one commentator suggests that most of the victims who are United States citizens are forced into the commercial sex industry.³⁷ Some estimates reveal that there are between 100,000 and 300,000 child victims of forced prostitution in the United States.³⁸ Each one of these victims is someone's child, sibling, spouse, or friend. Each victim has a family suffering from an unexplainable loss that cannot be understood; their loved one is missing, and they do not know whether she has been kidnapped, murdered, or possibly worse. Human trafficking is that worst possible fear.

B. Human Trafficking in Oklahoma

Oklahoma is a source of both labor trafficking and sex trafficking. In 2004 a federal court in Oklahoma heard a labor trafficking case.³⁹ Fifty-two Indian nationals brought an action against the John Pickle Company for violations of the Fair Labor Standards Act.⁴⁰ The John Pickle Company had legally brought these workers to Tulsa for training to work at a manufacturing facility.⁴¹ However, the workers were brought to Oklahoma under false pretenses and were not given all they were promised. The Indian nationals were told they would receive free room and board during their stay in Oklahoma, a guaranteed job for at least two years, raises after six months, and medical care paid for by the John Pickle Company.⁴²

Upon arriving in Tulsa, their passports, visas, and return-trip airline tickets were confiscated.⁴³ Each worker was paid only between \$2.89 and

35. *Id.* (citing FRANCIS T. MIKO, CONG. RESEARCH SERV., RL30545, TRAFFICKING IN WOMEN AND CHILDREN: THE U.S. AND INTERNATIONAL RESPONSE 7 (2004)).

36. *Human Trafficking Statistics*, POLARIS PROJECT, <https://na4.salesforce.com/sfc/play/index.jsp?oid=00D300000006E4S&viewId=05H60000000KKv7&d=0i1GKP5PVjb5g7wWmouadOJ20Kk%3D&v=06860000000HqhN> (last visited Feb. 3, 2013).

37. Interview with Elam, *supra* note 7; see *Human Trafficking Statistics*, *supra* note 34.

38. *Human Trafficking Statistics*, *supra* note 36.

39. See generally *Chellen v. John Pickle Co.*, 344 F. Supp. 2d 1278 (N.D. Okla. 2004).

40. *Id.* at 1279.

41. *Id.* at 1280.

42. *Id.* at 1280–81.

43. *Id.* at 1282.

\$3.17 per hour, far below minimum wage.⁴⁴ All fifty-two workers were forced to live in inhumane conditions at the facility in cramped quarters; food was rationed, and medical care was not provided.⁴⁵ This appears to be just one isolated—but very potent—example of the labor trafficking problem in Oklahoma. However, it should be noted that this case was not based on human trafficking violations; instead, the John Pickle Company was charged with deceit, false imprisonment, and violations of the Fair Labor Standards and Immigration Reform and Control Acts.⁴⁶

The United States is now considered the top destination for sex trafficking of children,⁴⁷ and Oklahoma is a main target for sex trafficking—especially child sex trafficking.⁴⁸ There are several factors that make Oklahoma a prime target for traffickers. Oklahoma's location is an important factor due to the intersection of Interstates 40, 44, and 35 in Oklahoma City.⁴⁹ This intersection is at the center of the United States. Traffickers have to keep their victims on the move in order to meet demand around the country and avoid getting caught.⁵⁰ Oklahoma is a central location between the nation's largest hubs of human trafficking. Houston is the number one city for child sex trafficking, Las Vegas is number two, Atlanta is number three, and Kansas City is in the top ten.⁵¹ With the major highways that connect these cities intersecting in Oklahoma City, Oklahoma is a perfect trade and transport location.

Oklahoma is also a prime target for recruiting children and young adults due to low economic standards, low education ratings, and low per capita income.⁵² Oklahoma ranks first in the nation in female incarceration⁵³ and child abuse deaths,⁵⁴ third in divorce,⁵⁵ and fifth in

44. *Id.*

45. *Id.* at 1285–86.

46. *Id.* at 1279.

47. FAQ, O.A.T.H., <http://www.oathcoalition.com/faq/> (last visited Feb. 3, 2013).

48. Interview with Elam, *supra* note 7.

49. Lori Fullbright, *Why Oklahoma Is a Prime Trade Route for Child Traffickers*, NEWS ON 6 (Nov. 18, 2010, 8:51 PM), <http://www.newson6.com/Global/story.asp?S=13533950>.

50. FAQ, *supra* note 47.

51. *Id.*

52. Fullbright, *supra* note 49.

53. SPECIAL TASK FORCE FOR WOMEN INCARCERATED IN OKLA., REPORT TO THE GOVERNOR, PRESIDENT PRO TEMPORE OF THE SENATE, AND SPEAKER OF THE HOUSE OF REPRESENTATIVES 3 (Jan. 5, 2004) [hereinafter TASK FORCE REPORT], available at <http://digitalprairie.ok.gov/utills/getfile/collection/stgovpub/id/24534/filename/24839.pdf>.

54. See EVERY CHILD MATTERS EDUC. FUND, GEOGRAPHY MATTERS: CHILD WELL-BEING IN THE STATES 6 (Apr. 2008), available at <http://www.everychildmatters.org/>

teen birth.⁵⁶ These statistics combined with Oklahoma's trade route location make Oklahoma residents, particularly women and children, vulnerable to human trafficking and sexual exploitation.

"Oklahoma incarcerates more women per capita than any other state in the country."⁵⁷ The top reason women are incarcerated in Oklahoma is drug violations.⁵⁸ Studies have shown that the majority of women with drug addictions experienced sexual abuse as children.⁵⁹ In Oklahoma, two out of every three incarcerated women report being abused as a child.⁶⁰ These women and their children are particularly vulnerable. The percentage of children growing up with absent mothers is rapidly increasing in Oklahoma;⁶¹ eighty-one percent of females incarcerated in Oklahoma have children.⁶² As a result, either extended family members raise the child or the child ends up in foster care, further increasing the child's risk of sexual abuse.⁶³ There are approximately 1,000 children in Oklahoma's foster care system because their mothers are incarcerated.⁶⁴

In Oklahoma, "[a] child is abused or neglected every 1 hour."⁶⁵ Every fourth girl and every sixth boy will be sexually abused as a child.⁶⁶

storage/documents/pdf/reports/geomatters.pdf.

55. See *Divorce Rates by State 1990, 1995, and 1999-2010*, CDC, http://www.cdc.gov/nchs/data/nvss/divorce_rates_90_95_99-10.pdf (last visited Feb. 3, 2013).

56. See JOYCE A. MARTIN ET AL., BIRTHS: FINAL DATA FOR 2010, at 7 (2012), available at http://www.cdc.gov/nchs/data/nvsr/nvsr61/nvsr61_01.pdf; *50-State and National Comparisons*, NAT'L CAMPAIGN TO PREVENT TEEN & UNPLANNED PREGNANCY, <http://www.thenationalcampaign.org/state-data/state-comparisons.asp?ID=4&sID=44&sort=rank#table> (last updated Aug. 2012).

57. Beverly R. Fletcher, Garry L. Rolison & Dreama G. Moon, *A Profile of Women Inmates in the State of Oklahoma*, OKLA. DEP'T CORRECTIONS, <http://www.doc.state.ok.us/offenders/ocjrc/94/940650L.htm> (last visited Feb. 3, 2013); TASK FORCE REPORT, *supra* note 53, at 3.

58. Fletcher et al., *supra* note 57; TASK FORCE REPORT, *supra* note 53, at 3.

59. Interview with Elam, *supra* note 7; see Lisa M. Najavits et al., *The Link Between Substance Abuse and Posttraumatic Stress Disorder in Women: A Research Review*, 6 AM. J. ON ADDICTIONS 273, 276 (1997).

60. TASK FORCE REPORT, *supra* note 53, at 8.

61. Interview with Elam, *supra* note 7; see Fletcher et al., *supra* note 57.

62. TASK FORCE REPORT, *supra* note 53, at 6; see Fletcher et al., *supra* note 57.

63. Erik Eckholm, *Bleak Stories Follow a Lawsuit on Oklahoma Foster Care*, N.Y. TIMES (Apr. 16, 2008), <https://www.nytimes.com/2008/04/16/us/16foster.html>; Interview with Elam, *supra* note 7.

64. TASK FORCE REPORT, *supra* note 53, at 10.

65. *Children in Oklahoma*, CHILD. DEF. FUND (Jan. 2011), <http://www.childrensdefense.org/child-research-data-publications/data/state-data-repository/cits/2011/children-in-the-states-2011-oklahoma.pdf>.

66. *Child Sexual Abuse Fact Sheet for Parents, Teachers and Other Caregivers*, AM. ACAD. EXPERTS TRAUMATIC STRESS, <http://www.aets.org/articles156.htm> (last visited

These children are often at risk;⁶⁷ they are more likely to act out and more likely to get into trouble. Childhood sexual abuse considerably increases the odds of delinquency.⁶⁸ Children who were sexually abused are 27.7 times more likely to be arrested for prostitution than children who were not abused.⁶⁹ The average age of a girl entering prostitution is twelve to fourteen; the average age of a boy is eleven to thirteen.⁷⁰

Mark Elam refers to the situation in Oklahoma as the “Romeo Case.”⁷¹ Traffickers choose a particularly vulnerable type of woman and lure her in by promising her a fairy-tale ending. Such a woman usually has no strong male figure in her life and is looking to fill that void; the trafficker seizes on this opportunity. The trafficker buys her things, pretends to love her, makes her feel safe, and then forces her into prostitution by making her think she owes him and threatening her if she refuses to comply. At this point the victim is helpless and sees no way out. She is scared for her life and the lives of her family; she has seen how violent the trafficker can become, and she is scared that he will harm her and then her family if she does not follow his every word.

In 2004, the FBI led a nationwide sting operation, known as “Stormy Nights,” including the Oklahoma City metro area.⁷² This interstate operation targeted child prostitution at various “truck stops and call services nationwide.”⁷³ During this operation the FBI rescued twenty-three young people who were forced into prostitution at truck stops in Oklahoma City⁷⁴ and arrested nine individuals.⁷⁵

Feb. 3, 2013).

67. TASK FORCE REPORT, *supra* note 53, at 6.

68. Cathy Spatz Widom, *Victims of Childhood Sexual Abuse—Later Criminal Consequences*, NAT’L INST. JUST. 4 (Mar. 1995), <https://www.ncjrs.gov/pdffiles/abuse.pdf>.

69. *Id.* at 5.

70. *Human Trafficking Statistics*, *supra* note 36, at 3 (citing RICHARD J. ESTES & NEIL ALAN WEINER, *THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN THE U.S., CANADA AND MEXICO* 92 (2001), available at http://www.sp2.upenn.edu/restes/CSEC_Files/Complete_CSEC_020220.pdf).

71. Interview with Elam, *supra* note 7.

72. *Crimes Against Children: Innocence Lost Case Summaries*, FBI, http://www.fbi.gov/about-us/investigate/vc_majorthfts/cac/innocencelost/innocence-lost-cases (last visited Feb. 3, 2013).

73. *Id.*

74. *Slaves in Our State: Human Trafficking in Oklahoma*, BAPTIST MESSENGER (Mar. 1, 2011), <http://baptistmessenger.com/slaves-in-our-state/>.

75. *Crimes Against Children*, *supra* note 72.

In October 2011, the human trafficking problem in Oklahoma was a front-page story. An Oklahoma family had received the worst news possible: their missing teen was found dead.⁷⁶ Carina Saunders, a recent high-school graduate in Oklahoma City, became involved with the wrong crowd, started using drugs, and ultimately paid a tragic price for it.⁷⁷ Traffickers forced a kidnapped Oklahoma woman to watch as the teen was tortured, beheaded, and dismembered.⁷⁸ The traffickers did this “to send a message to the kidnapped woman and her friends to cooperate with a prostitution ring or they would suffer the same fate.”⁷⁹

The traffickers left the teen’s dismembered body inside a duffle bag in a field behind a local grocery store.⁸⁰ The chief of police said the teen was “a victim of opportunity” for the traffickers.⁸¹ According to the police investigation, Carina was sacrificed because she had not been performing up to the traffickers’ expectations.⁸² This is another example of how human trafficking is an inescapable, real threat to every American and Oklahoman. One Oklahoma family understood this after it was too late; no family should have to face a tragedy of this magnitude again.

In February of 2013, the charges filed against the two individuals who were charged with the brutal murder of Carina Saunders were dismissed due to lack of evidence.⁸³ The Oklahoma State Bureau of Investigation is investigating the case further. Justice for Carina Sanders and her family is far from over.

76. See Bryan Dean, *Police: Drug Arrest Leads to Potential Break in Saunders Case*, NEWSOK (Dec. 1, 2011), <http://newsok.com/police-drug-arrest-leads-to-potential-break-in-saunders-case/article/3628093>.

77. *Id.*

78. Bryan Dean & Robert Medley, *Another Arrest Made in Bethany Killing*, NEWSOK (Dec. 21, 2011), <http://newsok.com/another-arrest-made-in-bethany-killing/article/3633876>.

79. *Id.*

80. *Id.*

81. *Terrified Woman ‘Forced to Watch as Human Trafficking Gang Tortured, Dismembered and Beheaded Teenage Girl in Front of Her,’* DAILY MAIL (Dec. 21, 2011), <http://www.dailymail.co.uk/news/article-2077059.html>.

82. *Id.*

83. Tim Willert, *Murder Charges Dismissed in Carina Saunders Homicide Case*, NEWSOK (Feb. 25, 2013), <http://newsok.com/murder-charges-dismissed-in-carina-saunders-homicide-case/article/3758920>.

III. HUMAN TRAFFICKING LAWS IN THE UNITED STATES

A. Federal Law: *The Trafficking Victims Protection Act*

In 2000 Congress enacted the first and only human trafficking federal statute in the United States, the Trafficking Victims Protection Act of 2000 (TVPA).⁸⁴ This Act intended to combat human trafficking at a federal level, particularly in the areas of sex and labor trafficking.⁸⁵ Congress reauthorized the TVPA in 2003, 2005, and 2008.⁸⁶ However, the TVPA is limited because it only recognizes severe forms of human trafficking. Congress has defined severe forms of trafficking in persons as:

(A) sex trafficking in which 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; 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.⁸⁷

The TVPA has several different functions and is modeled after a “three P’s” framework: prevention, protection, and prosecution.⁸⁸ The prevention component includes programs both to prevent potential victims from becoming victimized and incentives and sanctions to motivate other countries to comply with the TVPA’s anti-trafficking standards.⁸⁹ The protection component benefits victims of human trafficking but is dependent on several criteria. The individual must be a victim of severe human trafficking found within the United States and must be willing to help the investigation and prosecution of human

84. Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, div. A, 114 Stat. 1466 (codified as amended at 22 U.S.C. §§ 7101–7110 (2006)).

85. 22 U.S.C. § 7101(a).

86. See *State and Federal Laws*, POLARIS PROJECT, <http://www.polarisproject.org/resources/state-and-federal-laws> (last visited Feb. 3, 2013).

87. 22 U.S.C. § 7102(8)(A)–(B).

88. *Id.* § 7101(a); *Trafficking in Persons Report 2010 Letter from Secretary*, U.S. DEP’T STATE, <http://www.state.gov/j/tip/rls/tiprpt/2010/142744.htm> (last visited Feb. 3, 2013); *Developments in the Law*, *supra* note 4, at 2189; *State and Federal Laws*, *supra* note 86.

89. 22 U.S.C. § 7104; *Developments in the Law*, *supra* note 4, at 2189.

trafficking if he or she is above the age of eighteen.⁹⁰ The TVPA also reforms part of the Immigration and Nationality Act to help foreign victims of human trafficking rescued in the United States through the immigration process.⁹¹ The prosecution component created new human trafficking crimes that prohibit trafficking children for commercial sex purposes, knowingly providing or obtaining forced labor, or destroying or concealing someone else's passport.⁹² Congress has also created a private right of action for victims to sue traffickers in federal court for damages and attorney's fees.⁹³

In addition, the TVPA mandates annual reports on other countries' human rights practices and monitors their anti-trafficking efforts.⁹⁴ The TVPA authorizes the President to establish an "Interagency Task Force to Monitor and Combat Trafficking" to assist in the management of global anti-trafficking efforts.⁹⁵ This task force is responsible for the annual Trafficking in Persons Report,⁹⁶ which is the most comprehensive report on anti-human trafficking efforts by countries worldwide.⁹⁷ This report helps the United States encourage other countries to increase their efforts to eliminate human trafficking by ranking those countries according to their compliance with the TVPA standards.⁹⁸ In 2010, the report listed the United States for the first time.⁹⁹ According to the 2011 Trafficking in Persons Report, the United States "fully complies with the minimum standards for the elimination of [human] trafficking" set out in the Trafficking Victims Protection Act.¹⁰⁰ Nearly all states have enacted human trafficking statutes, and every state prohibits the prostitution of minors.¹⁰¹

90. 22 U.S.C. § 7105(b)(1)(E)(i); *Developments in the Law*, *supra* note 4, at 2191.

91. 22 U.S.C. § 7105(b)(1)(A)–(B); *Developments in the Law*, *supra* note 4, at 2191–92.

92. 22 U.S.C. § 7109; 18 U.S.C. §§ 1589–1591 (2006); *see Developments in the Law*, *supra* note 4, at 2192–93.

93. 18 U.S.C. § 1595; *Developments in the Law*, *supra* note 4, at 2193.

94. 22 U.S.C. § 7107(b)(1); *Developments in the Law*, *supra* note 4, at 2190.

95. 22 U.S.C. § 7103(b).

96. *Id.* §§ 7103(d)(2), 7107(b).

97. *See Office to Monitor and Combat Trafficking in Persons*, U.S. DEP'T STATE, <http://www.state.gov/j/tip/index.htm> (last visited Feb. 3, 2013).

98. FRANCIS T. MIKO, CONG. RESEARCH SERV., RL30545, TRAFFICKING IN WOMEN AND CHILDREN: THE U.S. AND INTERNATIONAL RESPONSE 11 (2004).

99. *Trafficking in Persons Report 2010 Letter from Secretary*, *supra* note 88.

100. U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT 372 (2011), *available at* <http://www.state.gov/j/tip/rls/tiprpt/2011/index.htm>.

101. *See 2012 State Ratings Map*, POLARIS PROJECT, <http://www.polarisproject.org/>

Statistics on human trafficking are still difficult to compile due to a lack of uniform data collection and the very nature of an industry that is very hard to identify and uncover.¹⁰² The lack of cases prosecuted as human trafficking offenses also makes it difficult to create statistics on the prevalence of human trafficking in the United States. Between 2001 and 2005 the federal government only investigated 555 suspects.¹⁰³ This is an extremely low number compared to the number of people trafficked into and within the United States each year.¹⁰⁴ During this time period, federal prosecutors declined to prosecute suspects in 222 of the 377 cases in which human trafficking was the lead charge.¹⁰⁵ Another problem hindering the federal battle against human trafficking is the current economic downturn in the United States. There is little funding to sustain or expand federal efforts and aid. In 2011, federal foreign aid for anti-trafficking projects decreased by \$5 million.¹⁰⁶

B. Oklahoma's Law

Oklahoma has made an effort to enhance its legislation to combat human trafficking by creating specific human trafficking crimes and sanctions for violations. The Oklahoma legislature defined human trafficking as “modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individual’s commercial sex act or labor.”¹⁰⁷ The Oklahoma legislature further defined human trafficking for labor and commercial sex:

what-we-do/policy-advocacy/current-laws (last visited Feb. 3, 2013); *Child Prostitution Statutes*, NAT’L DISTRICT ATTORNEYS ASS’N, <http://www.ndaa.org/pdf/Prostitution%20of%20Childre%20Aug2010.pdf> (last updated Aug. 2010).

102. See TRAFFICKING IN PERSONS REPORT, *supra* note 100.

103. MARK MOTIVANS & TRACEY KYCKELHAHN, FEDERAL PROSECUTION OF HUMAN TRAFFICKING, 2001-2005, at 1 (Oct. 2006), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/fpht05.pdf>.

104. See TRAFFICKING IN PERSONS REPORT, *supra* note 12, at 7.

105. MOTIVANS & KYCKELHAHN, *supra* note 103, at 1.

106. *International Grant Programs*, U.S. DEP’T STATE, <http://www.state.gov/j/tip/intprog/index.htm> (last visited Feb. 3, 2013).

107. OKLA. STAT. tit. 21, § 748(A)(4) (OSCN through 2012 Leg. Sess.).

2013]

Modern Day Slavery

119

5. “Human trafficking for labor” means:
 - a. recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion or for purposes of engaging the person in labor, or
 - b. benefiting, financially or by receiving anything of value, from participation in a venture that has engaged in an act of trafficking for labor;
6. “Human trafficking for commercial sex” means:
 - a. recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion for purposes of engaging the person in a commercial sex act,
 - b. recruiting, enticing, harboring, maintaining, transporting, providing, purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act, or
 - c. benefiting, financially or by receiving anything of value, from participating in a venture that has engaged in an act of trafficking for commercial sex.¹⁰⁸

In Oklahoma it is “unlawful to knowingly engage in human trafficking.”¹⁰⁹ Any violation of the human trafficking statute is a felony and may be punishable by not less than five years in prison, a fine up to \$10,000, or both.¹¹⁰ If the victim is a minor, then the punishment doubles to not less than ten years, a fine up to \$20,000, or both.¹¹¹ Oklahoma also provides an affirmative defense to victims of human trafficking that are charged with a criminal offense.¹¹²

The guidelines established for the treatment of human trafficking victims mandate that all victims shall:

1. Be housed in an appropriate shelter as soon as practicable;
2. Not be detained in facilities inappropriate to their status as crime victims;
3. Not be jailed, fined, or otherwise penalized due to having

108. *Id.* § 748(A)(5)–(6).

109. *Id.* § 748(B).

110. *Id.* § 748(C).

111. *Id.*

112. *Id.* § 748(D).

been trafficked;

4. Receive prompt medical care, mental health care, food, and other assistance, as necessary;

5. Have access to legal assistance, information about their rights, and translation services, as necessary; and

6. Be provided protection if the safety of the victim is at risk or if there is a danger of additional harm by recapture of the victim by a trafficker, including:

a. taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals, and

b. ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.¹¹³

In addition, Oklahoma provides victims with a civil remedy, similar to the one provided by the TVPA, to recover actual and punitive damages and attorney's fees from their trafficker(s).¹¹⁴ Victims have the right to bring a civil action even if the trafficker was not criminally prosecuted or convicted.¹¹⁵ This is important considering that most traffickers are not convicted under the human trafficking laws.¹¹⁶ The Oklahoma legislature authorized the Attorney General, only upon the availability of funds, to create a statewide emergency hotline that victims of human trafficking can call to request assistance.¹¹⁷ The Attorney General may also require county health departments to post the hotline number and the rights of human trafficking victims contained in the statute.¹¹⁸

Under Oklahoma law, property used in the attempt or commission of certain crimes, including human trafficking offenses, is subject to a property forfeiture statute.¹¹⁹ The current version of the forfeiture statute provides:

113. *Id.* § 748.2(A)(1)–(6).

114. *Id.* § 748.2(B).

115. *Id.*

116. *See supra* Part III.A.

117. OKLA. STAT. tit. 21, § 748.2(C).

118. *Id.*

119. *Id.* § 1738.

2013]

Modern Day Slavery

121

Any commissioned peace officer of this state is authorized to seize any equipment, vehicle, airplane, vessel or any other conveyance that is used . . . in any manner to facilitate or participate in the commission of any human trafficking offense in violation of Section 748 of this title, or used by any defendant when such vehicle or other conveyance is used in any manner by a prostitute, pimp or panderer to facilitate or participate in the commission of any prostitution offense in violation of Sections 1028, 1029 or 1030 of this title; provided, however, that the vehicle or conveyance of a customer or anyone merely procuring the services of a prostitute shall not be included.¹²⁰

This provision shows that Oklahoma is trying to take a stance against human trafficking, but it falls short. The statute allows for the seizure of any property that was “used in any manner or part, to commit any violation” of the human trafficking statutes.¹²¹ Yet, the statute does not discuss the seizure or forfeiture of *profits* derived from human trafficking. This statute simply returns property to the owner—without penalty—if the district attorney decides not to file a forfeiture action or fails to do so within ninety days of the seizure.¹²² However, the statute does outline how the proceeds of forfeited property shall be distributed, but it is not tailored to human trafficking violations in any manner.¹²³

In 2011, the Oklahoma legislature created compliance codes to establish safe homes for human trafficking victims.¹²⁴ These codes allow independent providers to establish safe homes for victims around the state as long as they are in compliance with the state mandated law. These safe homes are for victims of sexual violence as a result of human trafficking and are meant to provide victims with necessities such as “bedding, clothing, articles for grooming and personal hygiene, and food.”¹²⁵ However, the codes provide no funding for the shelters—they simply allow other organizations to fund and provide shelters to victims of sex trafficking. The legislature has also considered requiring the Oklahoma State Bureau of Investigation to establish a Human Trafficking Services Unit to provide services and shelter for victims of

120. *Id.* § 1738(A)(1).

121. *Id.* § 1738(B)(11).

122. *Id.* § 1738(C).

123. *See id.* § 1738(P).

124. OKLA. ADMIN. CODE § 75:30-3-3(a) (2011).

125. *Id.* § 75:30-3-3(a)(2)(A).

human trafficking; this was proposed in a bill sponsored by Representative Rebecca Hamilton in 2009, but the bill stalled early on in the Appropriations and Budget Committee.¹²⁶

Human trafficking victims, especially women and children, need safe shelters that cater to their particular needs because of the physical and mental traumas they have endured. These victims need careful attention and treatment in order to prevent their re-entry into the trafficking world, to aid their integration back into society, and hopefully to gain their help with prosecuting the traffickers. If these women and children have no where else to go then they will likely end up back under the traffickers control, for it is all they know. These victims need safe, stable environments to have time to heal and rediscover themselves. Selling their bodies for sex, over and over, day in and day out for years, is not something someone can recover from—physically, mentally, or emotionally—in a short period of time. Special shelters are needed to provide proper care and begin to undo the damage that no one should have to endure.

The Oklahoma Senate recently enacted the Greater Protecting Victims of Human Trafficking Act of 2010.¹²⁷ This Act prohibits the destruction, alteration, or confiscation of another's documentation, including passports, birth certificates, visas, or green cards.¹²⁸ This is an important step for Oklahoma's anti-trafficking efforts because many victims must stay with their traffickers because their documentation has been confiscated, and they are fearful of harsh penalties from the U.S. government.

C. Illinois' Law

The human trafficking laws passed in Illinois are the most effective examples of state human trafficking laws. The prevalence of prostitution in Illinois necessitates the need for strong human trafficking laws. Chicago has been called a "national hub for human trafficking," and the FBI has listed Chicago as an area of "High Intensity Child

126. See *Bill Information for HB 1840*, OKLA. ST. LEGISLATURE, <http://www.oklegislature.gov/BillInfo.aspx?Bill=HB1840&Session=0900> (last visited Feb. 3, 2013).

127. OKLA. STAT. tit. 21, § 446(C); see *Bill Information for SB 2258*, OKLA. ST. LEGISLATURE, <http://www.oklegislature.gov/BillInfo.aspx?Bill=SB2258&Session=1000> (last visited Feb. 3, 2013).

128. OKLA. STAT. tit. 21, § 446(C).

2013]

Modern Day Slavery

123

Prostitution.”¹²⁹ Every year at least 16,000 women and girls are prostituted in the Chicago area;¹³⁰ some figures estimate that the number is as high as 25,000.¹³¹ Seventy percent of women and children engaging in prostitution in Chicago “were recruited by another individual.”¹³²

In 2005, Illinois passed the Trafficking of Persons and Involuntary Servitude Act.¹³³ This act is one of the strongest state laws against human trafficking.¹³⁴ It creates three new criminal offenses: “[t]rafficking in persons for forced labor or services,” “[i]nvoluntary servitude of a minor,” and “[i]nvoluntary servitude.”¹³⁵ The act also “increases access to health and social services for victims” and “imposes [more] severe penalties on traffickers.”¹³⁶

The laws passed in Illinois in 2009 take a new approach on the stance against human trafficking. The effectiveness of the laws depends in large part upon the manner in which they were passed. Prosecutors, not legislators, revamped the anti-trafficking laws in Illinois.¹³⁷ This is imperative if the laws are to function effectively because prosecutors are the people who need to understand the law to use it successfully in practice. If the prosecutors do not understand or even know about the law they will never use it to charge criminals. This is likely the reason most human trafficking cases are not tried as such. Instead prosecutors use sex exploitation or visa fraud laws to convict traffickers. Most cases of this nature do involve several different types of crimes, but at the core the crime is usually human trafficking.

Prosecutors in Illinois helped drive these new laws through the state legislature, and now they are using the laws they created to prosecute human traffickers. This process is the key to successful state human trafficking legislation: if the culprit is not prosecuted as a trafficker then the victim may not be eligible for the benefits provided by human

129. CHARLES HOUNMENO, HUMAN TRAFFICKING IN ILLINOIS FACT SHEET 1–2 (2012), available at http://www.uic.edu/jaddams/college/research_public_service/files/TraffickingInPersonsInIllinois_FactSheet09202010.pdf.

130. *Human Trafficking Statistics*, *supra* note 36, at 4.

131. HOUNMENO, *supra* note 129, at 2.

132. *Human Trafficking Statistics*, *supra* note 36, at 4.

133. *Human Trafficking in Illinois*, ILL. DEP’T HUM. SERVICES, <http://www.dhs.state.il.us/OneNetLibrary/27897/documents/Initiatives/Trafficking/Information%20sheet.pdf> (last visited Feb. 3, 2013); see 720 ILL. COMP. STAT. ANN. 5/10-9 (West 2013).

134. *Human Trafficking in Illinois*, *supra* note 133.

135. *Id.*

136. *Id.*

137. Interview with Elam, *supra* note 7.

trafficking laws.¹³⁸ Illinois also created a committee to train various professionals on how to implement the 2009 laws more effectively.¹³⁹ This actually leads to prosecutors utilizing human trafficking laws against traffickers in court. Many states have anti-trafficking laws but have never used them. Combating human trafficking simply does not occur through the passage of legislation; implementation of the legislation is crucial to effectively combat and deter human trafficking.¹⁴⁰

The laws passed in Illinois in 2009 have several key features not seen in other human trafficking laws. Specifically, Illinois' human trafficking offenses now include a vehicle impoundment section and authorize the interception of certain private communications.¹⁴¹ These new laws more effectively prevent human trafficking and help Illinois pay for their anti-trafficking programs and prosecution efforts. Illinois law provides that an arresting officer may impound a human trafficking suspect's vehicle.¹⁴² The offender must pay a \$1,000 fee to recover the vehicle.¹⁴³ This fee is distributed between the sectors of government that caught the trafficker and to help fund programs that provide services to the victims of human trafficking.¹⁴⁴

Illinois law also provides that upon court authorization the State Attorney may intercept private communications of parties who are believed to be committing or about to commit human trafficking violations.¹⁴⁵ These intercepted communications can be extremely useful in cases against the trafficker, especially when the victim is the main source of evidence but refuses to testify at trial.

IV. REFORM NEEDED IN OKLAHOMA

A. Oklahoma Needs to Take Action Now

The United States needs to take the war on human trafficking seriously. In order to do so, every state needs to have anti-trafficking

138. Jennifer A. Kuhn & Alison L. Stankus, *Effective Implementation of the Trafficking of Persons and Involuntary Servitude Articles: Lessons from the Criminal Justice System Response to the Illinois Domestic Violence Act*, 28 N. ILL. U. L. REV. 215, 245 (2008).

139. Interview with Elam, *supra* note 7.

140. Kuhn & Stankus, *supra* note 138, at 254-55.

141. 720 ILL. COMP. STAT. ANN. 5/10-9, 36.5-5 (West 2013).

142. *Id.* § 5/36.5-5.

143. *Id.*

144. *Id.*

145. *Id.* § 5/14-3(g).

laws in place and educate professionals and the general public about human trafficking. Oklahoma needs to start by implementing programs to educate all professionals and the general public about human trafficking in Oklahoma and the laws that are currently in place.¹⁴⁶ Everyone needs to be aware of the problem, prosecutors need to use the laws properly, and legislators need to create more effective ones for the future.¹⁴⁷ All professionals come in contact with potential victims and do not even realize it. If Oklahoma can create a multi-disciplinary system for earlier identification and protection of trafficking victims, then the likelihood of capturing traffickers and preventing trafficking from flourishing will increase.¹⁴⁸

Education is a real problem that the Oklahoma legislature is currently facing. Human trafficking laws have been passed through our legislature, but many of our elected officials do not fully understand what human trafficking is and how it is affecting our state. This is a terrifying reality given that the legislature has passed bills on a subject they apparently do not understand.¹⁴⁹ The Oklahoma legislature needs to have mandatory human trafficking seminars in place to educate the public about the epidemic. The solution to human trafficking must start with education at all levels.

The next step is to take this information to the public at large. The public can be a tool that the police and prosecutors can use to help rescue potential victims and catch traffickers. In this respect, educating the general public is in effect educating the jury pool. It will be essential for citizens to understand what human trafficking is if they are jurors on a human trafficking case. The public also needs to know the warning signs of trafficking because it is happening in plain view—in places like restaurants, massage parlors, and clubs—but people do not realize that they are encountering human trafficking.¹⁵⁰ If the public were aware of the warning signs and understood how trafficking is affecting Oklahoma, then the public would better be able to recognize a potential victim and inform law enforcement authorities.

Public awareness of human trafficking is also important because if the public does not understand what human trafficking is and how they

146. Interview with Elam, *supra* note 7.

147. *Id.*

148. Kuhn & Stankus, *supra* note 138, at 255.

149. Interview with Elam, *supra* note 7.

150. *Sex Trafficking in the U.S.*, POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/sex-trafficking-in-the-us> (last visited Feb. 3, 2013).

are fostering it, then modern-day slavery will never end.¹⁵¹ Many legitimate businesses are aiding traffickers by hiding victims and facilitating human trafficking.¹⁵² Some businesses do this knowingly and profit from it, while others are unaware of how they are facilitating trafficking and are unsure how to determine which of their customers are traffickers or victims.¹⁵³ These facilitators are almost never prosecuted, so the risk to them is low and the profit is often very high.¹⁵⁴ As consumers, the public must insist on slave-free products by pressuring businesses to ensure that supply chains are free of slavery.¹⁵⁵ Reducing the demand for products that are produced by slave labor and services that facilitate human trafficking will in turn reduce the supply and hopefully bring an end to human trafficking.

Teaching younger generations of Oklahomans is also very critical because they are the most at risk to become victims of human trafficking. Some children are victimized by their family members and do not even understand that they are victims of human trafficking.¹⁵⁶ The Oklahoma legislature and Oklahoma Bar Association not only need to address catching and punishing the perpetrators of human trafficking, but they also need to consider creating preventative measures. Creating programs for middle school and high school students to promote awareness of human trafficking in Oklahoma is an effective preventative tool. Educating teens on Internet safety, the dangers of online relationships, and the tactics that online predators use most often would be beneficial.¹⁵⁷ This would educate the most vulnerable group of potential victims in Oklahoma and would hopefully prevent many children from becoming victims while discovering children who are already victims.

151. *The Facilitators*, POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/overview/the-facilitators> (last visited Feb. 3, 2013).

152. *Id.*

153. *Id.*

154. *Id.*

155. *About Slavery*, FREE THE SLAVES, <http://www.freetheslaves.net/SSLPage.aspx?pid=348> (last visited Feb. 3, 2013).

156. Interview with Elam, *supra* note 7.

157. O.A.T.H. has started these types of programs for teens throughout Oklahoma. See *Helping Oklahomans Prevent Exploitation*, O.A.T.H., <http://www.oathcoalition.com/oath-news/featured/helping-oklahomans-prevent-exploitation/> (last visited Feb. 3, 2013).

2013]

Modern Day Slavery

127

B. Changing the Law

While Oklahoma has made great strides in creating anti-trafficking laws and sanctions for violators, the legislature has only begun to scratch the surface of this growing epidemic. Oklahoma has statutes dealing with sex and labor trafficking, civil causes of action for victims, guidelines for treatment of human trafficking victims, and the potential for a state-funded human trafficking hotline.¹⁵⁸ These measures are simply not enough—they fail to attack the root causes of human trafficking.

Prosecutors in Oklahoma are not using the human trafficking statutes when charging traffickers; this is evidenced by the fact that there has not been one human trafficking case in Oklahoma. This may be partly due to the lack of education throughout the state about human trafficking and its effects on the United States and Oklahoma in particular. Oklahoma needs to model its plan of attack after Illinois' and expand upon it. The legislature needs to implement effective programs to: (1) educate its own legislators and professionals; (2) train law enforcement officers; (3) create informational and educational programs for the community at large; (4) create cost-effective laws to fight against human trafficking; and (5) use these laws to prosecute human trafficking violations effectively.

Education is the key to success. The Oklahoma legislature needs to create a committee responsible for educating and training professionals on human trafficking and the current federal and state laws. Mark Elam is tirelessly working around the state and nation to educate anyone who will listen about this rampant problem. Legislators should be required to receive education on human trafficking and federal laws as well as effective laws in other states. It would be wise for the Oklahoma Bar Association to heavily encourage prosecutors and judges to attend human trafficking seminars. Hosting a free CLE on human trafficking laws would be a great way to start educating lawyers around the state.

Human trafficking seminars would also be useful for educators and personnel in the medical field. Many victims go unnoticed because people are unaware of the warning signs. Many victims have poor mental and physical health, abnormal behavior, few possessions, no identification, low income, and large amounts of debt that they cannot pay off.¹⁵⁹ This is not an exhaustive list of warning signs, nor does every

158. *See supra* Part III.B.

159. *Recognizing the Signs*, POLARIS PROJECT, <http://www.polarisproject.org/human->

victim show every sign, but educating professionals and the public on these signs could save the lives of many victims.

Oklahoma needs to train its law enforcement officers properly to fully reform its approach to combating human trafficking. Officers need to be able to recognize a human trafficking victim in a multitude of situations. For example, law enforcement officers should not always immediately arrest a prostitute they encounter; instead, they should first determine if the woman is a victim of human trafficking, and if so the officer needs to protect her and try to get information on her “pimp” and other potential victims.¹⁶⁰ If law enforcement personnel do not understand that victims forced into prostitution are not criminals, then the real criminals will escape punishment more often. Solicitors of prostitution are often left out of the equation, but they too are committing a crime and are driving up the demand for human trafficking.¹⁶¹ Law enforcement agencies need to urge legislators to pass stronger laws on solicitors of prostitution and also urge the prosecution of such solicitors.¹⁶²

All branches of state government need to begin working together, communicating more, sharing information, and educating one another. It is imperative that everyone at the state level work together and with the federal government in order to effectively combat human trafficking. Many traffickers and victims may fall through the cracks due to lack of communication between the various agencies and organizations working on human trafficking cases. If legislation combined the policies and procedures of various organizations and state government agencies working on human trafficking cases, the system would become more effective.¹⁶³ The state legislature, prosecutors, private organizations—such as O.A.T.H.—and various state agencies should partner to create an ultimate task force to ensure effective communication and coordination throughout the state.

New legislation is being circumvented around the country because prosecutors are not using it to charge traffickers.¹⁶⁴ Instead, many prosecutors resort to different types of laws, such as sexual exploitation

trafficking/recognizing-the-signs (last visited Feb. 3, 2013).

160. Kuhn & Stankus, *supra* note 138, at 251–52.

161. *Id.* at 252.

162. *Id.*

163. *Id.* at 255.

164. *See id.* at 245. No cases have been tried under human trafficking laws in Oklahoma.

2013]

Modern Day Slavery

129

offenses, visa fraud, or false imprisonment to ensure proper adjudication. Another problem arises when prosecutors do not use human trafficking laws—the harsh sanctions associated with these laws will not be imposed on the traffickers, resulting in less severe punishment.¹⁶⁵ The Oklahoma statute on crimes involving a child states:

H. Any parent or other person who shall willfully or maliciously engage in child sexual exploitation shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both

I. Any parent or other person who shall willfully or maliciously engage in sexual exploitation of a child under twelve (12) years of age shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years nor more than life imprisonment, and by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00).¹⁶⁶

While these sanctions are certainly severe, they are not as severe as those provided for in Oklahoma's human trafficking statutes. Any violation of the human trafficking statute is a felony and may be punishable by imprisonment for no less than five years, a fine no greater than \$10,000, or both.¹⁶⁷ If the victim is a minor, then the punishment increases to imprisonment for no less than ten years, a fine of no greater than \$20,000, or both.¹⁶⁸ This is an example of how prosecutors circumvent legislative purpose in creating stringent human trafficking laws when other laws are used to prosecute human traffickers. Trafficking a child should carry the most severe sanction available without use of mitigating factors. There is no possible justification or defense to human trafficking.

165. *Id.*

166. OKLA. STAT. tit. 21, § 843.5(H)–(I) (OSCN through 2012 Leg. Sess.).

167. *Id.* § 748(C).

168. *Id.*

The Oklahoma legislature should create a special provision in the seizure and forfeiture proceedings statute for human trafficking violators in particular. Creating such a special provision would allow the legislature to make additional and harsher penalties for violators. If property is seized from a trafficker but no forfeiture action is brought against it, then the property is simply returned to the owner under the current law.¹⁶⁹ The state would not benefit from any of the property or money that was used in the commission of human trafficking offenses—this makes little sense. Creating a special provision for human trafficking violators would also allow the profits from any forfeiture to be used in a manner appropriate to combat the crime of human trafficking. These profits could help provide services to victims and pay law enforcement officers and prosecutors who spend extra hours on human trafficking cases.

The Oklahoma legislature also needs to enact a vehicle impoundment statute and a statute authorizing the interception of private communications in addition to the human trafficking statutes already in place. This would generate fees even if the property is not forfeited. For example, when a person is arrested for human trafficking violations in Illinois, the officer may impound the vehicle.¹⁷⁰ In order for the offender to recover the vehicle, a \$1,000 fee must be paid.¹⁷¹ This fee is then distributed between the agencies responsible for the arrest and organizations that provide assistance to human trafficking victims.¹⁷²

The Oklahoma legislature needs to create a statute that requires a fine to be paid when any vehicle or asset is seized from a person who committed a human trafficking offense before the property could be retrieved. This fine could be distributed between law enforcement, prosecutors, and shelters for victims of human trafficking. Revenue from the new impoundment statute could also aid a new wiretapping program. This new wiretap program would aid the prosecution of human traffickers under the more severe laws since prosecutors would not have to rely on witness testimony. These women and children who have been victimized are emotionally unstable and often have no support system; this can be a difficult situation for prosecutors when they have to rely on these women and children as the main evidence in their cases. These new

169. *Id.* § 1738(C).

170. 720 ILL. COMP. STAT. ANN. 5/36.5-5 (West 2013).

171. *Id.*

172. *Id.*

2013]

Modern Day Slavery

131

laws could not only aid prosecutors during trial but also increase funding that would enable the creation of new anti-trafficking programs throughout the state. The statutes would allow money derived from human trafficking to fund law enforcement efforts and anti-trafficking programs. In an economic downturn, this situation is ideal.

Oklahoma should also increase the penalties for human trafficking. Human traffickers make a profit of \$32 billion dollars annually¹⁷³—a fine of \$10,000 pales in comparison. A prison sentence of five years does not send the appropriate message to traffickers. It must be clear to everyone that Oklahoma does not tolerate human trafficking. Increasing the fines and prison sentences would deter traffickers. And greater criminal risks, such as those associated with trafficking drugs and arms, would ultimately reduce the number of persons trafficked. The Oklahoma legislature should also create a human trafficking conspiracy offense that is punishable in the same manner as the completed human trafficking offense.¹⁷⁴ This would further deter human trafficking within Oklahoma and provide prosecutors with another tool to combat human trafficking.

Oklahoma currently has a statute in place that authorizes the establishment of an emergency hotline number for human trafficking victims to call for help or rescue. However, this hotline will only be established if funding is available. This statute sounds like a good starting point, but it is another example of how the Oklahoma legislature's stance on human trafficking is one of form instead of substance. If a property and vehicle impoundment statute were in place, then a hotline could be created without straining the state's budget. A hotline would be a great resource for victims and law enforcement and would aid in collecting data. This is only one example of a program that could be created and sustained through human trafficking forfeiture and impoundment statutes.

173. *Trafficking in Persons: Ten Years of Partnering to Combat Modern Slavery*, *supra* note 11.

174. Mark J. Kappelhoff, *Federal Prosecutions of Human Trafficking Cases: Striking a Blow Against Modern Day Slavery*, 6 U. ST. THOMAS L.J. 9, 19–20 (2008) (suggesting the TVPA add more prosecution tools in the future).

V. CONCLUSION

The legislature will fail if it does not take strong measures to create sustained efforts aimed at ending all forms of modern-day slavery within our borders. If action is not taken now, then the legislature has only created laws to have the appearance of a stance against human trafficking—in reality they have no actual substance. Human trafficking is a rapidly growing problem in Oklahoma. If the Oklahoma legislature does not take further action soon, the legislators will be failing the residents they are elected to serve and protect—especially the vulnerable ones. The citizens of this great state simply cannot allow this to happen any longer.

Reforming Oklahoma's human trafficking laws will not be an easy task, and results may not be seen quickly; however, if nothing is done the problem will only further escalate. The cost of these new laws and programs could be a huge obstacle to implementation, but if the legislature creates laws that will pay for themselves then the Oklahoma budget will not be affected. As discussed above, money does not have to be an obstacle if the legislature follows the Illinois model and thinks innovatively.

Human trafficking will become more profitable than trafficking drugs if the current rate of escalation continues.¹⁷⁵ If Oklahoma approaches human trafficking the same way it approaches drug trafficking—by seizing the trafficker's assets—then any human trafficking law or program could pay for itself. These assets could include vehicles that transported victims, houses that held victims, monetary profits, and other items that were bought with the trafficking profits. The seizure and sale of these assets could be used to employ special human trafficking task forces, create anti-trafficking programs statewide, and assist prosecutors in convicting human traffickers with the help of wire-tapping.

Oklahoma cannot simply wait for and expect the federal government to fix the problem. Every state must be actively involved in order to effectively combat human trafficking. The federal government has taken the lead on addressing the labor trafficking market, so it is important for states to focus on the sex trafficking market.¹⁷⁶ The human trafficking problem needs to be addressed with the same fervor as drug trafficking.

175. Interview with Elam, *supra* note 7.

176. *Id.*

2013]

*Modern Day Slavery***133**

These crimes have become closely linked, and many drug traffickers are now trafficking humans. Oklahoma cannot stand idly by any longer and wait for the federal government to fix this problem. Action must be taken now.

Oklahoma needs to take a zero-tolerance stance against human trafficking. The legislature needs to implement effective programs to:

- (1) educate its own legislators and professionals;
- (2) train law enforcement officers;
- (3) inform and educate the community at large;
- (4) help pay for programs to fight against human trafficking; and
- (5) prosecute human trafficking violations effectively.

Human trafficking can no longer be an unknown, underground criminal enterprise. The legislature can effectively create and implement these laws and programs with the help of professionals and organizations throughout the state. The community must become aware of this rampant problem affecting so many Oklahomans, and the victims of this horrific crime must finally be liberated.