

# THE PROSECUTOR'S PERSPECTIVE

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#### Inside this issue:

<i>National Crime Victims' Rights</i>	1
<i>What is Human Trafficking</i>	3
<i>How do you Expect Us to Make a Living</i>	5
<i>Report Writing Refresher : The VC 10851 Case</i>	6
<i>Note from the Editor</i>	8

#### Upcoming Events:

**April 19-24th**  
National Crime Victims'  
Rights Week  
**April 20th**  
Homicide Victim Memorial  
(City of Redding Civic  
Center, HOPES Gardens)  
**May 14th**  
Shasta County Peace  
Officers Memorial  
(Shasta County  
Courthouse, Front Steps)

## National Crime Victims' Rights Week April 19<sup>th</sup> – 24<sup>th</sup>

Every April, the Office of Victims of Crime (OVC) helps lead communities throughout the country in their annual observances of National Crime Victims' Rights Week (NCVRW) by promoting victims' rights and honoring crime victims and those who advocate on their behalf. This year's NCVRW will be held April 19-25 and the theme "*Engaging Communities. Empowering Victims*" presents the opportunity to highlight the diversity of our communities, expand partnerships to serve victims of crime, enhance efforts to meet victims where they are, and empower crime victims as they pursue justice and recovery.

The Shasta County Crime Victims Assistance Center is organizing a homicide victims memorial on April 20, 2015. This memorial is designed to engage our community in honoring victims lost in tragic and unexpected ways.

This event will be held in HOPES Garden at the City of Redding Civic Center April 20, 2015 at 10 am. HOPES Garden is a garden dedicated to victims, symbolizing Honoring Our Promise of Everlasting Service, to the community and victims of crime. We hope you will join us in honoring victims of Shasta County.

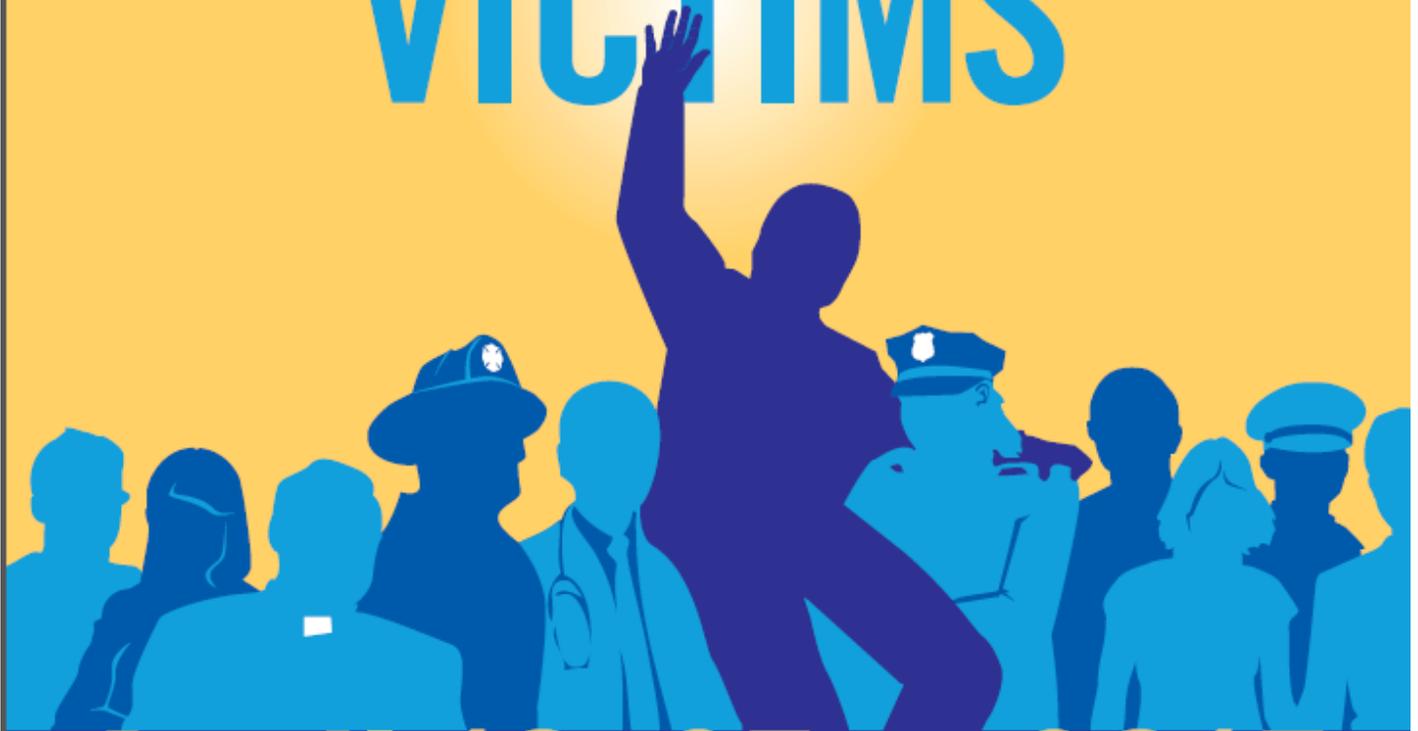


[www.VictimsofCrime.org](http://www.VictimsofCrime.org)

# National Crime Victims' Rights Week

## ENGAGING COMMUNITIES

## EMPOWERING VICTIMS



# April 19-25 ★ 2015



[www.VictimsofCrime.org](http://www.VictimsofCrime.org)

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## WHAT IS HUMAN TRAFFICKING?

*By Deputy District Attorney Sarah Van Slyke*

Human trafficking is a form of modern day slavery where human beings sell other human beings for forced labor, sexual exploitation or both. Human trafficking involves controlling a person through force, fraud or coercion to exploit the victim for labor or sexual exploitation purposes.

Human trafficking is the world's fastest growing criminal enterprise and is an estimated \$32 billion-a-year global industry. Human trafficking is lucrative because a human being, unlike drugs, can be sold over and over again. Human trafficking is becoming increasingly popular among gangs as a revenue stream. For example: A pimp can sell a prostitute multiple times in a single day and multiple days a week.

I know that some of you reading this may think human trafficking is just a hot topic, buzz word for politicians and the media or the current trendy crime for the public to rally behind and you would be right. Some of you may be thinking this crime does not occur in Shasta County and you would be wrong. Human trafficking occurs wherever you have vulnerable individuals. As many as 300,000 U.S. children are at risk for commercial sexual exploitation. Juvenile runaways are most at risk for sexual exploitation because they are in need of food, shelter, drugs, attention and affection. These children are easy prey for traffickers and pimps.

Why should we care? First, we outlawed slavery in the United States on December 6, 1865 when the 13<sup>th</sup> Amendment was ratified. Second, because children and teenagers deserve our attention, they are the foundation of our country and if we can make a difference in one of their lives we have done something important. Third, it is against the law. Simply put human trafficking is illegal and we have an obligation to uphold the law.

The California Legislature defines human trafficking as "all acts involved in the recruitment, abduction, transport, harboring, transfer, sale or receipt of persons, within national or across international borders, through force, coercion, fraud or deception, to place persons in situations of slavery or slavery-like conditions, forced labor or services, such as forced prostitution or sexual services, domestic servitude, bonded sweatshop labor, or other debt bondage."

As defined in California Penal code section 236.1, "any person who deprives or violates the personal liberty of another with the intent to obtain forced labor or services, is guilty of human trafficking." Depriving or violating the personal liberty of another includes, "substantial and sustained restriction of another's liberty accomplished through force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out."

To prove human trafficking against victims who are adults or minors where the minor is not engaging in commercial sexual acts, the prosecution must show that the victim was forced, coerced, or defrauded in some way into participating. However when we are dealing with minors, under the age of 18 who are engaging in commercial sex acts there is no requirement to show that a minor was forced, coerced or defrauded into engaging in commercial sex.

In California, "any person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to effect or maintain a violation of Section 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking." This translates into, any minor under the age of 18 years old who is induced or persuaded or caused to participate in commercial sex is a victim of sex trafficking. If a minor engages in a commercial sex act, that minor has been a victim of trafficking. Even though a minor is engaging in a sexual act this does not mean that under the law they can consent to engage in the sexual acts.

*Continued on page 4*

## *Human Trafficking...* *continued from page 3*

There are two categories of human trafficking identified under California law: forced labor or services and commercial sex acts. A commercial sex act involves the exchange of anything of value, such as money, drugs, food, or property.

Sex trafficking occurs out in the open every day. A few examples include: street prostitution, massage parlors and spas. Street prostitution includes victims or traffickers posting ads on online escort service webpages like Backpage or Myredbook for sexual services.

Human trafficking victims do not fit into one specific category; they may present as juvenile runaways, juvenile drug users, high school students, college students, prostitutes, victims of sexual abuse, victims of physical abuse and homeless children to name a few. The average age a child enters into the commercial sex industry is between 12 to 14 years old.

Many of these victims will be arrested or cited for the crimes they are participating in. Many will appear to be willing participants but that is not always the end of the story. These victims often do not self-identify as a victim. They become indoctrinated into the life they are living, a life of survival. Much like a domestic violence victim, they need your help in the moment but that moment is quickly fleeting. When first contacting a victim of sex trafficking, they may lie to you, they may refuse to talk with you, and they may initially tell you what their role is but then recant and change their statement. These victims may be afraid, embarrassed or too addicted to drugs to talk with law enforcement. But that does not mean they do not need your help and protection.

Human trafficking victims do not have many choices when they are being exploited and for many of them they only have one choice and that is to survive. Even when a victim of human trafficking is given the option to leave there are barriers and hurdles that prevent them from making the choice to leave.

If you believe you have encountered a human trafficking victim the most important thing to do is ensure their safety. Contact One Safe Place for the immediate needs of the victim. Second, make sure you contact your agencies investigations or detectives division. These cases are complicated and require a joint effort within agencies and among different agencies. Human trafficking cases cannot be handled by just one patrol officer.

In future issues we will address what to look for, basic investigation issues and tools for patrol officers.

1 [http://ojp.gov/newsroom/factsheets/ojps\\_humantrafficking.html](http://ojp.gov/newsroom/factsheets/ojps_humantrafficking.html)

2 <http://oag.ca.gov/human-trafficking>

3 <http://traffickingresourcecenter.org/sites/default/files/Child Sex Trafficking AAG.pdf>



## **“HOW DO YOU EXPECT US TO MAKE A LIVING?” PEOPLE V. ROBERT LESLIE SCORDEL – JURY TRIAL FEBRUARY 2015**

*By Deputy District Attorney Patricia VanErt*



In February of this year, a Shasta County jury heard the case of Robert Scordel, a Jones Valley resident who was cultivating and growing marijuana for sales with another man. Long time Shasta County Sheriff's deputy and Marijuana Investigation Team member Tom Barner was the sole prosecution witness at trial. The defendant was represented by local defense attorney Michael Scheibli. Scheibli had recently made a name for himself in the press and from speaking at local events with respect to medicinal marijuana, the legalization of marijuana and the legality of various county and city code enforcement ordinances and efforts. The defendant rejected an offer to plead to the county ordinance violation, which is a misdemeanor, and went to trial on two felony counts, Cultivation of Marijuana and Possession of Marijuana for Sales.

The facts of the case were as follows. Deputy Tom Barner noticed the marijuana grow in his aerial surveillance because it was in his daily flight path from the airport. Neighbors began to complain in this specific area of Jones Valley because of claims of water theft and other nuisance activity around marijuana grows. The MIT team, including members of code enforcement, went to the property, located and eradicated 249 plants growing in various areas of the property. Both men claimed 215 recommendations and were able to produce them. However, based on Deputy Barner's experience, he determined the grow was for profit. And, as he set out to eradicate the plants, Defendant Scordel blurted out "How do you expect us to make a living?" Barner estimated the grow would produce a conservative 200 pounds of marijuana or 90,000 marijuana cigarettes, at a value of over \$400,000. The defense decided to mount a compassionate use defense and prove to the jury that these two men were growing all of that marijuana for their own personal use and medical needs.

At trial, Deputy Barner testified extensively about his 40 year career in marijuana eradication. He was able to talk about recent case law, medical marijuana and basic amounts of marijuana that people use when using and growing pot. Barner was able to describe how this marijuana was cultivated and possessed and how the amount was not reasonably related to the defendant's current medical needs, as required by law.

Defense called Jess Brewer, former owner of Trusted Friends, a now defunct collective in downtown Redding. Brewer had been hired by the defense to go to the grow after eradication and then testify about the needs of medicinal users. Brewer's testimony ultimately proved helpful for the prosecution, as he couldn't help but admit that even the most ill patients didn't need more than 7 pounds of marijuana per year and a normal marijuana cigarette would only have about a gram of marijuana in it. Moreover, Brewer was eager to talk about the outrageous practice of marijuana doctors recommending 99 plants for patients in a money-making enterprise unrelated to the medicinal needs of any patients.

They also called co-Defendant Matthew Franklin. He had been smart and pled out early to a misdemeanor. But somehow the defense thought he would be a good witness for them. Not so much. He admitted and brought photos in of even more plants that the men had in a greenhouse on the property. During closing argument, Barner and I decided to count the "starts" in the photo from the greenhouse and counted an additional 119 plants. This was another poor decision by the defense, but it provided a great rebuttal argument to the defense's continuing claim of personal use for medicinal reasons. Without Franklin's defense testimony, we never would have known about the "starts" in the greenhouse. Franklin also outrageously testified that in the year prior he himself had consumed 86 pounds of marijuana for his own personal medical needs!

And finally, much to our enjoyment, Mr. Scheibli called Dr. Laurence Badgley to the stand. Dr. Badgley was very confident on direct, discussing his research, experience and medical expertise. It became obvious on cross-examination that he was not who he claimed to be. In fact, none of his alleged "articles" have ever been published by a peer reviewed journal or publication. He testified the only time they were published was in court while he testified.

*continued on page 6*

*HOW DO YOU EXPECT US...**Continued from page 5*

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He tried to distance himself, and even refused to answer questions about his own website [www.thcexam.com](http://www.thcexam.com) and his claimed history as a tour physician for the Rolling Stones and Led Zeppelin. When trying to justify his 99 plant recommendation for the Defendant, he claimed many patients smoke 5-6 gram marijuana cigarettes, several times per day! And finally, when asked about how lucrative his business can be, he ultimately admitted to seeing 25 patients per day, for about 20 minutes each. Estimating at least \$200 per patient, he is earning close to \$25,000 a week! Not to mention, the \$3,000 he require for his testimony.

At the close of evidence, we had a lot to work with given Deputy Barner's expertise and the defense witness testimony. The jury only needed to deliberate for an hour before finding Scordel guilty of both felony charges. Deputy Barner sat as investigating officer throughout the trial and was a vital component of the prosecution's success. We requested a transcript of Dr. Badgley's testimony and hope that it can prevent him from testifying in the future. Ultimately, it was rewarding to see a Shasta County jury is still willing to convict people of these marijuana crimes.

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**REPORT WRITING REFRESHER: The VC 10851 Case***By Deputy District Attorney Tom Toller*

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We're introducing a new feature that will occur regularly in the *Prosecutor's Prospective*. Each issue will suggest tips for writing crime reports that will help prosecutors effectively present their case in charging, during plea negotiations, and at trial. A well-written report is the key to ensuring a good resolution for the hard work you're doing on the streets of Shasta County.

In this first column, we'll address some things that make a good stolen vehicle report better. Since the passage of AB 109 in 2012, we've seen an increase in violations of Vehicle Code section 10851(a) and Penal Code section 496d(a). And in many cases, the perpetrator has a prior felony conviction for one of these crimes, permitting the new incident to be charged as a Penal Code section 666.5, with one year of added sentencing exposure. The facts will determine which charge is most appropriate; but typically if the agency that recovers the stolen vehicle is different than the agency that took the initial theft report, our office is going to charge the defendant with the felony receiving rather than the VC 10851. One fact that might change that charging decision is if the report includes a statement by the victim establishing the circumstances of the initial theft and any facts that identify the defendant as the perpetrator. In either case, it is helpful if the investigating officer speaks directly with the victim to establish that the defendant did not have permission to take or drive the car. This lets the prosecutor know that the reporting officer from the agency that recovered the car can testify at a Prop. 115 preliminary hearing, without the need to subpoena the victim or an officer from the agency taking the initial theft report. Often crime reports merely indicate that SHASCOM has contacted the victim or that the victim has taken possession of the car at the scene. Unless the prosecutor can determine that the reporting officer spoke directly with the victim, these ambiguous references to the victim in a report do not resolve whether the prosecutor can proceed with a Prop. 115 preliminary hearing.

Another challenge in prosecuting the PC 496d case is establishing that the defendant knew the car was stolen. Typically, the defendant gives the officer some bogus story of acquisition. A low purchase price coupled with the unknown last name of the "seller" is so lacking in credibility that it serves as fair evidence of knowledge that the car was stolen. In contrast, a defendant's statement that some identified third party loaned him or her the car for the day may not indicate the required knowledge. Obviously, the best evidence of knowledge is defendant's admission that he or she knows the car was stolen. A close second is a punched ignition. A good stolen vehicle report will nail down this knowledge element.

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*Continued on page 8*

# SHASTA COUNTY PEACE OFFICERS' MEMORIAL CEREMONY

MAY 14, 2015

12:00 NOON

REDDING, CALIFORNIA

Held in front of the Courthouse



Peace officer memorial run open to all employees of law enforcement agencies, check in at 0945 at the courthouse. All runners will meet at the south side of the courthouse on Yuba Street for a required safety meeting.

Run starts at 1000 hours at the court house and proceeds north on Court Street to the south side of the river trail across the Keswick Dam foot bridge, run along the north side of the trail to the Diestelhorst Bridge and run south on Court Street ending at the courthouse.

Please call 225-5551 for more information.



*REPORT WRITING...*  
*Continued from page 6*

One thing I've noticed in the aftermath of Prop. 47, which made several wobblers in to straight misdemeanors, is that some stolen vehicle reports have begun including the value of the car. While it is rare that a vehicle will be worth less than \$950, it does happen. Prop. 47 did reduce certain theft crimes, including PC 487(d)(1) Grand Theft Auto and violations of PC 496(a), where the value of the property is less than \$950, to misdemeanors. But officers should be clear that the mandatory reduction to misdemeanor does not apply to VC 10851 or to PC 496d. Including the value of the car may provide defense counsel with a fact in support of a PC 17(b) motion aimed at convincing the judge to reduce the charge to a misdemeanor over the objection of the prosecutor. Investigating officers are not obliged to ask the victim what the value of the car is, and it may be wiser to refrain from establishing it and including it in the report.

Now you have a few suggestions that will strengthen a stolen vehicle report. In future issues, we'll try to use examples of "the good, the bad, and the ugly" from actual reports, along with an explanation of why the example works or doesn't to make the report solid. Don't worry; we'll strip them of anything that might identify the agency or the officer. The goal is to share broadly amongst our Shasta County law enforcement community what works and what doesn't. If you have questions or suggestions about report writing that you'd like to see addressed, send me an email at [ttoller@co.shasta.ca.us](mailto:ttoller@co.shasta.ca.us).



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## A NOTE FROM THE EDITOR

We want to hear from you! Please email us ([shs.prosecutor@co.shasta.ca.us](mailto:shs.prosecutor@co.shasta.ca.us)) with any questions or issues that you would like to see addressed that can help you or your colleagues at work. We will do our best to answer these topics and help resolve any issues that be of a concern to you. In the next addition look for articles addressing the utilization of jury instructions in your work on the beat and some trending issues regarding Officer Personnel Records.

This edition of The Prosecutor's Perspective was focused on information regarding victims and on upcoming events that highlight the tragedies they and their families have faced because of someone's criminal behavior. This group of people are why we all do our various jobs in Law Enforcement. The Shasta County District Attorney's Office thanks you for your dedication and professionalism in which you conduct yourself on a daily basis.

Thank you, keep up the great work and be safe!!

Curtis Woods  
 Senior Deputy District Attorney