Approved: 4-3-09

Date

## MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairperson Pat Colloton at 1:30 p.m. on February 12, 2009, in Room 535-N of the Capitol.

All members were present.

## Committee staff present:

Jason Thompson, Office of the Revisor of Statutes Athena Andaya, Kansas Legislative Research Department Jerry Donaldson, Kansas Legislative Research Department Jackie Lunn, Committee Assistant

## Conferees appearing before the committee:

Honorable Judge Tatum, Chief Judge, 10th Judicial District (Johnson County)

Rise Haneberg, Johnson County Government,

Kevin Graham, Assistant Attorney General for Kansas

Ed Klumpp, Kansas Chiefs of Police Association and Kansas Police Officers Association,

Phillip Cosby, NCPCF,

State Representative Jeff Davis,

Kathy Cosby, Retired Police Detective,

### Others attending:

See attached list.

# <u>HB 2207</u> - Criminal procedure, costs associated with supervision of the conditions of release of the appearance bond.

Chairperson Colloton opened the hearing on <u>HB 2207</u> an introduced the Honorable Judge Tatum to give his testimony as a proponent of the bill. Judge Tatum provided written copy of his testimony.(<u>Attachment 1</u>) Judge Tatum stated the bill would allow an increase in the supervision fee of up to \$15.00 per week for bond supervision. The Courts history of bond supervision indicated that offenders are supervised for an average of 6 months for a total cost of \$240.00. Thus an increase to \$15.00 per week would, on average, cost most offenders a total cost of \$360.00. This is a more realistic fee and would help meet the actual costs of the program. In closing, Judge Tatum stated the Court was finding success in bond supervision and believes it is a vital tool for judges when determining bond for criminal offenders and it also allows for the Court to consider release of low risk defendants. He urged the Committee to support the bill.

Chairperson Colloton introduced Rise Haneberg, Johnson County Government, to give his testimony as a proponent of the bill. Mr. Haneberg did not have written testimony. He stated he was in support of the bill and hoped the Committee would pass it our favorably.

Upon the conclusion of Mr. Haneberg's testimony, a discussion followed.

There being no others to testify Chairperson Colloton closed the hearing on HB 2207.

## <u>HB 2235</u> - Fleeing or eluding a police officer, appropriately marked official vehicle or bicycle.

Chairperson Colloton called the Committee's attention to <a href="HB 2235">HB 2235</a> and opened the hearing by introducing Kevin Graham, Assistant Attorney General of Kansas, to give his testimony as a proponent of the bill. Mr. Graham provided written copy of his testimony. (Attachment 2) Mr. Graham stated the bill is to resolve the very narrow language of the Flee and Elude statute at K.S.A. 8-1568, which is formally captioned as "Fleeing or attempting to elude a police officer". The new language attempts to strike a logical and fair balance between making sure the person being pursued is given appropriate notice that law enforcement is trying to stop them. He reviewed the case of State of Kansas vs. Stephen R. Stout (Attachment 3) which is an example why the bill is needed. In closing, he stated Attorney General Six believes prosecutors need every tool at their disposal when prosecuting the caliber of criminals that would attempt to evade law enforcement.

A discussion followed Mr. Graham's testimony.

## CONTINUATION SHEET

Minutes of the House Corrections And Juvenile Justice Committee at 1:30 p.m. on February 12, 2009, in Room 535-N of the Capitol.

Chairperson Colloton recognized Ed Klumpp, Kansas Police Chiefs Association and Kansas Police Officers Association to give his testimony as a proponent on the bill. Mr. Klumpp did not provide written testimony. He reviewed the problems with the current law and urged the Committee to pass this bill out.

Chairperson Colloton introduced State Representative Paul Davis to give his testimony as a proponent of <u>HB</u> <u>2235</u>. Representative Davis provided written copy of his testimony. (<u>Attachment 4</u>) He stated he supported this bill because it clarifies the statute language to both fairly protect the citizen and better allow law enforcement to respond to criminal activity. The bill amends the statute to require either an official uniform or an appropriately marked vehicle. It also clarifies the definition of "appropriately marked vehicles", allowing vehicles equipped with functional emergency lights or siren or both to qualify under the category. In closing, he stated the recommended changes are a fair compromise between the need to safeguard suspects and the need to better enable law enforcement to do its job.

A short discussion followed.

There being no others wishing to testify on HB 2235, Chairperson Colloton closed the hearing.

<u>HB 2203</u> - Requiring law enforcement to collect and report pornographic materials found at scene of or in possession of person who commits a sexually violent crime.

Next on the agenda is the hearing on <u>HB 2203</u>. Chairperson Colloton opened the hearing and introduced Philllip Cosby, National Coalition For The Protection of Children and Families, (NCPCF), to give his testimony as a proponent of the bill. Mr. Cosby provided written copy of his testimony. (Attachment 5) He stated the bill will provide for collection of data to qualify and connect the dots between pornographic materials and criminal behavior. Such data will either affirm or rebute the anecdotal observations, debates and speculations that range from "pornography is just harmless fun" to "pornography is the fuel that acts as a catalyst for fantasy driven criminal behavior". In closing he urged the Committee to pass the bill out favorably.

Chairperson Colloton introduced Kathy Cosby, Retired Police Detective, to give her testimony as a proponent of <u>HB 2203</u>. Mrs. Cosby provided written testimony. (<u>Attachment 6</u>) She stated the bill will collect data and quantify the presence of pornographic materials and what she believes is their substantial influence on sexual criminal behavior. In her experience with sexual crimes she believes the statement made by the Vernon J. Geberth, retired Lt. Commander of the NYPD, "pornography is the fuel that acts as a catalyst for fantasy driven criminal behavior and there is not doubt in his mind that pornography plays an important part in violent sex crimes." is a true statement. She reviewed two sexual cases that she worked on where pornography played a part or was present. In closing she urged the Committee to pass the bill.

A discussion followed.

Chairperson Colloton recognized Ed Klumpp, Kansas Association of Chiefs of Police, to give his testimony as a neutral party of <u>HB 2203.</u> Mr. Klumpp provided written copy of his testimony which contained an amendment he is offering is to reduce potential confusion of law enforcement officers created in the current bill language. (<u>Attachment 7</u>).

Questions and answers followed.

HB 2232 - Authorizing increased membership for corrections advisory boards.

Chairperson Colloton call for any others to testify, there being none ,she closed the hearing on <u>HB2203</u>. She called the Committee's attention to <u>HB 2232</u> and stated she would like to work this bill today. A discussion followed.

Representative Spalding made a motion to pass the bill out favorably. Representative McCray-Miller seconded. Motion passed.

### CONTINUATION SHEET

Minutes of the House Corrections And Juvenile Justice Committee at 1:30 p.m. on February 12, 2009, in Room 535-N of the Capitol.

HB 2233 - Criminal procedure, tolling speedy trial time during appeal by the prosecution.

Chairperson Colloton called the Committee's attention to <u>HB 2233</u> and stated she would like to work this bill also.

Representative Roth made a motion to pass HB2233 out favorably. Representative Frownfelter seconded. Motion passed..

<u>HB 2060</u> - Violation of battery against a law enforcement officer causing bodily harm, sentence is presumed imprisonment

Chairperson Colloton called the Committee's attention to <u>HB 2060</u> and stated she had received the fiscal note and there is a bed impact of additional 7 to 11 beds totaling \$250,000. 00 per year.

Representative Patton made a motion to change presumption from probation to imprisonment. Representative Pauls seconded.

A short discussion followed.

Chairperson Colloton called for a vote of the motion on the floor. Motion passed.

A lengthy discussion followed on <u>HB 2060.</u> Due to time restraints Chairperson Colloton tabled the bill until another day and called the Committee's attention to <u>HB 2207.</u>

<u>HB 2207</u> - Criminal procedure, costs associated with supervision of the conditions of release of the appearance bond.

Representative Brookens made a motion to pass HB 2207 out favorable for passage. Representative Frownfelter seconded. Motion passed.

<u>Chairperson Colloton called the Committee's attention to HB 2235. Representative Patton made a motion to pass the bill our favorably. Representative Pauls seconded. Motion passed.</u>

HB 2165 - Establishing recklessness as a standard in unlawfully hosting minors in a person's residence.

Chairperson Colloton gave a update on <u>HB 2165</u> and reviewed the agenda for next week. She adjourned the meeting at 2:40 p.m. with the next meeting scheduled for February 16, 2009 at 1:30 p.m. in room 535 N.

# CORRECTIONS & JUVENILE JUSTICE GUEST LIST

DATE: 2-12-09

NAME	REPRESENTING
Phillip Cosby	NCPC+F
Cathy Cosby	NCPC+F
Steve Tatum	Judge Johnson County
Chris Mechler	BJA
ED KLUMPP	KACP & KPOA
RUAN EAGLESON Kuin Brone	CAPITOR LOBBU GROW, LL
Levin Brone	KPBBA -
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## Testimony in Support of HB 2207

## House Corrections and Juvenile Justice Committee Thursday, February 12, 2009

Chief Judge Stephen R. Tatum, 10<sup>th</sup> Judicial District (Johnson County)

In 2001, the Kansas Legislature passed legislation (K.S.A. 22-2802 sub. 15) specifically allowing the Court to order a defendant to pay \$5 per week for the cost of bond supervision. Since that time, the Kansas Legislature approved an increase of up to \$10 per week for the cost of bond supervision.

In the 10<sup>th</sup> Judicial District, bond supervision was originally used most frequently on domestic violence cases. However, in November 2004, the criminal judges approved more extensive use of bond supervision for other criminal cases. Currently, the Johnson County bond supervision caseload is at 496, of which 341 are criminal cases and 155 are domestic violence cases. The caseload has averaged 500 in the past year. These cases are supervised by a staff comprised of one half-time Domestic Violence Special Fees funded position for the domestic violence caseload, two part-time on call staff who work 30 hours a week, and one full time officer funded through bond supervision fees. The staff are paid on the county scale of \$14.76 an hour. With an average bond supervision caseload of 125 offenders, the need is identified to increase our staffing level which cannot be met by the current \$10.00 per week authorized by statute.

Bill 2207 would allow an increase in the supervision fee of up to \$15 per week. Our history of bond supervision indicates that offenders are supervised for an average of 6 months for a total cost of \$240.00. Thus an increase to \$15.00 per week would, on average, cost most offenders a total of \$360.00. This is a more realistic fee to assist us in meeting the actual costs of the program. In most cases where bond supervision is ordered, either a personal recognizance bond or a lower cash or surety bond is set. The defendant, who is likely to post a bond anyway, is placed on bond supervision which requires compliance with certain conditions. The money that would have been spent on a higher bond, in turn, goes to the cost of funding bond supervision officers.

The court is finding success in this program. Specifically, the additional supervision while on bond places requirements on the offender that is not typically enforced by traditional bonds. For example, a defendant who is placed on bond supervision for a DUI charge would have a condition prohibiting consumption of alcohol and random testing for the presence of alcohol. Requirements for employment and reporting would be in place. In Domestic Violence cases a defendant may have a no contact condition with the victim. Conditions are tailored to the specific issues presented by the defendant. The defendant then is required to report to the assigned court services officer to insure compliance with those conditions. The defendant may also be referred to counseling programs and be on the road to completing many probation requirements before probation is ordered.

I believe that bond supervision is a vital tool for judges when determining bond for criminal offenders. Also, given that our jail is facing serious overcrowding issues, bond supervision allows for the court to consider release of low risk defendants knowing that they will be supervised during the pendency of the case. Your support of this legislation will assist the courts in providing a higher level of community protection while offenders are released on bond.

Thank you for your consideration.

Corrections and Juvenile Justice Date: 4-12-09



## STATE OF KANSAS OFFICE OF THE ATTORNEY GENERAL

STEVE SIX
ATTORNEY GENERAL

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WWW KSAC ORG

## House Corrections & Juvenile Justice Committee

House Bill 2235 Assistant Attorney General Kevin Graham February 12, 2009

Madam Chairperson and members of the committee, thank you for allowing me to provide testimony in support of House Bill 2235. I am an Assistant Attorney General in the Criminal Division of the office of Attorney General Steve Six. My primary duties in the Attorney General's Criminal Division are to prosecute criminal cases throughout the State. A problem of statutory wording that complicated a case I prosecuted in Douglas County last year is what has led to my appearance before your committee today. The legal issue which came to light in that case, involving the very narrow language of the Flee and Elude statute at K.S.A. 8-1568, is what is intended to be remedied by House Bill 2235.

As you are likely aware, K.S.A. 8-1568, which is formally captioned as "Fleeing or attempting to elude a police officer," requires that any law enforcement officer who attempts to stop a fleeing vehicle must be "in uniform, prominently displaying such officer's badge of office, and the officer's vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle." At first glance the language of the statute does not appear overly problematic, but as we all know, the devil is in the details. In actuality the terms "in uniform" (referring to law enforcement officers) and "appropriately marked" (referring to law enforcement vehicles and bicycles) are being utilized by defendants — including some very dangerous defendants — to escape punishment under the current law.

In the case I prosecuted in 2008 in Douglas County, Kansas, the defendant was successful in having a felony count of Flee and Elude under K.S.A. 8-1568 dismissed before trial due to the fact that the two officers who were the first to spot the offender's vehicle (and eventually did take the offender into custody after a vehicle chase) were detectives who were outfitted in typical business attire rather than a traditional police "uniform." Despite the fact that the Ford Crown Victoria the detectives were driving was equipped with more than a dozen emergency lights and an audible siren (all of which were activated during the chase) and despite the fact that the officers immediately identified themselves as law enforcement officers when they got out of their vehicle and despite the fact that the officers were wearing their badges, department identification cards and firearms at the time, the trial court felt it had no option but to dismiss the Flee

Corrections and Juvenile Justice

Date: 2 - 12 - 09Attachment # 2 - and Elude count. Why? Because K.S.A. 8-1568 reads the officers must be "in uniform" and that the vehicle must be "marked." The Kansas appellate courts have consistently held that all criminal law statutes will be strictly construed against the State, and thus Judge Michael Malone concluded the Flee and Elude count must be dismissed. In short, due to the wording of the current law, a felony offender went unpunished for his act of fleeing from law enforcement due to the shirt and pants being worn by the detectives who did a terrific job of quickly responding to the area of a crime and apprehending an offender before he could get away.

Certainly we all agree that any person who is to be charged with the crime of having attempted to flee and elude a law enforcement officer should have been provided reasonable notice that the pursuer was in fact a law enforcement officer. The new language suggested in HB 2235 attempts to strike a logical and fair balance between making sure the person being pursued is given appropriate notice that law enforcement is trying to stop the vehicle and making sure that we do not allow an offender to skirt the law simply by alleging the officer was not wearing the right pair of pants at the time. The language of new subsection (d) draws a logical distinction between cases where an officer in an identifiable law enforcement vehicle is making a stop of another vehicle and cases where an officer who is not in a vehicle is attempting to make a stop. If the officer is making a stop while operating a law enforcement vehicle then the focus will be on whether the vehicle is appropriately marked and identifiable. If the officer is not utilizing a vehicle at the time he/she attempts to stop a suspect vehicle, then the officer must be in uniform, prominently displaying his/her badge of office. These recommended changes to the law make sense, are fair to suspects and will help to prevent offenders from escaping from appropriate punishment due to a mere technicality.

As the chief prosecutorial agency in the state of Kansas, the Attorney General's office strongly supports HB 2235. Attorney General Six believes prosecutors need every tool at their disposal when prosecuting the caliber of criminals that would attempt to evade law enforcement.

Thank you for your consideration. I would be happy to answer any questions.

IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS

State of Kansas,

Plaintiff,

VS.

Case No. 2007-CR-2098

Stephen R. Stout,

Defendant.

## MOTION HEARING

Proceedings had before the Honorable Michael J. Malone, Judge of Division 4 of the District Court of Douglas County, Kansas, on September 2, 2008, in Lawrence, Kansas.

## APPEARANCES

For the State:

Mr. Kevin A. Graham

Assistant Attorney General

120 SW 10th Avenue Topeka, Kansas 66612

For the Defendant:

Ms. Sarah G. Swain Attorney at Law 4106 W. 6th, Suite B Lawrence, Kansas 66049

Debra D. Oakleaf, CSR, RPR Judicial Center, Div. 4 111 East 11th Street Lawrence, Kansas 66044 (785) 832-5123

Corrections and Juvenile Justice Date: 2-/2-09

Attachment # <u>3 - /</u>

THE COURT: Good afternoon. Please be 1 2 seated. All right, this is a pretrial hearing on motions. It is a criminal case, State of Kansas vs. Stephen R. Stout, 07-CR-2098. Please state 6 the appearances. MR. GRAHAM: May it please the Court, 7 Your Honor, Kevin Graham, Assistant Attorney 8 9 General, appears on behalf of the State. MS. SWAIN: May it please the Court, 10 11 Mr. Stout appears in person, in custody, with his 12 attorney Sarah Swain. 13 (The court's ruling was the only 74 15 portion that Mr. Graham requested be transcribed.) 16 17 THE COURT: All right. Please be 18 seated. 19 First of all, I want to compliment Mr. Graham and Ms. Swain for presenting their 20 21 arguments. I think they both did an excellent job in presenting the evidence that needed to be 22 23 presented and making the arguments that needed to

The issue first, dealing with the

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be argued.

attempting to elude statute, is one that is of interest to all. Of course, the rule in construing a criminal statute is that it needs to be strictly construed against the State. That's for obvious and good reasons, so the citizenry of our country knows exactly what the charges are, and if the charges are evasive and vague, then the evasiveness and vagueness need to be interpreted against the agency claiming that there's been a violation.

This particular statute, the attempting to elude statute, addresses signals. And I think a reading of that could certainly be made that what the legislature meant was, is that a law enforcement officer who is not in a marked police car needs to be uniformed, because obviously an individual who is running away may be running away for a multitude of reasons:

One is a private citizen believes they're being chased by someone not a law enforcement officer, unless the particular police car is correctly marked. So a law enforcement officer who is chasing an individual must be in uniform. That just is a commonsense reading of that particular statute.

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Here we have a car -- and I saw the exhibit. I applaud Mr. Graham for introducing that. It certainly appears to have the types of -- of signals, both audible and visual signals, that would indicate that the individual is being pulled over by a police officer.

The statute, however, reads that the driver -- and I'll find it right now. And I'll read it in its entirety. "Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty..." and, of course, shall be guilty of the fleeing or elude.

The statute goes on. It reads: "The signal given by the police officer may be by hand, voice, emergency light or siren." That's referencing back to the police car.

"The officer giving such signal shall be in uniform, prominently displaying such officer's badge of office, and the officer's vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police

bicycle."

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There's no "or" here. It says the individual "shall be in uniform." I think that is a statute that is just about as poorly written as I've ever seen a statute. This has been an issue before this court many times, and this argument before the court today has been made in this court before.

It is certainly well known to prosecutors and defense attorneys throughout this state that that statute, if indeed the legislature meant something different from it, needed to be reworded. That has never happened.

So I don't know what the state legislature means by it, but what the court has to do is not read extra words into it, and a clear reading of it is that these officers must be in uniform.

The facts of this case indicate they weren't in uniform. They called it a uniform by their Dockers and their casual shirts, but their badges were hidden and there was no way of knowing that these individuals were police officers.

But for the vehicle the plain clothes officer was driving, the statute includes more. The particular elements of this offense, given the

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testimony of the witnesses here today, indicate that the statutory elements of that crime cannot be shown and, therefore, the attempting to elude traffic charge -- it's a felony charge -- is dismissed.

The next question then is whether or not the stop was valid. I don't think I could have done a better job of summarizing the facts of this case than the way Detective Pruett summarized the facts of this case, all of the different information that he had in pursuing the individual.

The fact that the State cannot charge the individual because these officers weren't in proper uniform nor in identifiable uniform is irrelevant to the next issue that the court has, and that is whether or not they were justified in stopping the person.

(That concludes the portion that was requested to be transcribed.)



PAUL DAVIS

REPRESENTATIVE 46TH DISTRICT

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## STATE OF KANSAS HOUSE OF REPRESENTATIVES

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TOPEKA

HOUSE DEMOCRATIC LEADER

# HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE TESTIMONY IN SUPPORT OF HOUSE BILL 2235 PROVIDED BY PAUL DAVIS, HOUSE DEMOCRATIC LEADER FEBRUARY 12, 2009

Madam Chairperson and members of the committee, thank you for the opportunity to testify in support of House Bill 2235, an act concerning the "Flee and Elude Statute."

As a citizen and a lawmaker, nothing is more frustrating to me than watching non law abiding individuals circumvent justice on a technicality. House Bill 2235 refines language to prevent this from happening under K.S.A. 8-1568.

Under current law, any law enforcement official must be "in uniform" and in an "appropriately marked vehicle" to stop an individual who attempts to flee or elude pursuing police. As you know, many of our law enforcement officials work as detectives and are frequently dressed in office attire while on the job. Law enforcement officials always carry official badges and appropriate identification, but they may not always wear official uniform. They also frequently drive fully equipped- but unmarked- law enforcement vehicles.

As you'll hear from the Attorney General's office, Kansas appellate courts have consistently held that all criminal law statutes will be strictly construed against the State. In regard to K.S.A. 8-1568, this has provided multiple opportunities for felony offenders to evade the law if they are stopped by a detective who happens to be without uniform or driving an unmarked vehicle- even though law enforcement officials were acting completely within their authority.

House Bill 2235 reasonably clarifies the statute language to both fairly protect the citizen and better allow law enforcement to respond to criminal activity. Under proposed subsection (d), the bill amends the statute to require official uniform or an appropriately marked vehicle. It also clarifies the definition of "appropriately marked vehicles," allowing vehicles equipped with functional emergency lights or siren or both to qualify under this category.

As an attorney and an elected representative of the people, I have vested interest in protecting citizens who are suspected of violating the law. The recommended changes to K.S.A. 8-1568 are a fair compromise between the need to safeguard suspects and the need to better enable law enforcement to do its job.

Thank you for your consideration.

Corrections and Juvenile Justice

Attachment # \_

# TESTIMONY OF PHILLIP COSBY KANSAS CITY DIRECTOR, NATIONAL COALITION FOR THE PROTECTION OF CHILDREN AND FAMILIES KANSAS HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

HB 2203 February 12th, 2009

Madam Chairwoman Colloton and honorable members of the Corrections and Juvenile Justice Committee, my name is Phillip Cosby. I am a native of Kansas and currently the Executive Director for the Kansas City office of the National Coalition for the Protection of Children and Families. I am honored to have the privilege to speak to you in support of **HB 2203** regarding the collection and reporting of pornographic materials during investigations of sexual crimes.

HB 2203 to my knowledge, for the first time, will provide for collection of data to quantify and connect the dots between pornographic materials and criminal behavior. Such data will either affirm or refute the anecdotal observations, debates and speculations that range from "pornography is just harmless fun" to "pornography is the fuel that acts as a catalyst for fantasy driven criminal behavior".

These past five years I have spoken to thousands of Kansans citizens and civic officials concerning the negative effects of Sexually Oriented Businesses (SOBs) in communities. The evidence of harm is not anecdotal; the lawful regulation of the sex industry is based on measurable toxic effects on communities. The right of communities to regulate SOBs has been constitutionally upheld for over thirty years. The documented effects are primarily increased crime, increased STD's, blight, property devaluation, prostitution, human trafficking and drug trafficking. One judge recently commented "it is not just the evidence of negative effects, it is common sense."

A recent KC Star story put forth the question asking how Edwin Hall went from juvenile delinquent to rapist and murderer. The KC Star turned a blind eye to the obvious. *Motive May Never Be Known, As Edwin Hall Nears Sentencing, Questions Remain*" KC Star Sep. 15<sup>th</sup> Not one time in this story and question was the elephant in the room of cause and effect of an addiction to sexualized materials mentioned.

I asked the Johnson County prosecutor, during their investigations, as to what they found in the way of sexualized materials that could have contributed to Edwin Halls impulse to act out such a criminal fantasy. The prosecutor was genuinely interested in the question but stated that it was not in their rubric to look for and document such corroborative evidence. In my conversations with most experienced law enforcement personnel and convicted sex offenders they generally agree that the influence of pornography is a major factor in deviant behavior.

The abduction, sexual assault and murder of Kelsey Smith is one more tragic victim and possible evidence of the toxic effects of a highly sexualized materials within communities. Rapes have increased in Kansas City by 45 percent (Sep 24<sup>th</sup> 2008 KC Star) over a six year period. The Center for Disease Control reports that 26 percent of teenage girls now have a sexually transmitted disease.

Corrections and Juvenile Justice Date: 2-/2-09
Attachment # 5-/

It is cause and effect: garbage in, garbage out. We can't afford to be indifferent, in denial or dismiss as harmless fun the pervasive flood of highly sexualized materials now exacerbated by emerging handheld communication technologies. The pornification of America has changed everything.

We all sense it. Every day the news relays the latest heartbreaking story of abductions, child molestations, human trafficking, solicitations, and sexual misconduct at the highest levels of sacred and secular trust, urban blight, rising STD rates, fantasy driven rape and even murder. Our sense of safety, wholesomeness and innocence is evaporating. When you and I were in grade school we played freely with our friends on Saturdays in our neighborhoods and beyond. Our parents did not have to be unduly fraught with concerns for our personal safety. For us, the general rule was, when those street lights flicker on you better be home. Those days of experiencing such freedom and safety are long since gone for today's children. Outside of organized and supervised sports, where are those groups of playful youngsters today?

Legislative bodies on many levels are behind the curve in recognizing and reacting to the cause and effect relationship of the sex industry on individual lives. The ease of accessibility to highly sexualized images by emerging technologies is exacerbating this growing public safety and health crisis.

Too often the disingenuous drum beat sounds like; this is a parental responsibility or let local communities contend with the problem on their own. The porn industry boasts that they make more money annually in America than all professional sports; football, baseball, basketball and hockey combined. How can parents and communities contend against such ubiquitous, predatory, opportunistic and well funded enterprises?

This is a real pocketbook issue. In Kansas prisons one third of the inmates are incarcerated for sexual crimes at a cost of \$30,000 annually per prisoner. As a matter of good common sense KDOC policy inmates are not allowed access to pornographic materials. You can't raise enough taxes, build enough prisons and buy enough ankle bracelets for this toxic tsunami. Ladies and gentlemen what we have is an epidemic and we must act. At the very least we can quantify the question. **HB 2203** is a compelling governmental interest.

Phillip Cosby

Executive Director, Kansas City Office, NCPC&F

11936 W. 119th St. # 193

Overland Park, Kansas 66213 Cell# 913-787-0075 pcosby@nationalcoalition.org

## TESTIMONY OF CATHY COSBY RETIRED POLICE DETECTIVE AND

# PROGRAM DIRECTOR, KANSAS CITY REGIONAL OFFICE OF THE NATIONAL COALITION FOR THE PROTECTION OF CHILDREN AND FAMILIES

# KANSAS HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE **HB 2203** February 12th, 2009

Madam Chairwoman Colloton and honorable members of the Corrections and Juvenile Justice Committee, my name is Cathy Cosby. I am a native of Kansas and a recently retired police detective for the City of Abilene, Kansas. I was the only detective for Abilene and so I did work with a wide variety of cases from forgeries to homicides. Many of the cases I worked were sexual crimes. I am honored to have the privilege to speak to you in support of **HB 2203** regarding the collection and reporting of pornographic materials during investigations of sexual crimes.

HB 2203 will collect data and quantify the presence of pornographic materials and what I believe is their substantial influence on sexual criminal behavior. In my experience with sexual crimes I believe the statement made by the Vernon J. Geberth, retired Lt. Commander of the NYPD, "pornography is the fuel that acts as a catalyst for fantasy driven criminal behavior and there is no doubt in his mind that pornography plays an important part in violent sex crimes." is a true statement.

Let me tell you briefly about two cases from my experience as a detective in Abilene Kansas.

- 1. It was reported that a 35 year old man had sexual molested an 11 year old girl and her 13 year old sister. Upon investigation of this crime it was discovered that he had used adult pornography material to groom the one victim. They were able to describe the video that was used and it was recovered as evidence.
- 2. It was reported that a 14 year old girl was going to run away from home because of abuse from her 44 year old father. After interviewing her, she was able to tell where the items were in the house that he used to sexually abuse her and where he kept the pornography that he looked. Even though that pornography was legal it was evidence that supported the crimes that had occurred.

These are just two of the many sexual cases that I worked where pornography played a part or was present. Many of my cases I did collect pornography to support the case. At this time I would not be able to give an accurate percentage of cases that pornography was at the scene or at home of suspect because this data was not collected. But if asked personally, I would respond that I believe that pornography is present at approximately 80 to 90 percent of them.

During an interview, Retired NYPD Detective, Raymond Pierce, when asked, "How many criminal cases involving sexual murder, rapes, or assaults on adults that you consulted on or investigated and in what percentage of those was there evidence that the perpetrator was a user of pornography?"

Corrections and Ju-	venile Justic
Date: 2-12-0	
Attachment # 6	-/

Raymond Pierce responded, "I've investigated somewhere between 750 and a thousand cases, but was I looking for it all the time? No, I wasn't. But my estimation would be that pornography is expected by the police in those cases. It's expected that they (the suspects) read pornographic literature and magazines. Anywhere between 60 and 80 percent of the cases, if I were looking for it, I would have found it. But realistically, well over 80 percent."

I believe that this information will be very easy to report by adding a block to the Kansas Standard Offense Report (KSOR) with a directive for Law Enforcement to document the presence of pornography associated with all sexually violent crimes. I believe this can be accomplished with little, if any, financial cost to the State of Kansas.

Within **HB 2203**, line 26, reads "evidence collection form". I believe it should read Kansas Standard Offense Report. Kansas Bureau of Investigation does not keep statistics from the Evidence Collection Form but they do from the KSOR. KBI only receives the Evidence Collection Form if evidence is being analyzed.

I ask that HB 2203 be moved forward because of these reasons.

See attached: KSOR

Cathy K. Cosby

Program Director, Kansas City Office

National Coalition For the Protection of Children & Families

11936 W. 119th Street, #193 Overland Park, KS 66213

Phone: (913) 839-1643 Cell: (913) 787-0951

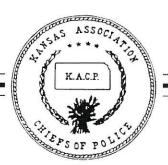
Email: ccosby@nationalcoalition.org

☐ IN1 ☐ DELETE KANSAS STANDARD OFFENSE REPORT ☐ MODIFY ☐ ADD FRONT PAGE OPEN PUBLIC RECORD																			
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#### CRIMINAL INVESTIGATION RECORD / NOT AN OPEN PUBLIC RECORD DATE OF REPORT (MMDDCCYY) PAGE OF CASE NUMBER AGENCY ORI NUMBER PREMISE NEIGHBORHOOD POINT OF EXIT POINT OF ENTRY INSTRUMENT USED FOR ENTRY 9. NOT APPLICABLE 1. FRONT 2. F R. DRURAL / FARM / AGRICULTURE 9. NOT APPLICABLE 5. BOLT CUTTER 9. THROWN OBJECT 1. KEY 2. REAR 1. TRONT 2. REAR S. SUBURBAN / RESIDENCE 6. ☐ CHOPPING TOOL 1 0. ☐ OTHER 2. PRY TOOL B. URBAN / BUSINESS / COMMERCIAL 4. ROOF 4. ROOF 3. SIDE 3. ☐ SAW/ DRILL 7'. ☐ VISE GRIPS 11. ☐ NOT APPLICABLE 3. SIDE U. UNINHABITED 4. ☐ HAMMER 8. ☐ PHYSICAL FORCE N. NOT APPLICABLE OP INCIDENT ACTIVITY SAFE ENTERED AT 7. COMBINATION KNOWN 1. YES 3. ATTEMPTED 5. PEELED 10 C. DOMESTIC VIOLENCE CHILDREN PRESENT J. CAR JACKING 6. EXPLODED 9. NOT APPLICABLE 4. REMOVED D. DOMESTIC VIOLENCE MIDDLE FIRST LAST NAME STATE STREET ADDRESS U EYES DATE OF BIRTH (MMDDCCYY) HEIGHT WEIGHT HAIR ETHNICITY AGE TELEPHONE NUMBER (HOME) RACE SEX RES / N-RES S TELEPHONE NUMBER (WORK/SCHOOL ADDRESS EMPLOYER/SCHOOL E MONIKERS / ALIAS T ADDITIONAL SUSPECT DESCRIPTORS VEHICLE STYLE MODEL COLOR YEAR SUSPECT VEHICLE MAKE VEHICLE IDENTIFICATION NUMBER OTHER STATE LICENSE NUMBER YEAR MIDDLE FIRST LAST NAME ZIP STATE ADDRESS STREET CITY H WEIGHT HAIR EYES HEIGHT DATE OF BIRTH (MMDDCCYY) SEX ETHNICITY RES / N-RES AGE TELEPHONE NUMBER (HOME) RACE TELEPHONE NUMBER (WORK/SCHOOL ADDRESS EMPLOYER/SCHOOL E MONIKERS / ALIAS T ADDITIONAL SUSPECT DESCRIPTORS VEHICLE STYLE COLOR YEAR MODEL SUSPECT VEHICLE MAKE VEHICLE IDENTIFICATION NUMBER OTHER LICENSE NUMBER YEAR STATE EVIDENCE INFORMATION ☐ TRANSFER TO OTHER AGENCY ☐ RETAINED BY INVESTIGATIVE AGENCY ☐ RETAINED BY VICTIM ☐ RETAINED BY OFFICER ☐ SUBMITTED ■ NONE ☐ OTHER \_See narrative attached. EVIDENCE OBTAINED ☐ DRUGS ☐ SEMEN ☐ STAINS ☐ WEAPONS / TOOLS ☐ SEXUAL ASSAULT KIT □ LATENT PRINTS □ BLOOD □ DOCUMENTS □ ALCOHOL □ РНОТО-S ☐ HAIR ☐ OTHER PRINTS OTHER See narrative attached LOCATION STORED EVIDENCE COLLECTOR DESCRIBE BRIEFLY HOW OFFENSE WAS COMMITTED

6-4





## OFFICERS

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President
Marysville Police Dept.

Ron Olin Vice President Lawrence Police Dept.

Frank Gent Sergeant at Arms Beloit Police Dept.

Mike Keller Treasurer Andover Police Dept.

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James Braun Region V Hays Police Dept.

Vernon Ralston Region VI St. John Police Dept. February 12, 2009

## Testimony to the House Corrections and Juvenile Justice Committee As a Neutral Position On HB 2203

The Kansas Association of Chiefs of Police offers the following suggestions to amend this bill, if the bill is moved forward. The purpose of our proposed amendment is to reduce potential confusion for law enforcement officers created in the current bill language.

## Amend section (b) on lines 23-24 as follows:

- (b) On and after the effective date of this act, when an adult is arrested or charged with the commission or attempted commission of a sexually violent crime, a law enforcement officer responding to the scene of the crime shall report on the evidence collection form evidence of pornographic materials found:
- (1) At the scene of the crime;
- (2) on the person of the adult arrested of the crime;
- (3) at the residence of the adult arrested of the crime; and
- (4) in the vehicle of the adult arrested of the crime. law enforcement shall report to the Kansas bureau of investigation if evidence of pornographic material is found in the course of the investigation. The Kansas bureau of investigation shall develop a method for law enforcement to collect and report this information.

Ed Klumpp

Legislative Committee Chair

& Know

eklumpp@cox.net Phone: (785)640-1102

**Corrections and Juvenile Justice** 

Date: <u>2-/2-09</u> Attachment # 7