

KLAAS ACTION REVIEW

THE NEWSLETTER OF THE MARC KLAAS FOUNDATION FOR CHILDREN

A MESSAGE FROM MARC



As we move into the new year, we settle back into our old routines after gathering to celebrate the holidays and give thanks for life's blessings. Unfortunately, the holidays can be a painful time for families who have lost loved ones to violent crime. I know this all too well. My 12-year-old daughter Polly was kidnapped at knifepoint from her bedroom and subsequently murdered a little over nine years ago.

The pain of losing Polly is unspeakable. But because I refuse to let her death be in vain, I'm taking active steps to safeguard children and prevent kids from getting involved in crime and violence in the first place.

In addition to forming the Klaas Kids Foundation in 1994 to stop crimes against children and Beyond Missing, Inc. in 2000 to recover missing children, I've also joined *Fight Crime: Invest in Kids California*, an nonprofit organization led by over 275 California sheriffs, police chiefs, district attorneys, and crime survivors who support programs that give kids the right start in life so they are less likely to turn to crime and violence.

Research proves that quality after-school and child care programs reduce crime. A study of Chicago's Child-Parent Centers, which served 100,000 three- and four-year-olds since 1967, shows that kids who did

not participate in the program were 70% more likely to be arrested for a violent crime by age 18. These centers returned almost \$3 for every dollar invested in savings to the government.

After-school programs reduce crime in the short term by getting kids off the street during the times they are most likely to commit a crime or be the victim of a crime. In the long term, after-school programs reduce crime by helping kids succeed in school, stay on track, and learn the skills and values necessary to become a productive adult. These programs save money over time through reduced crime, reduced remedial education and reduced welfare dependency.

I hope that the California legislature will consider these facts as it debates its new budget proposal. Government's number one responsibility is to maintain public safety. As research evidence shows, maintaining public safety means not just arresting and imprisoning lawbreakers, but also investing in (coprograms that fight crime from the

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A MESSAGE FROM MARC

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front end. Cutting crime prevention programs to balance the budget is a dangerous route.

Recent history shows that in bad budget times, crime prevention programs are often the first targets for cuts. Just last year, Governor Davis proposed eliminating the Juvenile Justice Crime Prevention Act, which provides grants to counties for violence prevention programs, and the Latchkey program, which provides after-school and summer programs targeted to kids from low-income working families. He also made child care reform proposals to reduce eligibility rates and compromise the quality of care by reducing reimbursement rates. The legislature rejected all these cuts last year, but it's likely these programs will be targeted again.

Predictions are that the state will face budget deficits for several years down the road. Under these circumstances, the question is not whether we can afford to fund after-school and child care programs. The question is whether we can afford *not* to fund them.

My beautiful daughter Polly was absent from this holiday season's festivities. But in her honor, and in the hopes of preventing other families from losing a loved one to violence, I am dedicated to working for investments in programs that fight crime from the front end, keep our communities safe and improve the futures of our young people. I urge Governor Davis and the Legislature to do the same. ■

VICTIM'S FAMILY SUES VH-1

A lawsuit has been filed in U.S. District Court charging that cable television channel VH-1 and parent company Viacom, Inc., aired a program that glorifies criminals and provides a platform for convicted killer, Jason Henthorne, to harass and intimidate the family of his victim, causing severe trauma to the family.

Jason Henthorne is doing 15 years to life in the Mt. Olive Correctional Facility in Mt. Olive, West Virginia, for the 1995 murder of his onetime friend, Michael Hart. After he killed Michael Hart, but before police had sufficient evidence to arrest him, Henthorne harassed Hart's family by constantly making anonymous phone calls, sending letters, threatening them with a gun from his car, and shooting into their home.

In Fall 2002, his country music band, Dakota, performed a song in prison about his crime, his victim, and the need for the family to forgive him, on the nationally broadcast program "Music Behind Bars," on VH-1. The family believes the song facilitated Henthorne's continued harassment and was a message from Henthorne to the family to not block his future parole attempts.

Michael Hart's sister, Misty Hart, and mother, Linda Garrett, are the plaintiffs in this case. Shocked when they heard about VH-1's intent to broadcast a program featuring Hart's killer, they tried to prevent the show from being aired. With the support of West Virginia Governor Bob Wise, and friends, many requests to stop the broadcast were sent to VH-1. The

cable company did not respond to their pleas until after the program had aired, a week before it was originally scheduled to be shown.

"VH-1 had warning that its actions were facilitating the harassment of the victim's family, causing them severe emotional trauma," said attorney Cy Weiner. "Here is the murderer of their loved one, being turned into a star. VH-1 might just as well have delivered Henthorne to the family's front door to deliver his threats in person. This is a shocking case of willful corporate irresponsibility."

Henthorne has said that his compensation for performing would go to a fund for Michael Hart's daughter. West Virginia's Distribution of Crime Profit Law (these laws are often referred to as "Son of Sam" laws) states that criminals may not profit monetarily from their crimes and must hand over such funds to the prosecutor. No funds have been forthcoming from Henthorne.

The plaintiffs seek punitive damage and a court order that the Mt. Olive program may not be shown again and that all content on the Mt. Olive facility must also be removed from the VH-1 website, which is considered to be continuous worldwide publication. The attorneys will also request permission to file an Amicus Brief (friend of the court brief) with the help of KlassKids Foundation and other victims' rights groups and advocates to show the broad-based support against the glorification of murderers. ■

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LOOKING AT MISSING CHILD STATISTICS

Each year, National Incidence Studies of Missing, Abducted, Runaway, and Thrown away Children (NISMART-2) are performed to help government and law enforcement better understand the phenomenon of missing children. In some cases, the children have run away or were only missing briefly. Other cases are more serious. Following are some of the statistics from the most recent study in 1999.

National Estimates of Missing Children

- The total number of children who were missing from their caretakers in 1999 (i.e., their caretakers did not know their whereabouts and were alarmed for at least an hour while trying to locate them) is estimated to be 1,315,600.
- Nearly all of the caretaker missing children (1,312,800 or 99.8 percent) were returned home alive or located by the time the study data were collected. Only a fraction of a percent (0.2 percent or 2,500) of all caretaker missing children had not returned home or been located, and the vast majority of these were runaways from institutions who had been identified in the survey of juvenile residential facilities.
- The number of missing children who were reported missing in 1999 (i.e., reported to the police or missing children's agencies in order to locate them) was estimated to be 797,500, which is equivalent to a rate of 11.4 children per 1,000 in the U.S. population.
- Most of the caretaker missing children became missing because they ran away (48 percent) or because of benign misunderstandings or miscommunications about where

they should be (28 percent).

- Children who were missing because they became lost or injured accounted for 15 percent of all caretaker missing children.
- Less than one-tenth (9 percent) of caretaker missing children were abducted by family members, and only 3 percent were abducted by nonfamily perpetrators.

Non-Family Abducted Children

- In 1999, there were an estimated 115 stereotypical kidnappings, defined as abductions perpetrated by a stranger or slight acquaintance and involving a child who was transported 50 or more miles, detained overnight, held for ransom or with intent to keep the child permanently, or killed.
- In 40 percent of stereotypical kidnappings, the child was killed, and in another 4 percent, the child was not recovered.
- An estimated 58,200 children were victims of non-family abduction, defined more broadly to include all non-family perpetrators (friends and acquaintances as well as strangers) and crimes involving lesser amounts of forced movement or detention, in addition to the more serious crimes entailed in stereotypical kidnappings.
- 57 percent of children abducted by a non-family perpetrator were missing from caretakers for at least one hour, and 21 percent of the abducted children were reported to the police for help in locating the children.
- Teenagers were, by far, the most frequent victims of both stereotypical kidnappings and non-family abductions.
- Nearly half of all child victims of stereotypical kidnappings and non-

family abductions were sexually assaulted by the perpetrator.

Children Abducted by Family Members

- An estimated 203,900 children were victims of a family abduction in 1999. Among these, 117,200 were missing from their caretakers, and, of these, an estimated 56,500 were reported to authorities for assistance in locating the children.

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- 43 percent of the family abducted children were not considered missing by their caretakers because the caretakers knew the children's whereabouts or were not alarmed by the circumstances.
- 44 percent of family abducted children were younger than age 6.
- 53 percent of family abducted children were abducted by their biological father, and 25 percent were abducted by their biological mother.
- 46 percent of family abducted children were gone less than a week, and 21 percent were gone for one month or longer. Six percent had not yet returned at the time of the survey interview. ■

REEXAMINING SEX OFFENDER NOTIFICATION

By Marc Klaas

As sex offender registration becomes federal law, the debate continues on the fairness of community notification of sex offenders: requiring sex offender registration upon release and allowing the public access to that information. Pedophile apologists have had much to say about branding of parolees and ex-cons with a “scarlet letter,” claiming that it carries punishment for their crime beyond the prison sentence. But are there

It is a deeply unfortunate fact that whenever a sexual deviant is anonymously released ... the probability is virtually guaranteed that he will revert to deviant behavior.

circumstances where such notification continues to be justified? And, should registration apply retroactively to crimes committed before the law was passed?

It is a deeply unfortunate fact that whenever a sexual deviant is anonymously released into the community, the probability is virtually guaranteed that the

offender will revert to deviant behavior. As an example, let's examine one of the most obvious scenarios.

A Case Study: Pedophile Priests

For longer than most of us care to consider, the Catholic Church has been secretly struggling with an epidemic of pedophile priests. Whenever parishioner complaints overwhelmed the facade of holiness, offending priests have been dispatched to behavior modification facilities under the pretense that therapy would override deviant sexuality.

Ultimately, priests were relocated into new, unsuspecting parishes where sexual perversion inevitably overwhelmed treatment, morality, and legality. This pattern has been repeated ad nauseam until the scandal erupted just over the past few years, when thousands of victims charged serial sexual perversion against hundreds of priests.

The primary lesson of the priest scandal illustrates a much larger social problem: Although state hospitals and other facilities throughout America have spent decades

seeking a cure for sexual perversion, no combination of chemical or psychological therapy has effectively stifled primary sexual urges over the long term. In other words, there is not one documented case of a pedophile ever having been cured.

This is why all 50 states and the federal government have adopted “Megan’s Law” requiring convicted sex offender registration and notification. Community notification is based on the presumption that it will provide citizens with information they can use to protect children from victimization, deter sex offenders from committing new offenses, assist law enforcement investigations, and establish legal grounds to hold known offenders.

Despite protests from convicted offenders and their apologists that community notification violates sex offenders’ constitutional rights, our government has determined that the safety of children is a higher priority than the privacy of registered sex offenders. Courts now routinely dismiss challenges based on registered sex offender privacy rights, holding that a right of privacy does not protect an offender’s sex crime conviction record. In the majority of cases, the offender’s record is public information to begin with, having been adjudicated in public court and reported in the media.

Retroactive Sex Offender Registration

Because pedophiles and other preferential sex offenders cannot be cured, many community notification provisions apply to offenders who committed their crimes prior to enactment of the law. Constitutional challenges claim that this brands the offender by further punishing him for a debt already paid to society. Although courts have not yet definitively ruled on this issue, disallowing retroactive application would render community notification ineffective. Instead of 90,000 offenders subject to notification, California, for example, would only be able to apply the law to about 9,000 offenders. Is the child molester who rapes a child the day before enactment of the statute any less dangerous than the one who raped the day after?

Others suggest that notification will drive registered sex offenders underground, but this belies the real problem. Prior to Megan’s Law, sex offenders were underground, anonymous and engaging in predatory behavior. Just as harsh and punitive penalties for failing to comply with the terms of sex offender registration

encourage full compliance, so too does transparency act as an external control, promoting law-abiding behavior.

Critics also erroneously argue that community notification encourages vigilante behavior. One study, of many, by the Washington State Institute for Public Policy found that the public had harassed only 3.5% of sex offenders subject to notification laws. Furthermore, the majority of those provocations were in the form of verbal threats or warnings. While it is true that one offender's house was torched, this example has been cited so often that it has achieved the status of urban legend.

Notification Creates a False Sense of Security

However, startling statistics do support the argument that community notification creates a false sense of security. A 1991 survey showed that about 45% of state prisoners committed their crime while out on probation or parole. Another study surveyed 561 sex offenders and found that pedophiles committed an average of 281.7 acts with an average of 150.2 underage partners. That equals 84,262 separate victims. Any parent who believes that their children are safe because a Megan's Law registrant is not listed in their neighborhood is gravely mistaken.

Community notification addresses three common concerns Americans have regarding the criminal justice system: that it serves the wrong people; that politicians are unaware or not concerned with the safety of citizens; and that people feel powerless to do anything about it. Community notification uses criminal justice information to inform the public about possible dangers—it is a legislative response to public pressure that provides parents with a means of protecting their children from known predators.

Do young families deserve to know if a sexual predator lives next door? If one answers that question truthfully, all other arguments are rendered inconsequential. As long as it's used to protect children from victimization, community notification provides a valuable public service. However, the law continues to be challenged. If we abuse community notification, we may lose it. ■

NEW CANADA SEX OFFENDER REGISTRY COMES UNDER FIRE

By Randall Palmer

The Canadian government announced plans in mid-December for a national sex offender registry but drew immediate criticism for excluding past and current offenders and for denying public access to the list.

The Canadian idea is to give police a tool to solve unsolved sex crimes by knowing where released convicts are. But it will be a far cry from the registries in all 50 U.S. states which provide for some form of public access.

"This new legislation will provide police with a new investigative tool to help them quickly locate known sex offenders living near to the location of a sex crime," Solicitor General Wayne Easter said in a statement.

He said he had decided not to make the list retroactive—which would have included current and past offenders—lest it should be ruled unconstitutional. Strict penalties would be applied to any unlawful access to the database.

"What good is a national sex offender registry if it doesn't even list Karla Homolka?" demanded the opposition Canadian Alliance's Kevin Sorenson in Parliament, referring to a Canadian woman jailed in 1993 for her role in the abduction and brutal sexual assaults of two young sisters. She is due to be released in 2005. Sorenson said public access was important because 40 percent of those convicted of sexual crimes reoffend.

U.S. states in the 1990s enacted Megan's Law, named for seven-year-old Megan Kanka, a New Jersey girl who was abducted, raped and murdered by a convicted sex offender living across the street unbeknownst to her parents. Some of the U.S. registries put pictures and addresses of the offenders on the Internet to try to protect communities from sex offenders. Civil liberties groups have challenged the U.S. laws as being too intrusive and subjecting offenders to shame and stigma.

Under the Canadian system, to be debated by Parliament in 2003, sex offenders would have to register with the police within 15 days of leaving prison and re-register every year. They would also have to notify police if they leave home for more than 15 days and if they get new tattoos or other identifying marks. ■

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