

# KLAAS ACTION REVIEW

THE NEWSLETTER OF THE KLAASKIDS FOUNDATION

## A MESSAGE FROM MARC



**P**atrick Ghilotti, Brian DeVries, and Cary Verse: each name strikes fear in the hearts of Californians. These violent sexual predators are recipients of state sanctioned rehabilitation programs that have recently enabled their reentry into the general population. Like classic illusionist misdirection, these high-profile convicted sex offenders receive massive attention while hundreds, even thousands, of sexual predators who have rejected treatment and rehabilitation programs are systematically returned into our communities under a veil of anonymity.

Statistics indicate a staggering problem. Approximately 100,000 persons are required to register as sex offenders in California. Since January 1996, 65,000 sex offenders, approximately 730 per month, have been released to the community from the California Department of Corrections (CDC). Many of these untreated sex offenders have termed out their sentences and are subject to no supervision whatsoever. Amazingly, only 4.3% of the 65,000 underwent a risk assessment prior to release, despite the fact that parolees are 54% more likely to commit a violent crime than the general population.

If that is not bad enough, according to US Department of Justice statistics (1992-2000), two-thirds of sex offenses are never reported to law enforcement. Of the

one-third that are reported, approximately 40% result in arrest. Existing research focuses on "caught" offenders to define recidivism. A true sampling must also consider more broadly defined factors such as arrests, convictions, parole violations, and law enforcement reports.

How does California reconcile this enormous and ongoing risk to public safety in the face of monumental deficits, shrinking budgets and lowered expectations, knowing that most convicted sex offenders will eventually be released back into the community? Currently, the state relies upon the Sexually Violent Predator statute for civil commitment to protect the community from offenders who remain a danger to recommit a sex crime upon release from prison. This statute requires a panel of experts to assess whether an offender poses a significant risk to reoffend. If this determination is made the offender is placed in a civil commitment facility. However, the law requires a reassessment every two years that can

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## SHOOTING VICTIM'S WIDOW SPEAKS OUT

By Denise M. Brown

In the six years since my husband, Ott, was killed in the Connecticut Lottery shootings, I have taken advantage of several opportunities to speak out about his death. Some had been presented to me; some I sought out. Some of questionable motives or worth I refused, such as offers to appear on national talk shows immediately after his death, or a request by a television station to film my family visiting the gravesite on an early anniversary.

The journalists behind these invitations, I understand, were only doing their jobs, and no doubt prior experience with victims of crime, especially those who have lost a loved one to violence, had certainly shown them not only what a timely and thorough murder report does for ratings, but how deeply many of us need to tell our stories, to have someone listen and care, to give a voice to the one who is gone.

In the early hours after a homicide, a few days or perhaps a few weeks, the world or our small piece of it is indeed interested. The media feeds the audience's hunger for fresh details. But what of the story that follows? What happens when the reporters stop calling, when the film crew leaves your driveway for good, when the tragedy that devastated the lives of those left behind and captivated page one becomes to others nothing more than old news?

When I began to write a book about my husband's death and the grim year that came after—of being left with three children to raise and the heartbreak of believing that his murder could have been prevented—even my own brother asked, "Why?" And while the first chapter was published, and well received, it has

been difficult to find an editor willing to back the completed book. In short, it's just too sad. Editors want redemption, they want recovery—as of course do we all. The sorrow of bereavement is heavy going, and a tough sell. The instinct, for many of us and for those who have seen us suffer, is to do the best to leave grief behind, to move on, to heal or find "closure," as we are so fond of saying these days.

But all too many of us know there is no such thing as closure after the violent death of a loved one. And moving on is something that requires a nearly Herculean effort, a summoning of strength you never knew you had. It's painful work, harrowing and chaotic, and most of even our closest friends would rather not hear the finer points.

As a result, what becomes of the family left behind is a story largely, if not entirely, untold. The endless appeals, parole hearings, the task of getting on with life after tragedy go unrecorded. These less than dramatic elements don't make for formulaic prime time television, rendered neatly in between breaks for advertising, or for newsworthy lead stories headlined above the fold. Hollywood wants a happy ending, a conclusion that leaves the viewer feeling satisfied and at least relatively safe, a suitable parting shot fit for an uplifting melody as the credits roll.

If only the endings were so clean and tidy in real life. But we know better. We know the truth.

I've come to believe, in the years

since Ott died, that more of us should tell our stories, from beginning to end. Whenever we are strong enough to bear up but still burning with the fire and need to speak, we should do what we can to put into words what the loss of a lover or friend, a father or mother, a brother, sister, daughter or son has done to us, to our families, to our world. How difficult it is to clear away the imagined scenes of brutal last moments, how elusive peace of mind becomes. How violence batters our souls, alienates us from others, tosses us out of a world in which we once felt secure and at home into a landscape that is unfamiliar and barren, frightening, surreal.

I hope if enough of us speak loudly and clearly, our stories will encourage a less cavalier attitude toward violence in this country and a greater respect for the survivors' struggle. I hope we can break down the fear that keeps us mired in a deadly circle, our dysfunctional love affair with death.

I hope—I pray—one of our stories will sway the heart of the next leader with the power to decide between war and peace, and in the heat of a cataclysmic moment that man or woman will comprehend more fully the human cost in the balance, and step back, and choose wisely.

That story, the one that might make the difference, heartbreaking and difficult to share as it is, could be yours. Tell it. Tell the world the truth only you can see. ■

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## BEREAVED MOTHER TELLS STORY ON VIDEO

By Susan Whitmore

In 2001, my daughter Erika, my only child, was living in Canada and planning her wedding when the headaches began. Her joy and happiness was tempered by a diagnosis that quickly escalated from sinus congestion to cancer: a type so rare that only a few hundred cases have ever been recorded. Erika fought the battle for her life with courage and tenacity, but my beautiful child died one year later, surrounded by those she loved and those who loved her.

Control is a quality that has eluded my grasp ever since that day, when life broadsided me, turned me upside down and skewed my perceptions forevermore. I buried the child who should have buried me.

Accepting Erika's death was excruciating. However, accepting my loss of control has made me free. I now pursue important goals, and seek profound truth. I accept my own mortality, I embrace unpredictability, and I have no fear. Were it not for the pain, despair, and suffering that led to my epiphany, I could better accept my newfound knowledge.

I am reminded of Friar Alfred D'Souza's poignantly profound quote, "For a long time it had seemed to me that life was about to begin—real life. But there was always some obstacle in the way: something to be got through first, some unfinished business, time still to be served, a debt to be paid. Then life would begin. At last it dawned on me that these obstacles were my life."

No longer would I wait, sidelined, for life to embrace me. Instead I would embrace the mundane, annoying, uplifting, joyful, painful, tearful, the successful and disappointing hits and misses of my

existence. Life is all these things, but it is more. Life, too, is death and the acceptance of death.

Control is an illusion. Burying a child is not a natural progression; indeed it is the antithesis of control. According to the *Diagnostic and Statistical Manual of the American Psychiatric Association*, "The loss of a child is considered a catastrophic stressor unlike any other." Days, hours, minutes, and seconds became torturous for me. I wanted to die instead, or go die with her. I could not bare the pain of living without Erika, for she was my meaning and my purpose.

Faced with the most monumental task of my life, slowly and deliberately, with the help of a strong support system, I was able to marshal the hope and strength I needed to resurrect my will and begin creating a new life without Erika. I began to reach out to others who had lost a child in an attempt to grieve, grow and understand. Finally, several months after Erika died, I envisioned a project to help lost parents like myself to navigate the pain and suffering that inevitably follows the loss of a child. My emotional resurrection would be in sharing the hope that gave me the will to live.

I assembled a team of specialists: filmmakers, spiritual guidance counselors, other professionals with experience in death and dying, and parents, like myself, who had buried their own children. The goal was a video that would span the grieving process over a 20-year period: from the shock of loss, through hope and redemption. It was during this time that I reached out to Marc Klaas and numerous other parents who lost their children. Understandably, they

all responded and helped me create *Portraits of Grief: Badges of Courage*.

Though we would willingly give our own lives to recover our children, this cannot be. So we live our lives, trying to create new meaning and purpose without our beloved children, which reveals a regrettable irony: that we do not know what we've got until we lose it. Conversely, the hope of redemption is that we don't know what we have been missing until it arrives. The gift of tragedy: the ultimate irony.

Eventually, we stop asking why and begin finding out how—how can we demonstrate to the world the immense love we have for our children who have passed? How can we give meaning to their deaths so that the world will be a better place? I miss Erika every second of every day, and will continue to do so for the rest of my life, but I accept that life is unpredictable and largely out of my control. So I do what I can, which is control my own loss through new understanding. Despite the barriers, Erika is always my child and I will always be her mom.

I have lost my child, but I have found my mission. Through the portrait of my grief and the badge of Erika's courage we can ease the burden of those who will follow. It is as inevitable as the next parent who will bury his or her child and fall to their knees in misery and pain, only to seek a way back into the light. ■

*Susan Whitmore is the founder and President of The Erika Whitmore Godwin Foundation and [grieffhaven.org](http://grieffhaven.org), nonprofit organizations dedicated to providing support and tools for parents and family members who lose a child.*

# THREE-STRIKES LAW GOES BACK TO VOTERS

By Marc Klaas

**T**he KlaasKids Foundation is opposed to efforts to water down or otherwise reform California's "Three Strikes And You're Out" statute. Laws designed to protect society from recidivist criminals should be encouraged and supported by anyone concerned about the safety and well being of California's children and other innocent citizens.

When it was initially presented to the public in 1993-

94, I, too, was among those legitimately concerned about where Three-Strikes would lead California. The results are dramatically clear: Three-Strikes has led to a safer society.

According to FBI crime statistics, California's crime rate has decreased by twice the national average since 1994. While the state's population has

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increased by one-third over the past ten years, we've experienced the largest crime reduction in California history. Further, based on cost-of-crime figures from the U.S. Department of Justice, Three-Strikes has helped prevent more than 2,000,000 victims, saving California taxpayers \$28.5 billion.

## The Positive Impact of DNA Testing

The significant impact of DNA technology on the criminal justice system has also provided us with new insight into the criminal mind. The fundamental building block for an individual's genetic makeup, a person's DNA is the same in every cell, and except for identical twins, no two individuals share the exact same DNA. Like fingerprints, DNA samples can be compared to known databases for identification purposes to solve crime, link crimes, or identify human remains.

In the past ten years, DNA technology has been credited with exonerating countless death row prisoners throughout the United States, and prison rights enthusiasts have flaunted that finding as proof that our criminal justice system is flawed and unjust. However,

these same individuals are much more reticent about other significant insights that have resulted from the impact of DNA on the criminal justice system.

Virginia set the gold standard for DNA sampling in the aftermath of the notorious 1989 Southside Strangler serial killer case. Because the perpetrator had previous convictions for burglary and trespassing, landmark legislation mandated that all convicted felons submit DNA samples to compare with cold-case crime scene evidence, giving the state the oldest and most extensive DNA database in the country.

Since that time, 80% of positive cold case hits would have been missed had the DNA database been restricted to samples from only violent or sex crime offenders. One study from the Virginia Division of Forensic Science concluded that, "Approximately 60% of the suspected sex offenders identified through DNA matches had at least one prior sex or violent offense in their criminal history. This suggests that 40% of the matches for sex-related offenses may have been missed were Virginia's DNA database confined exclusively to violent sex offenders."

The significance of this study should not be lost. 40% of incarcerated felons who were linked to cold case sex crimes by DNA had no previous violent or sex crimes on their rap sheets. Instead, their criminal histories were heavily weighted toward crimes such as shoplifting, stealing, theft, or burglary, the very crimes reformers insist on eliminating from third-strike prosecutions. The conclusion is clear: If the effort to reform Three-Strikes is successful, thousands upon thousands of very dangerous recidivist offenders will be unleashed on an innocent, unsuspecting public.

## Making the Three-Strikes Law Work

Other factors in addition to advances in science and technology further amplify and lend credence to the case to support and maintain the Three-Strikes status quo. Initially, concerns revolved around the lack of prosecutorial and judicial discretion, which would result in the construction of numerous prisons to house an exploding prison population at the expense of education and other social services. All of these issues have been resolved. Prosecutors and judges do have the right to dismiss "strikes" for the advancement of justice. No new prisons have been built since the passage of Three-Strikes, yet in the ten years prior to Three-Strikes, 19 new prisons

were constructed in California. The state's prison population has increased 25.5% over the past ten years, holding steady at about 160,000 for the past four years. In the ten years prior to Three-Strikes, California's prison population grew 400%.

Of course, people deserve second chances, but the average California inmate has been convicted of five felony offenses before finally being sent to prison. Three strikers are not petty drug users, but hardened criminals with long records of serious, habitual, and often violent criminal behavior: serial losers who discount previous criminal activity and refuse to take responsibility for their actions.

### California's Upcoming Ballot Measure

California's November ballot will include an initiative to water down, or limit, provisions of the current Three-Strikes law. The initiative proposes that only serious or violent felony convictions should be subject to third-strike consideration. It eliminates any felony in which great bodily injury is inflicted, unless the defendant specifically intended to and personally inflicted great bodily injury from the violent felony strike list. It limits the counting of felony strikes to one strike per prosecution, instead of the current one strike per conviction. Under the initiative, Richard Allen Davis—currently residing on death row and convicted of six violent felonies for kidnapping, raping, and murder—would receive just one strike for his crimes. On top of it all, the initiative applies these conditions retroactively, thereby releasing over 26,000 felons now serving time for 3-Strike offenses.

Do not be misled and do not be fooled. Californians are safer now than ever before in our history. Of course, there have been some inequities inherent in Three-Strikes, but perfect law does not exist in the criminal justice system. Sentencing structures and guidelines are abused, as are rehabilitation and recovery programs. There will always be those arguing that punishment is too severe, just as there are those who will argue that no punishment is severe enough. We must find a balance that treats all citizens fairly, but if we err, we must err on the side of public safety. ■

## KLAASKIDS FOUNDATION RANKS HIGH ON INTERNET

The KlaasKids Foundation's efforts to provide useful and accessible Internet content through leadership and innovation are paying tangible dividends. The clearest evidence of this is that the Foundation website has recently been listed in the top 15% of the web's most popular destinations by Internet analyst Ranking.com.

- According to our 2004 Megan's Law update, there are now more than of 420,000 registered sex offenders in the United States. Although 10 states still fail to provide Internet access on personal and identifying information on registered sex offenders, 40 others have established websites to assist the public in protecting themselves against convicted sexual felons. For an updated, comparative analysis of the states, and to find out if protecting the public from recidivist sex offenders is a priority where you live, log onto <http://www.klaaskids.org/pg-legmeg.htm> and select your state from the interactive map of the U.S.
- For the most current Amber Alert information, you can log onto <http://klaaskids.org/pg-amberplan.htm>. You will notice that 48 states now participate in this important and innovative program to recover critically kidnapped children. Although most states understand the importance and power of law enforcement, media, and the public working together to recover missing kids, a lack of national leadership has created a void when it comes to a fully integrated effort that provides blanket coverage to all of our children. If you are interested in finding out how the various Amber Alert programs compare to each other, we have provided you with all of the tools, including Internet links to individual state, regional, and programs.
- The KlaasKids Foundation has also teamed up with Court TV on a far-reaching and important new child safety program. Beginning on June 5, 2004, and concluding at the end of September, we will visit 1,440 Kroger-owned supermarkets nationwide to provide a free fingerprint/photo program. Utilizing the same state of the art equipment that the KlaasKids Foundation has been featuring with our Print-A-Thon program since 1996, we hope to provide free bio-docs to hundreds of thousands of families throughout the United States. For more detailed information, please log onto <http://www.courtstv.com/> fingerprinting or select the Court TV banner on the KlaasKids Foundation homepage. ■

## A MESSAGE FROM MARC (CONT.)

(continued from page 1)

result in either recommitment or unconditional release from the facility.

The determination of significant danger is made in part by a battery of tests including risk assessment instruments that formulate a rating for future recidivism. Unfortunately, the instruments currently used were developed using a non-correctional population consisting of a primarily Canadian and European sample, called Static-99.

It is argued that evaluations based upon Static-99 have sampling errors and do not meet the evidentiary standards for use in such decisions. In other words, Static-99 was developed sampling an older, primarily white demographic from countries where social and criminal norms do not mirror California. Since the assessments are heavily weighted by the outcome of these measures, the entire process and statute would be jeopardized if the results were successfully challenged in court.

In response, a CDC-sponsored team consisting of forensic psychologists and psychiatrists with academic and clinical sex offender assessment and research expertise is developing the California Risk Assessment of Violence-Sexual Violence (CRAVS-SV). This cost-effective actuarial risk assessment instrument meets these challenges by utilizing a California-based sample of released sex offenders that can be applied to a large number of offenders.

Like the tables developed by insurance companies to calculate the risks and premiums for policies, actuarial instruments are much more accurate than traditional clinical

opinion in evaluating sex offender risk assessment. For instance, a smooth-talking, glib offender can ace an interview by parroting the words and mannerisms that the clinician is seeking during a personal evaluation, undermining the integrity of the process. Conversely, the fear of this possibility causes some evaluators to overestimate risk factors resulting in large numbers of false positives. Actuarial instruments supply scientifically based risk ratings, provide markers for sexual recidivism, and are based on identifying a small group of factors that can differentiate between groups of sex offenders by risk. However, the instrument is only as good as the sample it is based upon.

An evaluation tool based on a native sample is so important because California encompasses a unique diversity of cultures and a criminal justice system suited to specific needs. We comprise perhaps the world's largest ethnic melting pot with election ballots printed in seven languages. We have gang issues and a racial distribution not contemplated in Static-99. Because of truth in sentencing, 3-strikes and other laws we have older offenders pending release and younger offenders populating the system.

A preliminary study conducted by the CDC sponsored research team has found startling results. Their preliminary results indicate that about 45% of these released offenders go on to commit another sex offense after leaving prison. This is a dramatic difference from the 13.4% recidivism rate that is reported by the Static-99 risk assessment instruments. These findings also indicate that a large number of highly dangerous

sex offenders are released without assessments. It was further found that a small percentage of offenders (22%) were responsible for multiple sex offenses upon release representing 73% of the total sex crimes committed by these released offenders. It is likely that few of these super-predators were assessed prior to release from incarceration.

The CRAVS-SV study is based on a sampling of 5,600 sex offenders released from the CDC between 1989 and 1990. Phase One is focused on a sub-sample of 600 individuals. The findings of this pilot study are based on randomly selected file reviews of 100 of those offenders. The goals of the CRAVS-SV project are relevant to all Californians: To develop a sexual recidivism risk assessment instrument based upon a CDC sample; and provide actuarial tables by which clinicians and other CDC staff can identify the risk level of a specific sex offender based upon a combination of variables.

The importance of developing a cost-efficient risk assessment that meets evidentiary demands cannot be overstated. The effective application of correctional resources to protect our citizens requires new techniques and strategies. The CRAVS-SV project offers important protections for California citizens: a reliable and valid measure of sexual violence risk for release/monitoring decisions; and an easy method by which to assess the risk level of all sex offenders within CDC, and thereby implement better offender tracking systems that help protect the public from "super predator" offenders. ■

# JOIN THE FOUNDATION AND HELP FIGHT CRIME!

To join the KlaasKids Foundation, please fill out this form and return it to the address below. Your tax-deductible membership costs just \$15.00 per year, and includes an electronic subscription to the *Klaas Action Review*, with news and information, practical tips, events, and more.

Members may also receive:

- Information on starting a National Community Empowerment program.
- Safety information for your children.
- Information about how to support legislation against crime in your state.
- Other: \_\_\_\_\_

As a personal gift, you will also receive the Children's Identification Packet and a beautiful "Polly, We Love You" pin, in memory of our inspiration, Polly Klaas.

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