

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 10, 2006 in Room 519-S of the Capitol.

All members were present except:  
Representative Nile Dillmore- excused

Committee staff present:

Chris Courtwright, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Representative Shari Weber  
Phillip Cosby, Private Citizen, Abilene, KS  
Dr. John Douglas Burford, Private Citizen, Mission, KS  
Richard I. Kendall, MS, representing DCCCA, Contractor for KDOC  
Karl Peterjohn, Kansas Taxpayers Network - Written testimony only

Others attending:  
See attached list.

**HB 2680 - Excise tax on certain commercial establishments, businesses and individuals which provide sexually explicit products and services.**

Gordon Self said this had been a study topic during the past interim session. He explained that **HB 2680** provides a 10% excise tax on certain transactions, in certain described businesses: escort services; strip clubs; and adult book and video stores. This legislation is based on Utah law, and a Oklahoma draft that has not been passed. Section three of the bill, provides for the creation of a special fund in the Treasury that would be used for the benefit of: victim offense programs; child abuse through internet sex offenses; and supplemental programs for sex offenders.

The Chairman opened the public hearing on **HB 2680**.

Representative Shari Weber said that she raised this issue because of the factual and anecdotal information that has surfaced over the past decade. As a matter of record, sexually explicit materials in different venues have an adverse affect on citizens in Kansas. The behavior choices of sex offenders are fueled with the merchandise available at sexually-oriented businesses. It is for that reason that the state has a compelling interest to place an excise tax on these businesses because of their adverse effects on the health, well-being and safety of citizens of Kansas (Attachment 1).

Phillip Cosby, Private Citizen, Abilene, KS, explained activities, over the last two and one half years, that he has initiated in an effort to protect Kansas families. He has spoken to thousands of Kansans on the negative effects the sex industry imposes upon communities and individuals and has presented strategies and legal remedies to communities to confront this growing epidemic (Attachment 2).

A notebook was distributed to the Committee on "Sexually Oriented Business (S.O.B.) & Sexually Oriented Material," comprised of eight issues: 1) Criminal Statute on Obscenity/Grand Jury Indictments; 2) Profitability of Pornography and S.O.B.; 3) Negative Secondary Effects; 4) S.O.B. Definitions KS Statute 12-770/ Zoning Ruling; 5) Preamble to a Taxation Bill answering the "why?;" 6) Congressional Testimony to Pornography's Addictive Nature/Descent to Criminal Behavior; 7) Political and Popular Resolve; and 8) Common Q & A, Talking Points (Attachment 3).

He said that in addition to **HB 2680** there were six other items, which he reviewed, that needed to be addressed in order to have a well crafted and defensible statute. In summation, he said the sex industry boasts unmatched wealth, that courts continue to uphold the very real negative effects of

## CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 10, 2006 in Room 519-S of the Capitol.

the sex industry upon a community, and that sex industry needs to help pay for the clean-up of the damage.

Dr. John Douglas Burford, Pastor, Ward Parkway Presbyterian Church, Kansas City, gave an impassioned speech about the societal problems that have resulted from activities generated by Sexually Explicit Businesses (Attachment 4). Some questions and issues he raised were: Why do children no longer roam free in America?; Does media violence contribute to violence in culture?; The proliferation of pornography; Reluctant users and shame-driven addiction; Contributing factors to sex addiction; Pornography's messages; The Internet - AAA - Accessible, Affordable and Anonymous; Devastation to families; Is there a downside to this tax?; and It's time to act!. He urged the Committee to take action on **HB 2680**.

Conversation followed and a request was made for research staff to find out what other states have done in terms of licensure of these type businesses.

Richard I. Kendall, MS, representing DCCCA, Contractor for KDOC answered three questions, (previously submitted by Legislative Research staff) for the Committee: 1) How many sex offenders were child victims of sex offenders?; 2) How many instances of pedophilia go unreported, as compared to actual convictions of pedophiles?; 3) Is there a connection between sex offenders and the use of sexually oriented businesses? A memo citing his responses was distributed by a memo from Martha B. Dorsey, Principal Analyst (Attachment 5). A period of Q & A followed.

The Vice-Chair noted that written testimony from Karl Peterjohn, Kansas Taxpayers Network, had been distributed in opposition to the excise tax (Attachment 6).

The meeting adjourned at 10:50 A.M. The next meeting is February 13, 2006 at 1:00 P.M. in Room 241-N.

# HOUSE TAXATION COMMITTEE GUEST LIST

DATE: 2/10/06

NAME	REPRESENTING
Phil Cooley	Operation Prairie Wind
Jeff Gruber	Operation Prairie Wind
Phil Richardson	" " "
Phil Bradley	KLBA
Ben Cleaves	DOB
Roy Lowrey	DCCA
Rik Kendall	DCCA
Deede Hein	Hein Law Firm
Joanna Te Froeben	Legislature <sup>Dist</sup> 107
David R. Corbin	KDOR
John Douglas Burford	Resident of Mission, KS
Shari Kuhn	Representative - 68 <sup>th</sup> District
Peave Kinzer	
Amy Braun	Intern - Rep. Hill
Kia Carter	KSNT

# State of Kansas

**Rep. Shari Weber**  
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## House of Representatives

House Taxation Committee

February 10, 2006

Chairman Wilk and members of the Committee,

Thank you for the opportunity to appear before you today as you consider HB 2680 and the issue of an excise tax proposed for sexually oriented businesses. I raised this issue during the interim because of the factual and anecdotal information that has surfaced over the past decade.

As many of you know, my workload at the legislature has been with the Appropriations process, specifically the sub-committee on public safety. During the past years, the direct connection between pornography venues or sexually oriented businesses and sexual crimes has repeatedly been revealed in the form of information from law enforcement and corrections agencies. Whether you are talking about juveniles or adults, pornography in many forms is present in their crimes. As a matter of record, sexually explicit materials in different venues have an adverse affect on citizens in our state. The behavior choices of sex offenders are fueled with the merchandise available at sexually oriented businesses. It is for that reason that the state has a compelling interest to place an excise tax on these businesses because of their adverse effects on the health, well-being and safety of citizens in our state. The state now bears greater costs that are incurred because of sex crimes.

In the mid-90's, the Department of Corrections began an extensive tracking system for programmatic accomplishments in terms of our incarcerated population. Realizing that targeted and specialized therapy was necessary in order to effectuate changes in the behavior choices of those convicted of sex crimes, it became very apparent that there is a monetary cost incurred that is substantial in order to address sex offenders. Not only costs for programs for sex offenders, but also costs for prosecuting sex offenders, costs for victims of those crimes, costs for sex offender programs within our penal institutions, costs for civil commitment programs for re-entry into society and costs for the sex offender registry within our criminal justice information system (CJIS).

It is time to address those costs by taxing the sexually oriented businesses in our state that are the catalyst or cause and trigger sex crimes perpetrated against all citizens, but especially women and children. There are a number of sources that support this connection between the sexually oriented business products and sex offenses. I have asked Legislative Research to make several of these reports available to this committee.

As legislators, we often look for other scenarios where we have set a precedent in imposing a tax on a specific industry. As examples of other harm done by businesses in our state which caused the Legislature to impose an excise tax, I would point to the dry cleaning business. We have implemented an excise tax on dry cleaners to generate revenue to the state for use in cleaning

House Taxation  
2-10-06  
Attachment 1

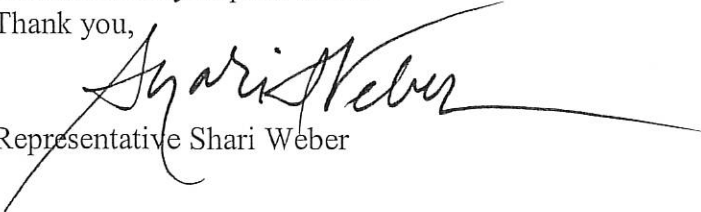
up the harm caused by the solvents used in the dry cleaning process. People still patronize the dry cleaner businesses, but now the state has a mechanism to collect tax dollars to deal with the harm that the solvents used in the process create for Kansas. Additionally, we imposed an excise tax on tires for the purpose of cleaning up the harm and expense tires trigger because of disposal issues. People still patronize tire businesses in spite of the scrap rubber that tire usage generates. Although, in my opinion, the harm done by sexually oriented businesses has a greater secondary negative effect because sex offenders exploit and severely damage human lives . . . nevertheless, there are also monetary costs which the state incurs that are associated with the harm caused by sex offenders. The state is compelled to address the interest that we have in sexually oriented businesses because of the harm and therefore expense that is incurred to ‘clean up’ lives of sex offenders, their victims and to insure public safety in our state. To paraphrase the words of someone who works with sex offenses, “not everyone who patronizes sexually oriented businesses commits a sex offense . . .but, the merchandise of such businesses are prevalent in nearly every sex offense perpetrated - indicating a deviant cycle.”

While my views on this subject are held because of my experiences with legislative oversight for corrections and juvenile justice, I have previously provided from a number of sources, expert information for both the statistical side and programmatic side of this issue. A portion of the psychological documentation is also available for your review on this issue.

Meanwhile, I’ll focus lastly on the monetary expense to the state for sex offender programs as it does continue to escalate in our state. As reported by the Kansas Sentencing Commission, during FY 2005, there were a total of 434 sex offense convictions. As of early October, the Kansas Department of Corrections (KDOC) had a total inmate population of 9,151 on 10-07-05 of which 8446 are male and 705 are female. From the information gathered by KDOC about this population, 2066 is the number of inmates currently serving time for any sex offense, regardless of whether or not it is their most serious crime. So, this sex offender population accounts for 22.6% of the total inmate population. Of this same total population, there are 1831 persons whose most serious offense type is a sex offense (13 female and 1818 male). This sex offender population category accounts for 20.0% of the total inmate population as of early October, namely the date of 10-07-05. Most recently, the amount of money spent by the state on sex offender programs for inmates in the state’s custody both at facilities and in the community was over \$ 2 million. And, that figure is just the money spent currently in prisons, not necessarily what is needed to address the continued treatment costs once these offenders re-enter the community. For instance, the cost of GPS systems we have used in our day reporting centers. In addition to that cost, there also remain the costs of prosecution, victims’ treatments, and the sex offender registry for our state. More reasons to impose an excise tax to deal with the fall-out in our law enforcement and prison system from sexually oriented businesses.

My brief overview is just that, short. In the information relayed during this hearing today both verbally and on paper, I ask you to give consideration to the possibility of a licensure or excise tax on sexually oriented businesses in this state in HB 2680 tying that tax to the expenses incurred from the negative effects of sexually oriented businesses. I thank you for your time and consideration and of course, I would be open to providing any help, insight or suggestions the committee may request of me.

Thank you,

  
Representative Shari Weber

TESTIMONY OF PHILLIP COSBY  
BEFORE THE KANSAS HOUSE ASSESMENT  
AND TAXATION COMMITTEE  
February 10, 2006

Chairman Wilk and honorable members of the House Committee on Assessment and Taxation, my name is Phillip Cosby of Abilene, Kansas. I am honored to have the privilege to speak to you on the important subject of the taxation of Sexually Oriented Businesses (S.O.B.s) and Sexually Explicit Materials. In the past two and one half years I have spoken to thousands of Kansans concerning the negative effects the sex industry imposes upon communities and individuals. I also present to the communities strategies and legal remedies to confront this growing epidemic in an effort to protect Kansas families.

Central to this taxation hearing are the deleterious effects of Sexually Oriented Businesses and Sexually Explicit Materials on communities. For decades the courts consistently have upheld the right of communities to protect themselves from the “**negative secondary effects**” of the sex industry through the implementation of S.O.B. zoning ordinances.

The logic of taxing the sex industry for the damages and associated tax burden incurred by it’s “**toxic waste**” runs parallel to the underpinnings of S.O.B. zoning law.

At this point I want to briefly go through the notebook I have provided you and touch on those subjects that are tabbed A-H.

**(Review of notebook)**

In addition HB 2680 has some things that need addressed to be a well crafted and defensible statute. Litigation is a certainty.

1. HB 2680 must have a preamble stating the purpose and answering the question of “why”. It is the first question the courts consider. The “**negative secondary effects**” argument is imperative in every aspect of this statute and must be emphasized at every opportunity. This is not a 1<sup>st</sup> amendment “content of materials” question. (*Example of a preamble is provided in TAB “E”*.)
2. Hold to the statutory definitions already established in **K.S.A. 12-770**. In this Statute the language used is *Sexually Oriented Businesses*. *Sexual explicit materials* such as magazines, videos & motel adult pay per view movies as defined in **K.S.A. 12-770** must be included in **HB 2680**.
3. **HB 2680** needs to tax all *Sexually Explicit Materials* or license all outlets equally. The same “Hustler” magazine or porn video can be found at a dedicated “S.O.B.” as well as the corner convenience store. The inventory items are identical but the quantity differs. In S.O.B. zoning ordinances a common measure is when 35% of inventory is sexually explicit, then that store is defined as an S.O.B. A convenience store that sells a smaller inventory of sexually explicit

materials needs to be addressed differently as they would not measure up to an S.O.B standard. For example a pack of cigarettes bought at a "Smoke Shop" or a grocery store still carries the same tax. If the sale of ephedrine products can be successfully regulated I am confident that there is a way to tax *S.O.B.s and sexually explicit materials*.

4. As with the Utah Statute "penalties" need addressed. Without penalties there is no compliance.
5. As with the Utah Statute, 1½ % of revenue collected is designated for the Revenue Department to insure enforcement.
6. Raise the current proposal of a 10% tax to a mark of 25% which is in line with the Federal internet pornography proposals. Kansas prison population statistics show 25%-30% of the 9,000 KDOC inmates are sex offenders. At a cost of \$50,000 per prisoner annually this is a serious drain on resources that calls for serious measures.

**In Summation:**

The taxation logic is straight forward:

- A. The sex industry boasts unmatched wealth.
- B. The courts continue to uphold the very real negative effects of the sex industry upon a community.
- C. The sex industry needs to help pay for the clean up of the damage.

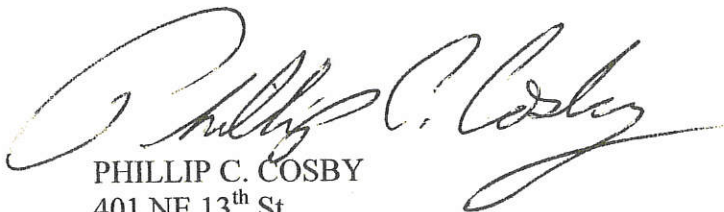
The documented harms of "Negative Secondary Effects" **are not conjecture but real!**  
**Real victims - Real crimes - A real tax burden that Kansans need not bear alone.**

Your "Oath of Office" to uphold the Constitution includes:

**"to provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity"....,**

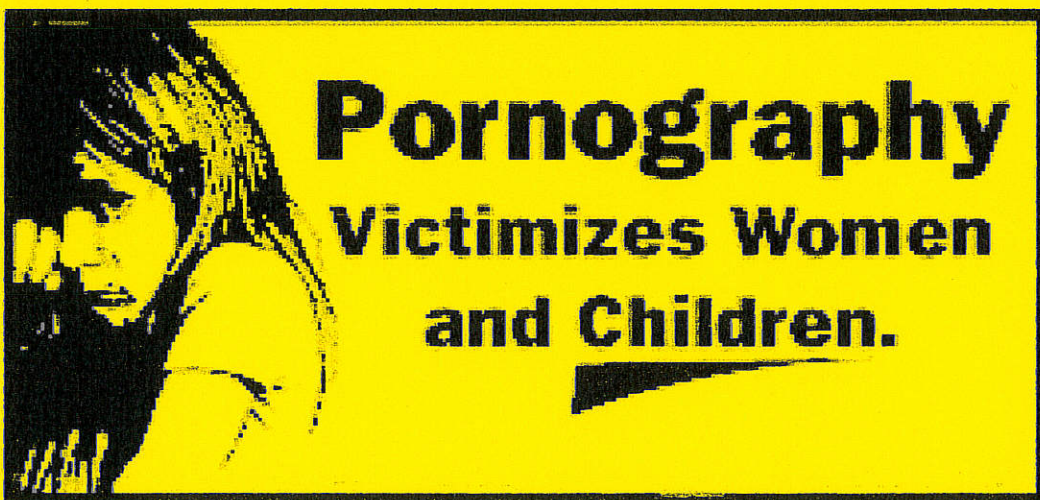
This revenue is necessary to further secure the safety and health of Kansas citizens.

**IT IS A COMPELLING GOVERNMENTAL INTEREST.**



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**Sexually Oriented**  
**Business**  
**&**  
**Sexually Oriented**  
**Materials**  
  
**Taxation**





**TAXATION OF SEXUALLY ORIENTED  
BUSINESSES (S.O.B.) AND PORNOGRAPHY**

**TAB A CRIMINAL STATUTE ON OBSCENITY /  
GRAND JURY INDICTMENTS**

**TAB B PROFITABILITY OF PORNOGRAPHY  
AND SOB'S**

**TAB C NEGATIVE SECONDARY EFFECTS**

**TAB D S.O.B. DEFINITIONS KS STATUTE  
12-770 / S.O.B. ZONING RULING**

**TAB E PREAMBLE TO A TAXATION BILL  
ANSWERING THE "WHY?"**

**TAB F CONGRESSIONAL TESTIMONY TO  
PORNS ADDICTIVE NATURE /  
DESCENT TO CRIMINAL  
BEHAVIOR**

**TAB G POLITICAL AND POPULAR  
RESOLVE**

**TAB H COMMON Q&A , TALKING POINTS**

**Criminal Statute**

**21-4301**

**Promotion of Obscenity**

**List of**

**Dickinson County**

**Grand Jury Indictments**

**21-4301**

**Chapter 21.--CRIMES AND PUNISHMENTS  
PART II.--PROHIBITED CONDUCT  
Part 2.--Prohibited Conduct  
Article 43.--CRIMES AGAINST THE PUBLIC MORALS**

**21-4301. Promoting obscenity.** (a) Promoting obscenity is knowingly or recklessly:

(1) Manufacturing, issuing, selling, giving, providing, lending, mailing, delivering, transmitting, publishing, distributing, circulating, disseminating, presenting, exhibiting or advertising any obscene material or obscene device;

(2) possessing any obscene material or obscene device with intent to issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit or advertise such material or device;

(3) offering or agreeing to manufacture, issue, sell, give, provide, lend, mail, deliver, transmit, publish, distribute, circulate, disseminate, present, exhibit or advertise any obscene material or obscene device; or

(4) producing, presenting or directing an obscene performance or participating in a portion thereof which is obscene or which contributes to its obscenity.

(b) Evidence that materials or devices were promoted to emphasize their prurient appeal or sexually provocative aspect shall be relevant in determining the question of the obscenity of such materials or devices. There shall be a presumption that a person promoting obscene materials or obscene devices did so knowingly or recklessly if:

(1) The materials or devices were promoted to emphasize their prurient appeal or sexually provocative aspect; or

(2) the person is not a wholesaler and promotes the materials or devices in the course of the person's business.

(c) (1) Any material or performance is "obscene" if:

(A) The average person applying contemporary community standards would find that the material or performance, taken as a whole, appeals to the prurient interest;

(B) the average person applying contemporary community standards would find that the material or performance has patently offensive representations or descriptions of (i) ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse or sodomy, or (ii) masturbation, excretory functions, sadomasochistic abuse or lewd exhibition of the genitals; and

(C) taken as a whole, a reasonable person would find that the material or performance lacks serious literary, educational, artistic, political or scientific value.

(2) "Material" means any tangible thing which is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound or other manner.

(3) "Obscene device" means a device, including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs, except such devices disseminated or promoted for the purpose of medical or psychological therapy.

(4) "Performance" means any play, motion picture, dance or other exhibition performed before an audience

(5) "Sexual intercourse" and "sodomy" have the meanings provided by K.S.A. 21-3501 and amendments thereto.

(6) "Wholesaler" means a person who sells, distributes or offers for sale or distribution obscene materials or devices only for resale and not to the consumer and who does not manufacture, publish or produce such materials or devices.

(d) It is a defense to a prosecution for obscenity that:

(1) The persons to whom the allegedly obscene material was disseminated, or the audience to an allegedly obscene performance, consisted of persons or institutions having scientific, educational or governmental justification for possessing or viewing the same;

(2) the defendant is an officer, director, trustee or employee of a public library and the allegedly obscene material was acquired by such library and was disseminated in accordance with regular library policies approved by its governing body; or

(3) the allegedly obscene material or obscene device was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material was either sold, leased, distributed or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incident to an approved course or program of instruction at such school.

(e) The provisions of this section and the provisions of ordinances of any city prescribing a criminal penalty for exhibit of any obscene motion picture shown in a commercial showing to the general public shall not apply to a projectionist, or assistant projectionist, if such projectionist or assistant projectionist has no financial interest in the show or in its place of presentation other than regular employment as a projectionist or assistant projectionist and no personal knowledge of the contents of the motion picture. The provisions of this section shall not exempt any projectionist or assistant projectionist from criminal liability for any act unrelated to projection of motion pictures in commercial showings to the general public.

(f) (1) Promoting obscenity is a class A nonperson misdemeanor on conviction of a first offense.

(2) Promoting obscenity is a severity level 9, person felony on conviction of a second or subsequent offense.

(3) Conviction of a violation of a municipal ordinance prohibiting acts which constitute promoting obscenity shall be considered a conviction of promoting obscenity for the purpose of determining the number of prior convictions and the classification of the crime under this section.

(g) Upon any conviction of promoting obscenity, the court may require, in addition to any fine or imprisonment imposed, that the defendant enter into a reasonable recognizance with good and sufficient surety, in such sum as the court may direct, but not to exceed \$50,000, conditioned that, in the event the defendant is convicted of a subsequent offense of promoting obscenity within two years after such conviction, the defendant shall forfeit the recognizance.

**History:** L. 1969, ch. 180, § 21-4301; L. 1970, ch. 128, § 1; L. 1976, ch. 159, § 1; L. 1980, ch. 98, § 2; L. 1986, ch. 121, § 3; L. 1988, ch. 114, § 1; L. 1992, ch. 239, § 210; L. 1993, ch. 253, § 12; L. 1994, ch. 291, § 42; July 1.

**Below is the list of twenty nine indictments of devices by the Dickinson County Grand Jury April 1<sup>st</sup> 2004. These devices were determined to be in violation of K.S. A. 21-4301 Promotion of Obscenity.**

1. 10" Mega Coxx Dildo
2. Ultra Tech 3000 Dildo
3. Cyber Inflatable Blow-up Doll
4. Julie Ashton Realistic Pussy and Ass
5. Double Dong with Harness
6. Cherry Scented Artificial Mouth
7. Nick Manning's Masturstroke
8. Hustler-Little Pink Pussy
9. Pure Pussy Vibrating Pink Puregel Vagina
10. Auto Suck
11. Stephanie Swift's Vibrating Love Doll
12. The Clone-Life Like Vibrating Vagina
13. The realistic Cock-Molded From An Actual Erect Penis
14. Cyberskin Cyber Cock
15. Thumbs Up-Enhancing Clit Stim
16. Doctor Love's-The Perfect Extension
17. Honey Bee-Vaginal, Anal and Clitoral Stimulation System
18. Hustler Lady Godiva-Bendable Pleasure Dong With Harness
19. Fujiko's Asian Odyssey-Vaginal Clitoral and Anal Stimulation
20. Hustler-My First Clit Kiss
21. My First Sex Kit-Petite Toys for Big Orgasms
22. The Overnghter-Ginger Lynn's Favorite Toys
23. Waterproof Water Penis G
24. Slender G Spot
25. Hustler Cyberskin-Xtasy Vibe
26. Club Jenna-Jenna's Beaver
27. Sensual Clierific
28. Nikki Tyler-Realistic Vibrating Vagina & Anus
29. The Love Machine

Other themes and items common to all pornography outlets are videos and magazines featuring sadomasochistic torture, bondage, "barely legal" teen sex, excrement activities, multiple partners, reenacted gang rape scenes, bondage, auto-erotic displays, anal sex, straight sex, mixed sex, etc...

Often Pornography outlets contain private viewing rooms, or 'peepshow' booths, where patrons engage in masturbation or promiscuous and unsafe sex acts with prostitutes or other patrons. The booths are covered with bodily fluids and sometime have openings to allow anonymous acts of oral and anal intercourse. A woman from Wilson, Kansas upon investigating an "Adult" Bookstore, described eight enclosed booths. "Each booth had a lock on the door, a small chair, a video machine, a trashcan and a roll of toilet paper on a shelf! There are no hand washing facilities in the booth to prevent the contamination of other surfaces. Customers handle money, merchandise, equipment and then head out to their trucks often to deliver our products. Do the employees wear gloves when taking out the trash and handling the money before coming home to Wilson? "

The sexual perversions are shocking to the average Kansan when revealed. These listed perversions lead to even more depravity as sexual appetites are inflamed and demand more.

**Pornography**  
**Is**  
**Big Business**

**CBS - 60 Minutes**  
**Investigative Stories**

**September 2004**  
**January 2005**

# Porn In The U.S.A.

Sept. 5, 2004 CBS 60 Minutes

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**It is estimated that Americans now spend somewhere around \$10 billion a year on adult entertainment, which is as much as they spend attending professional sporting events, buying music or going out to the movies.**

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**"I think that they get involved in it because of the profit margins that are involved.... And because you can charge a premium for it, the profit margin is higher. So, it makes pure economic sense,"**

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**"Corporations are in business to make money. This is an extremely large business and there's a great opportunity for profits in it."**

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**(CBS) Selling sex is one of the oldest businesses in the world, and right now, business has never been better.**

One of the biggest cultural changes in the United States over the past 25 years has been the widespread acceptance of sexually explicit material - pornography.

In the space of a generation, a product that once was available in the back alleys of big cities has gone corporate, delivered now directly into homes and hotel rooms by some of the biggest companies in the United States.

**It is estimated that Americans now spend somewhere around \$10 billion a year on adult entertainment, which is as much as they spend attending professional sporting events, buying music or going out to the movies.**

Consumer demand is so strong that it has seduced some of America's biggest brand names, and companies like General Motors, Marriott and Time Warner are now making millions selling erotica to America. Last November, **Correspondent Steve Kroft** reported on this billion-dollar industry.

The best place to see it is at the industry's annual convention in Las Vegas, where more than 200 adult entertainment companies gather under one roof to network, schmooze and show off their latest wares.

Presiding over it all is Paul Fishbein, the founder and president of Adult Video News, the industry's trade publication, which sponsors the expo.

Who's out there? "Manufacturers of adult products, distributors, suppliers, retail store owners, wholesalers, distributors, cable TV buyers, foreign buyers," says Fishbein. "They're all here to do business, and then you have the fans."

The fans came from all over the country, stood in line for hours, and paid \$40 to get into what was essentially an X-rated trade show. From appearances, you might find the same crowd at the boat show.

According to Fishbein, there are well over 800 million rentals of adult videotapes and DVDs in video stores across the country. "And I don't think that it's 800 guys renting a million tapes each," he says.

Suffice it to say, there was something available for every sexual demographic - even material aimed at the **60 Minutes** crowd.

In Fishbein's words, all of this is performed and produced by consenting adults, for the use of consenting adults in the privacy of their own homes. The industry also has its own major studios.

"Here you have two of the leading companies in the business, VCA and Vivid," says Fishbein. "They're known for the biggest-budget top movies in the industry, along with Wicked Pictures."

The industry also has its own major stars, like Jenna Jameson, a teen beauty queen, turned showgirl, turned porn actress. With the approval of her family, she reportedly earned more than a million dollars last year performing sex for money.

"The way I look at it is, this is kind of an art to me. I'm performing. I'm not doing it for the gratification of

another man," says Jameson. "I'm doing it because this is my job and I'm entertaining the masses. So it's just like being Julia Roberts, but just a little bit further, one step further."

The porn world now has all the trappings of a legitimate industry with considerable economic clout. Besides its own convention and trade publication, it holds marketing and legal seminars. It even has its own lobbyist.

"It employs in excess of 12,000 people in California. And in California alone, we pay over \$36 million in taxes every year. So it's a very sizeable industry," says Bill Lyon, a former lobbyist for the defense industry.

When *60 Minutes* first spoke to Lyon, he was running the free speech coalition, a trade organization that represents 900 companies in the porn business.

"I was rather shocked to find that these are pretty bright business people who are in it to make a profit. And that is what it's about," says Lyon.

What kind of reaction does he expect to get when he tells legislators all over the country that he's a lobbyist for the adult entertainment business?

"Initially, I think there's a degree of shock. But when you explain to them the size and the scope of the business, they realize, as all politicians do, that it's votes and money that we're talking about," adds Lyon, who says there are reputable companies traded on the New York Stock Exchange that are involved in the business. **"Corporations are in business to make money. This is an extremely large business and there's a great opportunity for profits in it."**

In 2002, Comcast, the nation's largest cable company, pulled in \$50 million from adult programming. All the nation's top cable operators, from Time Warner to Cablevision, distribute sexually explicit material to their subscribers. But you won't read about it in their annual reports. Same with satellite providers like EchoStar and DirecTV, which is owned by Hughes Technology, a subsidiary of General Motors.

How much does DirecTV make off of adult product?

"They don't break the number out. But I would guess they'd probably get a couple hundred million, maybe as much as \$500 million, off of adult entertainment, in a broad sense," says Dennis McAlpine, a partner in McAlpine Associates, who has tracked the entertainment industry for over two decades. "I would think it's probably more than what their overall profit is. The other areas are losing money. That's making money."

Then there are the big hotel chains: Hilton, Marriot, Hyatt, Sheraton and Holiday Inn, which all offer adult films on in-room pay-per-view television systems. And they are purchased by a whopping 50 percent of their guests, accounting for nearly 70 percent of their in-room profits. One hotel owner said, "We have to have it. Our guests demand it."

One of the largest owners and programmers of in-room pay-per-view is Liberty Media, a publicly traded company run by media mogul John Malone, one of the most powerful people in the communications industry.

McAlpine says that adult entertainment has become a critical part of the entertainment business: "Adult is a major factor in determining the profits of a cable system, an in-house hotel system, a satellite system. It's a big profit contributor."

So how do these corporations get involved in it?

**"I think that they get involved in it because of the profit margins that are involved. One of the things about pornography that's consistently true across the board is that because there's a social stigma still attached to it, you can charge a premium for these materials. And because you can charge a premium for it, the profit margin is higher. So, it makes pure economic sense,"** says Fred Lane, a lawyer and author of a book called *"Obscene Profits: The Entrepreneurs Of Pornography In The Cyber Age."*

The epicenter of the porn industry is Chatsworth, Calif., a quiet suburb north of Los Angeles. It is indistinguishable from the other middle-class communities that sprawl across the San Fernando Valley, except for one thing.

Tucked among the defense contractors and aerospace companies are dozens and dozens of adult film companies like Vivid Video, the porn industry equivalent of Paramount or Universal. It makes adult films, distributes them on video, DVD, and then sells them to hotels, cable companies and over the Internet.



Bill Asher, Vivid's president, says these films are relatively inexpensive to produce, and Vivid has had double-digit growth every year for the past five years. Last year, he says, consumers spent a billion dollars on Vivid products.

"We know that when we were selling the content to certain satellite companies, they did an analysis, and we were the most profitable channel they had for the distributor," says Asher. "I would say it [cable systems] is the most profitable channel ... The industry is big business now. It's mainstream. It's really no different than what Playboy was 30 years ago, 20 years ago."

Asher, who graduated from Dartmouth and has an MBA, used to work at Playboy as a financial analyst.

"It's an issue of distribution. When customers can get to adult content, generally, they buy it. They enjoy it. The question was, 'Would mainstream companies distribute it?' Now, Playboy and Penthouse for 30 years have enjoyed the same distribution as other magazines. Adult movies really didn't have that up until recently," adds Asher.

"And what happened was, as companies like Vivid came around, and made everyone more comfortable with adult product, mainstream companies said, 'OK, we'll be willing to distribute it. We would like to join in the benefit - the financial benefit of distributing it.'"

Asher says it wasn't a hard sell. All he had to do was show and provide an upscale product on the polite side of the pornographic spectrum. "We strive to have good sets, good plots, attractive people. People who can hopefully speak and act. Everything that you would expect to see in a mainstream movie," says Asher.

**60 Minutes** was hoping that at least one big mainstream corporation would talk to us about its involvement in adult entertainment. But no one did. A few gave us statements saying essentially their companies provide a whole range of entertainment choices, plus the ability to block them out, and such choices should be left to the customer.

"When **60 Minutes** comes to your door asking about adult content, and you're a major corporation, my advice to you would be: 'Don't open the door,'" says Asher. "What possible victory could come out of it for them? They are offering content, the customers are buying the content, everyone is happy."

**Adult entertainment is so lucrative and profitable that it's become part of the mainstream culture -- readily available, easily accessible, and all but impossible to legislate away.**

How did it happen? It began 25 years ago with a brand new household appliance: the video cassette recorder.

"The first thing that a lot of people did when they got their VCR was rent or purchase an adult movie. 'Deep Throat.' 'Devil in Miss Jones.' 'Behind the Green Door.' 'Debbie Does Dallas.' That's what they asked for," says Fishbein, who publishes *The Adult Video News*, the porn industry's trade magazine.

"Most people had never seen an adult movie, because they had to go out in public, to a theater, to see it. I mean, sex is a very private thing. So, now that you can watch it in the privacy of your own home, nobody has to know. And I think that's what drove the VCR. And I think, to a degree, it's what drove a lot of people to get on the Internet."

In fact, pornography has helped drive early sales and the development of most new entertainment technologies for the past 25 years - providing software for the latest gadgets, and a reason to buy them. And usually the first people who do are affluent young men who like porn.

Type the word "sex" into an Internet search engine like Google and you will get 180 million hits. For years, adult sites were the only ones to turn a profit. They have pioneered and helped to develop numerous technological breakthroughs from online payment methods to streaming video.

Lane wrote a book about this unofficial, commercial partnership between technology and the adult entertainment industry. He believes it has had a tremendous impact on American values, popular culture, and the government's ability to regulate pornography.

"The way I like to put it is that we went from 1,000 adult movie theaters in less than 10 years to 80 million adult movie theaters. And that basically is what happened with the VCR," says Lane.

"The computer now, in terms of its penetration into American households -- the last figure I saw was somewhere on the order of 70-80 million households, out of the 100 million in this country?. So again, we've got enormous potential for people to look at things in the privacy of their home."

Has it become more difficult in the United States to win an obscenity prosecution?

Absolutely, says Lane. "And as adult materials have found their way into different communities by different means, whether it's by cable television, or it's by hotel chains, people have grown increasingly comfortable with adult materials. And there seems to me to be, I think, a growing sense that what people do in the privacy of their own homes is their business."

Porn is so accessible now that it's working its way into the subtext of American culture, crossing over into fashion, music and television. Take, for example, a Christina Aguilera music video on MTV or VH1 or a Britney Spears concert on HBO, dripping with sexual imagery obviously borrowed from the world of adult entertainment. You will even find porn references on the TV show, "Friends."

Luke Ford, who spent seven years writing an Internet gossip column about the adult entertainment industry for his own Internet Web site, isn't sure what to make of it.

"It's become popular, cool, acceptable in this 18-to-25 age group. My age group, I'm 37, my age group and up. We think porn is something that's shameful. But for kids half my age, they think it's cool," says Ford, who guesses it's an act of rebellion, embracing one of society's last taboos.

Ford, who is often referred to as the Matt Drudge of porn, gave *60 Minutes* a tour of a backyard porn set in a residential neighborhood of Chatsworth that has been used by porn directors for more than 20 years.

"It is just like Hollywood," he says.

Like the porn industry itself, it becomes less glamorous the closer you get. If you take away the accountants and CEOs, you're left with a small insular world, filled with renegades and outcasts, who like to flaunt society's rules.

"They come into this industry, because this is the single easiest way that they can earn \$1,000 in a day, in two hours," says Ford. "It's not like we're losing people from going to medical school or business school or becoming lawyers."

Hang around the World Modeling talent agency on Van Nuys Boulevard in Sherman Oaks and one of the first things you notice is that there is no shortage of men or women who are eager to work in the business.

"It's just fun. I think it's awesome that you, like, can be, like, a sex icon. I think girls will argue that it's a bad thing, you're crazy," says Destiny. "Because, you know, everybody thinks you're beautiful. Everybody wants to meet you."

You'll also see why Fortune 500 companies making millions off the industry don't like to be publicly associated with it.

"Most girls who enter this industry do one video and quit. The experience is so painful, horrifying, embarrassing, humiliating for them that they never do it again," says Ford.

The argument that pornography exploits women has long been one of the flashpoints for social debates about the industry. Now, anti-porn groups say hundreds of thousands of men have become addicted to it, leading to anti-social behavior, and causing divorce and family breakups.

"Just because this material is available, and citizens tolerate it, doesn't mean that they accept it," says Mary Beth Buchanan, the U.S. Attorney for the Western district of Pennsylvania, and the point person in the Justice Department's campaign to rein in pornography.

When John Ashcroft was appointed attorney general, among his first acts were to hang blue drapes in front of a topless statue in the lobby of the Justice Department, and to promise a crackdown on smut.

Buchanan's prosecution of a California company called Extreme Associates is the first major obscenity case brought by the federal government in more than a decade.

"We have just had a proliferation of this type of material that has been getting increasingly worse and worse. And that's why it's important to enforce the law, and to show the producers that there are limits. There are limits to what they can sell and distribute throughout the country," says Buchanan.

She believes that three films produced and distributed by Extreme Associates by mail and over the Internet contain coercive and violent sex, along with other material that is vile and degrading.

Rob Black, president of Extreme Associates, considers that a compliment.

One film, called "Forced Entry," includes shots of women getting raped and murdered. It also includes suffocation, strangulation, beatings and urination. Black calls "Forced Entry" a slasher film with sex, loosely based on the Hillside Strangler case. But *60 Minutes* couldn't find enough plot to show anything beyond the opening credits.

"They made absolutely no attempt to comply with federal law. In fact, it was probably their intent not to," says Buchanan. "Because what they wanted to do was to make the most disgusting material available on the market. And they succeeded."

What is federal law on pornography? The only explicit, hard-core sexual material that is absolutely illegal by law in the U.S. today is child pornography -- all other material must be put before a jury.

The Supreme Court last defined obscenity as material appealing to a degrading interest in sex, depicting it in a patently offensive manner, and lacking any serious artistic, literary, or scientific value. But this was way back in 1973, before the VCR and the Internet were in existence.

In *California vs. Miller*, the Burger Court recognized that individual communities had different values and opinions on pornography, so it allowed localities to make their own judgments, based on contemporary community standards.

But since 1973, standards have changed, and so has the definition of a community. Today, with the Internet, cable, and satellite television, most pornography can be transmitted directly into someone's home without ever disrupting the community, or its standards. And that will be Extreme Associates' argument in court.

"It's not involving the community. It's involving a private individual, who purchased these videos, and downloaded the images from the Internet into their home. So, where does that community standard apply," says Black. "You can't apply a community to it if only one person is viewing it. They didn't go to a local video store. It was purchased privately by an individual at home, and sent to them in the mail. And that is the debate. And so, where is the community? Where do you apply it?"

How do you apply community standards when you're talking about something that is just downloaded into somebody's home?

"I think that is precisely the question that the court has to answer. The original purpose of the Miller test was to give communities the opportunity to regulate what came into their borders, what was displayed on Main Street, what kids were actually seeing as they went around the community," says Lane.

"Obviously, if something's downloaded into the privacy of one's own home, it doesn't have that kind of impact on the community. So the question is, does the community still have the right to determine what people look at?"

Buchanan says she's doesn't have to convince the entire community, just the jury: "We're focusing our resources on the most egregious offenders. So, we're looking at the producers and distributors who are producing the worst material, the largest quantity of material, the largest area of distribution."

Buchanan says it's not the Justice Department's intention to shut down the adult entertainment industry, or eliminate all sexually explicit material -- even if it could. The point is to enforce some standards, and it hopes to do so when the case against Extreme Associates finally goes to trial this fall.

Since *60 Minutes* first brought you this report, General Motors sold its subsidiary, Hughes Technology, and got out of the porn business. And, actress Jenna Jameson says she wants to do the same thing: retire and become a "regular mom."

# Raw Profit On The Printed Page

Jan. 5, 2005 CBS 60 Minutes

**"The porn business is pretty amazing in terms of its scope, you know," says Regan. "In this country, it is an enormous business. It is probably the biggest business on the Internet."  
It's a business believed to be worth as much as \$10 billion a year.**

(CBS) It used to be that many books containing sex and pornography were written by authors with made-up names, published by companies you'd never heard of, and sold in stores you'd rather not be seen in.

Well, not anymore. **Today, the country's largest publishers have seen the light. Sex and porn are hot, and the more real and hardcore, the better.**

Even though there's a lot of talk about the country growing more socially conservative by the day, publishers are printing XXX books as never before, with racy titles by big-name authors, winding up in book stores nationwide. **Correspondent Jim Stewart reports.**

**"Pornography is a big business. I think it should be written about. I think it should be talked about,"** says Judith Regan, who has consistently put out bestsellers by a variety of authors including Howard Stern, Rush Limbaugh, and Michael Moore.

But this year, Regan is taking her winning formula and applying it more than ever to sex and porn.

"I believe that there is a porno-ization of the culture," says Regan. "What that means is that if you watch every single thing that's going on out there in the popular culture, you will see females scantily clad, implanted, dressed up like hookers, porn stars and so on. And that this is very acceptable."

It's so acceptable that Regan recently published what has turned out to be one of the raunchiest books ever to be near the top of The New York Times bestseller list. It's called "How to Make Love Like a Porn Star: A Cautionary Tale."

It's an autobiography by superstar porn actress Jenna Jameson, and put out by ReganBooks, a division of HarperCollins. It's 579 pages of text, nude photos, actually lots of nude photos, and details of Jameson's rise, from stripper to porn icon.

"The uniqueness of the Jenna Jameson book right now is that she is a big porn star. And as a porn star, she has become somewhat mainstream," says Regan. "She did an ad for Pony sneakers or shoes. She has a big modeling contract now. Those sorts of things are unique to this time."

Regan is not the only publisher who's noticed this phenomenon. While sex has always been a part of literary history, mainstream publishers are now rolling out reality-driven hardcore, like porn star sex tips, and explicit erotic memoirs.

And they're doing it with some unlikely authors. Jameson's book was co-written by Neil Strauss, a former reporter for The New York Times. Another book, "XXX: 30 Porn Star Portraits," is by the renowned portrait photographer, Timothy Greenfield-Sanders.

"What I love about this book is the way it's been accepted, and I mean because it does have nudity in it," says Greenfield-Sanders. "But it also has some amazing writing, and also writing from the porn stars themselves."

It's all about porn stars, including Jameson, and features portraits of them fully clothed, and totally unclothed. Between the 60 full-page pictures are essays by literary luminaries like Gore Vidal and Salman Rushdie.

Greenfield-Sanders says this \$35 coffee-table book is his attempt to capture the human side of porn.

"I would ask a porn star, and I'd say, 'Well, what's your best attribute? What's your best feature,'" he says.

"Usually, I say to somebody, 'What's your best angle?' And it usually means, you know, 'Which side of the face is better?' But here, they would say, 'My butt is my best feature' or 'My breasts are my best feature.' So you do your best to accommodate that."

It was a surprising choice of subjects for someone whose work is part of the permanent collection at the Museum of Modern Art, and who has made a name for himself by photographing famous people, from actors like Alec Baldwin, to artists and world leaders like the president and the first lady.

What's the difference between taking a photograph of the president's wife and Jenna Jameson?

"Jenna Jameson is better in front of the camera," says Greenfield-Sanders.

After 25 years in photography, he said he thought he'd seen it all. But apparently not. He was fitting his XXX shoots between his usual high-profile jobs, while hoping a publisher might be interested someday, when The New York Times got wind of the project and ran a story.

Then, a most unusual thing happened. "The day it came out, eight or 10 of the top publishers in town called to come see me," says Greenfield-Sanders. "Publishers were calling me. The way it [usually] works is you say, 'Here are my photos. And would you consider publishing them?' The tables were turned in a sense because I was then interviewing publishers."

"It was surreal because it wasn't what I was used to," he adds. "There was a bidding war."

The war was won by one of the most prestigious art book houses in the world, Bulfinch Press, owned by the media conglomerate Time Warner.

For Greenfield-Sanders, Bulfinch brought to the table a refined reputation, the biggest advance he'd ever seen, and the prospect of more than just a book deal.

"There's a film at HBO called 'Thinking XXX,' which I directed. And then, there's a CD of the soundtrack of that film," says Greenfield-Sanders, who hopes to sell the photos for a lot of money.

He may have hit the jackpot. At the recent gallery premiere in New York, where the portraits were on sale for \$35,000 a pair, the author couldn't sign books fast enough. And on Amazon.com, one of the major indicators of a title's performance, "XXX" ranked for weeks in the top 100.

As they say, one man's pornography is another man's art. So why should people buy the book?

"I think there's an audience for people who just want to see the picture," says Greenfield-Sanders. "But I think there's also an audience for what I've done, which is to try and get people to write about a subject that's often avoided, to write about a subject that people are afraid of."

During Jameson's cross-country book tour, it was hard to tell that people are afraid of sex and porn at all. While the country does seem more focused than ever on so-called moral values, there is still a healthy appetite for what used to be considered taboo.

**"The porn business is pretty amazing in terms of its scope, you know," says Regan. "In this country, it is an enormous business. It is probably the biggest business on the Internet."**

**It's a business believed to be worth as much as \$10 billion a year. And that's not lost on someone like Regan, which may explain why she's gone out of her way to make friends with Steve Hirsch, one of the biggest names behind porn.**

Hirsch is the co-chairman of Vivid Entertainment, a producer and distributor of hardcore sex films -- or as he prefers to call it, adult entertainment.

"Judith is very inquisitive. She likes to know about everything. And we started talking. And she asked me many questions about the adult industry," says Hirsch. "And then she said, 'You know, maybe we should explore doing a book together.'"

The deal was sealed and the result was "How to Have a XXX Sex Life: The Ultimate Vivid Guide," featuring

Hirsch's Vivid Girls, hardcore porn's version of the Playboy Bunnies. In business, that's called "extending the brand."

Does Regan think she's being used by the porn industry? "Not at all," she says. "If people actually read the book, 'How to Make Love Like a Porn Star: A Cautionary Tale,' they're going to see what the porn business is all about, and the price that you pay if you're in it."

Is "How to Have a XXX Sex Life – The Ultimate Vivid Guide" a good read?

"[It's] very entertaining. Very informative. You see, I don't have a problem with sex," says Regan. "I don't think sex is bad, I don't think sex is dirty. I think sex is actually good."

Whatever you think of it, it's available at a bookstore near you. And Regan plans to publish more of it.

"The truth is, good storytelling is good storytelling," says Regan. "Whether it's William Shakespeare or Edgar Allan Poe or you or me, we're all in the same business, which is we want to capture the audience's attention, and we want to keep their attention."

# **Negative Secondary Effects of Sexually Oriented Businesses Studies**

**(Summaries)**

- **Increase in Crime.**
- **Increase in Sexually Transmitted Diseases.**
- **General Blight.**
- **Decreases property Values.**

**NATIONAL LAW CENTER**  
for Children and Families

**"NLC"**

**NLC Summaries of "SOB Land Use" Studies**

*Crime Impact Studies by Municipal and State Governments  
on Harmful Secondary Effects of  
Sexually Oriented Businesses*

1. Phoenix, Arizona
2. Tucson, Arizona
3. Garden Grove, California
4. Los Angeles, California
5. Whittier, California
6. Adams Co., Colorado
7. Manatee Co., Florida
8. Indianapolis, Indiana
9. Minneapolis, Minnesota
10. Saint Paul, Minnesota
11. Las Vegas, Nevada
12. Ellicottville, New York
13. Islip, New York
14. New York, New York
15. Times Square, New York
16. New Hanover Co., North Carolina
17. Cleveland, Ohio
18. Oklahoma City, Oklahoma
19. Oklahoma City, Oklahoma II
20. Amarillo, Texas
21. Austin, Texas
22. Beaumont, Texas
23. Cleburne, Texas
24. Dallas, Texas
25. El Paso, Texas
26. Houston, Texas
27. Houston, Texas II
28. Newport News, Virginia
29. Bellevue, Washington
30. Des Moines, Washington
31. Seattle, Washington
32. St. Croix Co., Wisconsin

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**Phoenix, Arizona**  
**Land Use Study**  
Dated May 25, 1979

The study examines crime statistics for 1978 comparing areas which have sexually oriented businesses with those that do not. The results showed a marked increase in sex offenses in neighborhoods with



sexually oriented businesses, and also proved increases in property and violent crimes as well. This study is not unique but is unusually significant, in covering the issue of property crimes more extensively.

Three study areas (near locations of sexually oriented businesses) and three control areas (with no sexually oriented businesses) were selected. The study and control areas were paired according to the number of residents, median family income, percentage of non-white population, median age of population, percentage of dwelling units built since 1950, and percentage of acreage used for residential and non-residential purposes.

Three categories of criminal activity were included in the study: property crimes (burglary, larceny, auto theft), violent crimes (rape, murder, robbery, assault), and sex crimes (rape, indecent exposure, lewd and lascivious behavior, child molestation).

On average, the number of sex offenses was 506% greater in neighborhoods where sexually oriented businesses were located. In one of the neighborhoods the number was 1,000% above the corresponding control area. Of the sex offenses, indecent exposure was the most common offense and the largest contributor to the increase of crimes in areas where sexually oriented businesses were located. Even without considering the crime of indecent exposure, the number of other sex crimes, such as rape, lewd and lascivious behavior, and child molestation, was 132% greater than in control areas without sexually oriented businesses.

On average the number of property crimes was 43% greater in neighborhoods where sexually oriented businesses were located, and the number of violent crimes was 4% higher in those areas.

The Phoenix ordinance requires sexually oriented businesses to locate at least 1,000 feet from another sexually oriented business and 500 feet from a school or residential zone. Approval by the City Council and area residents can waive the 500 foot requirement. A petition signed by 51% of the residents in the 500 foot radius who do not object must be filed and be verified by the Planning Director.

## Tucson, Arizona

### Land Use Study

Dated May 1, 1990

**OVERVIEW:** This report is a memorandum from Police Department Investigative Services to the City Prosecutor describing events and activities at "adult entertainment bookstores and establishments" that demonstrate the need for stronger ordinances. Investigations had been in progress since 1986 following numerous complaints of illegal sexual activity and unsanitary conditions.

**FINDINGS:** Officers found a wide variety of illegal sexual conduct at all adult businesses. At virtually every such business, employees were arrested for prostitution or obscene sex shows. Dancers were usually prostitutes where, for a price, customers could observe them performing live sex acts. At several businesses, customers were allowed inside booths with dancers and encouraged to disrobe and masturbate. Many times, dancers would require customers to expose themselves before they would perform. Underage dancers were found, the youngest being a 15 year old female.

Within peep booths, officers found puddles of semen on the floor and walls. If customers had used tissues, these were commonly on the floor or in the hallway. On two occasions, fluid samples were collected from the booths. In the first instance, 21 of 26 samples (81%) tested positive for semen. In the second sampling, 26 of 27 fluid samples (96%) tested positive for semen. "Glory holes" in the walls between adjoining booths facilitated anonymous sex acts between men.

**RECOMMENDATIONS:** (1) The bottom of the door in peep booths must be at least 30 inches from the floor so that an occupant can be seen from the waist down when seated. (2) The booth cannot be modified nor can a chair be used to circumvent the visibility of the client. (3) Employee licensing procedures that include a police department background check should be put in effect. (4) In the event of a denied or revoked license, the requirement of a hearing before any action is taken.

## Garden Grove, California

## **Land Use Study**

### **Dated September 12, 1991**

**OVERVIEW:** This report by independent consultants summarizes statistics to determine whether adult businesses should be regulated because of their impact on the community in terms of crime, decreased property values and diminished quality of life. Statistics were measured from 1981 to 1990, and included crime data and surveys with real estate professionals and city residents. Garden Grove Boulevard, which has seven adult businesses, was selected as the study area. The study incorporated many control factors to insure accurate results. The report includes a brief legal history of adult business regulation and an extensive appendix with sample materials and a proposed statute.

**CRIME:** Crime increased significantly with the opening of an adult business, or with the expansion of an existing business or the addition of a bar nearby. The rise was greatest in "serious" offenses (termed "Part I" crimes: homicide, rape, robbery, assault, burglary, theft and auto theft). On Garden Grove Boulevard, the adult businesses accounted for 36% of all crime in the area. In one case, a bar opened less than 500 feet from an adult business, and serious crime within 1,000 feet of that business rose more than 300% the next year.

**REAL ESTATE:** Overwhelmingly, respondents said that an adult business within 200-500 feet of residential and commercial property depreciates that property value. The greatest impact was on single family homes. The chief factor cited for the depreciation was the increased crime associated with adult businesses.

**HOUSEHOLD SURVEYS:** 118 calls were completed in a random sample of households in the Garden Grove Boulevard vicinity. The public consensus was that adult businesses in that area were a serious problem. Nearly 25% of the surveyed individuals lived within 1,000 feet of an adult business. More than 21% cited specific personal experiences of problems relating to these businesses, including crime, noise, litter, and general quality of life. 80% said they would want to move if an adult business opened in their neighborhood, with 60% saying they "would move" or "probably would move." 85% supported city regulation of the locations of adult businesses, with 78% strongly advocating the prohibition of adult businesses within 500 feet of a residential area, school or church. Women commonly expressed fear for themselves and their children because of adult businesses.

**RECOMMENDATIONS:** The report concludes that adult businesses have a "real impact" on everyday life through harmful secondary effects and makes four recommendations: (1) Keep current requirement of 1,000 feet separation between adult businesses; (2) Prohibit adult establishments within 1,000 feet of residential areas; (3) Enact a system of conditional use permits for adult businesses with police department involvement in every aspect of the process; and (4) Prohibit bars or taverns within 1,000 feet of an adult business.

## **Los Angeles, California**

### **Land Use Study**

#### **Dated June, 1977**

**OVERVIEW:** The Department of City Planning studied the effects of the concentration of sexually oriented businesses on surrounding properties for the years 1969-75 (a time of proliferation for such businesses). The report focuses on five areas with the greatest concentration of these businesses (compared to five "control" areas free of them), and cites data from property assessments/sales, public meeting testimony, and responses from two questionnaires (one to business/residential owners within a 500 foot radius of the five study areas and a second to realtors/real estate appraisers and lenders). Crime statistics in the study areas were compared to the city as a whole. Also included: a chart of sexually oriented business regulations in eleven major cities, details of current regulations available under state/municipal law, and appendices with samples of questionnaires, letters, and other study materials.

**PROPERTY:** While empirical data for 1969-75 did not conclusively show the relation of property

valuations to the concentration of sexually oriented businesses, more than 90% of realtors, real estate appraisers and lenders responding to city questionnaires said that a grouping of such businesses within 500-1,000 feet of residential property decreases the market value of the homes. Also, testimony from residents and business people at two public meetings spoke overwhelmingly against the presence of sexually oriented businesses citing fear, concern for children, loss of customers and difficulty in hiring employees at non-adult businesses, and the necessity for churches to provide guards for their parking lots.

**CRIME:** More crime occurred in areas of sexually oriented business concentration. Compared to city-wide statistics for 1969-75, areas with several such businesses experienced greater increases in pandering (340%), murder (42.3%), aggravated assault (45.2%), robbery (52.6%), and purse snatching (17%). Street robberies, where the criminal has face to face contact with his victim, increased almost 70% more in the study areas. A second category of crime, including other assaults, forgery, fraud, counterfeiting, embezzlement, stolen property, prostitution, narcotics, liquor laws, and gambling increased 42% more in the study areas over the city as a whole.

**RECOMMENDATIONS:** The study recommended distances of more than a 1,000 feet separating sexually oriented businesses from each other, and a minimum of 500 feet separation of such businesses from schools, parks churches and residential areas.

## Whittier, California

### Land Use Study

Dated January 9, 1978

**OVERVIEW:** After experiencing a rapid growth of sexually oriented businesses since 1969, the Whittier City Council commissioned a study of the effects of the businesses on the adjacent residential and commercial areas. At the time of the study, Whittier had 13 "adult" businesses: 6 model studios, 4 massage parlors, 2 bookstores, and 1 theater. Utilizing statistics, testimonies, and agency reports, the study compared two residential areas and four business areas over a span of 10 years (1968-1977). One residential area was near the largest concentration of adult businesses, the other had no commercial frontage but was chosen because of similar street patterns, lot sizes and number of homes. For businesses, Area 1 had six adult businesses, Area 2 had one, Area 3 had three, and Area 4 had none. 1973 was selected as the year to compare before and after effects of the adult businesses. Two chief concerns cited in the report are residential and business occupancy turnovers and increased crime.

**OCCUPANCY TURNOVER:** After 1973, 57% of the homes in the adult business area had changes of occupancy, compared to only 19% for the non-adult business area. Residents complained of "excessive noise, pornographic material left laying about, and sexual offenders (such as exhibitionist) venting their frustrations in the adjoining neighborhood." Citizens also expressed concern about drunk drivers coming into the area. Business Area 1, with the most concentration of adult businesses (6), experienced a 134% increase in annual turnover rate. Area 3, with three adult businesses at one location, showed a 107% turnover rate. Area 2 (with 1 adult business) had no measurable change and Area 4 (with no commercial or adult businesses) experienced a 45% decrease in turnover from similar periods.

**CRIME:** The City Council looked at the two residential areas for the time periods of 1970-73 (before adult businesses) and 1974-77 (after adult businesses). In the adult business area, criminal activity increased 102% (the entire city had only an 8.3% increase). Certain crimes skyrocketed (malicious mischief up 700%; all assaults up 387%; prostitution up 300%). All types of theft (petty, grand, and auto) increased more than 120% each. Ten types of crime were reported for the first time ever in the 1974-77 period.

**RECOMMENDATIONS:** The Council's report recommended a dispersal type ordinance that prohibits adult businesses closer than 500 feet to residential areas, churches and schools. Distances between adult businesses was recommended at 1,000 feet. In addition, the study proposed a 1,000 foot separation from parks because of their use by citizens after normal working hours. Adult businesses would be given an 18-36 month amortization period (if the change involved only stock in trade, a 90 day period was recommended).

## Adams Co., Colorado

### Land Use Study

Dated April, 1988

**OVERVIEW:** This report, authored by Sgt. J.J. Long of the Adams County Sheriffs Department, was designed to accompany a new Nude Entertainment Ordinance. The report covers two parts: first, an April 1988 study of six representative locations in Adams County was undertaken to determine the transiency of adult business customers. Second, crime statistics in two Adams County areas featuring adult businesses were gathered for the years of 1986 and 1987. The study concluded that there was a clearly demonstrated rise in crime and violence, and an increase in the attraction to transients to the area as a result of nude entertainment establishments. This caused a danger to residents and an undesirable model for youth and the community at large.

**FINDINGS:** Adams County features 6 adult bookstores (all but one featuring nude entertainment), 1 all nude "pop shoppe," 7 massage parlors, 8 topless nightclubs (with liquor licenses), and 6 nude "rap," lingerie, and modeling-type studios (28 locations in all). An April 1988 study of six adult business locations in Adams County, revealed that 76% of patrons were transient. During the time when no adult ordinance was in effect in Adams County (1986 and 1987), 24 crimes were reported in one area featuring two adult businesses. Eighty-three percent of these crimes were linked to the adult businesses. Forty-two percent of these crimes occurred at the location of an all-nude establishment, and sixty-four percent occurred outside the hours of 4:00 p.m. to midnight. During 1987, 28 crimes were reported, 93% of which were linked to the adult businesses, 50% were alcohol-related offenses, and 77% occurred at a single establishment. Finally, 61% of those crimes occurred during hours other than those between 4:00 p.m. and midnight. Crime rates between 1986 and 1987 for another Adams County area featuring three adult bookstores, two topless nightclubs, a bar, a liquor store, and a beer outlet revealed a 15% increase in crime, (i.e., 55 crimes in 1986 as opposed to 63 in 1987). In 1986, 29 of those crimes involved alcohol, while in 1987, 41 were linked to alcohol (a 41% increase). A rural area of Adams County with a single topless nightclub experienced a 39% increase in crime between 1986 and 1987. There was a marked increase in the number of adult entertainment locations opening for business during 1986 and 1987. Further, a check of criminal histories of some of the offenders showed arrests for morals crimes, sexual assaults, alcohol-related offenses, and crimes of violence. A study of armed robbery in one area during the same time period revealed that 66% of all reported armed robberies occurred at the adult bookstores. Finally, seven homicides from 1977 to 1987 were directly linked to adult bookstores and nude entertainment businesses.

The 1988 enactment of the Nude Entertainment Ordinance, which was upheld by the Colorado Supreme Court, reduced the number of adult businesses in Adams County to only 14. The Adams County ordinance included the following provisions: 1) restricting hours of operation from 4:00 p.m. to midnight, Monday to Saturday; 2) restricting location of SOBs to 500 feet from sensitive uses; 3) an amortization clause requiring compliance within a six month period; and 4) a public nuisance provision for repeated or continuing violation of the ordinance.

# Manatee Co., Florida

## Land Use Study

Dated June, 1987

**OVERVIEW:** This report, conducted by the Manatee County Planning and Development Department, examines the ramifications of a proposed adult entertainment ordinance. It depends upon the findings of other jurisdictions to forecast the effects of adult businesses in Manatee County. It also examines other land use studies in order to determine appropriate land use controls for Manatee County.

**FINDINGS:** The **Boston Model** of concentrating adult businesses into on "combat zone" has the following advantages: 1) like uses are treated alike; 2) lower administrative costs; 3) control over growth of pornographic uses and the development of specific new uses; 4) no definitional vagueness; 5) apparent constitutionality; and 6) easier evaluation of total public services impact of pornographic uses (traffic, limited parking, higher police costs and other effects). Disadvantages of this model center on the blighting effect when a central zone is created. It may also attract "undesirables" to one area. The **Detroit Model** has these advantages: 1) apparent constitutionality (withstood challenge in *Young v. American Mini Theatres*); and 2) creates a separation zone between other adult businesses and residential areas. However, it suffers from definitional weaknesses. Most jurisdictions have adopted some form of the Detroit model. Other cities have added additional buffer requirements. Studies of secondary effects in other cities (Austin, TX, Indianapolis, IN, Los Angeles, CA, and St. Paul, MN) have examined the impact of adult businesses on property value, crime rates, and incidences of blighting. Based upon the negative findings in these areas, cities have recommended zoning and other land use regulations.

There are five adult businesses currently in the County. All five are separated from one another by more than 1,000 feet. None meet the minimum residential buffer distance of 500 feet.

**RECOMMENDATIONS:** The dispersal model ordinance should be considered. The present zoning ordinance should be amended to add buffer requirements to provide distance from 1) residential districts, 2) churches, schools, child care facilities, and public recreation areas, and 3) other established adult businesses. There should be at least 500 feet of separation between an adult business and the nearest residential zone. A 2000 foot buffer should be established for churches, schools, child care facilities, and recreation areas. Adult businesses should be separated from one another by at least 1000'. A one year amortization period for compliance should be considered (as provided in the draft ordinance). "Sign controls should be considered which still protect a business's freedom to advertise, but also minimize public's exposure to such uses."

# Indianapolis, Indiana

## Land Use Study

Dated February, 1984

**OVERVIEW:** After a 10 year growth in the number of sexually oriented businesses (to a total of 68 on 43 sites) and numerous citizen complaints of decreasing property values and rising crime, the city compared 6 sexually oriented business "study" areas and 6 "control" locations with each other and with the city as a whole. The study and control areas had high population, low income and older residences. In order to develop a "best professional opinion," the city collaborated with Indiana University on a national survey of real estate appraisers to determine valuation effects of sexually oriented businesses on adjacent properties.

**CRIME:** From 1978-82, crime increases in the study areas were 23% higher than the control areas (46% higher than the city as a whole). Sex related crimes in the study areas increased more than 20% over the

control areas. Residential locations in the study areas had a 56% greater crime increase than commercial study areas. Sex related crimes were 4 times more common in residential study areas than commercial study areas with sexually oriented businesses.

**REAL ESTATE:** Homes in the study areas appreciated at only 1/2 the rate of homes in the control areas, and 1/3 the rate of the city. "Pressures within the study areas" caused a slight increase in real estate listings, while the city as a whole had a 50% decrease, denoting high occupancy turnover. Appraisers responding to the survey said one sexually oriented business within 1 block of residences and businesses decreased their value and half of the respondents said the immediate depreciation exceeded 10%. Appraisers also noted that value depreciation on residential areas near sexually oriented businesses is greater than on commercial locations. The report concludes: "The best professional judgment available indicates overwhelmingly that adult entertainment businesses -- even a relatively passive use such as an adult bookstore -- have a serious negative effect on their immediate environs."

**RECOMMENDATIONS:** Sexually oriented businesses locate at least 500 feet from residential areas, schools, churches or established historic areas.

## Minneapolis, Minnesota

### Land Use Study

Dated October, 1980

**OVERVIEW:** This report is divided into two sections: the relationship of bars and crime and the impact of "adult businesses" on neighborhood deterioration. In the study, an "adult business" is one where alcohol is served (including restaurants) or a sexually oriented business (i.e., saunas, adult theaters and bookstores, rap parlors, arcades, and bars with sexually oriented entertainment). Census tracts were used as study areas and evaluated for housing values and crime rates. Housing values were determined by the 1970 census compared to 1979 assessments. Crime rates were compared for 1974-75 and 1979-80. The study is strictly empirical and reported in a formal statistical manner; therefore it is difficult for layman interpretation of the data.

**FINDINGS:** The report concludes that concentrations of sexually oriented businesses have significant relationship to higher crime and lower property values. Other than statistical charts, no statements of actual crime reports or housing values are included in the report. thus, the lay reader has only the most generalized statements of how the committee interpreted the empirical data.

**RECOMMENDATIONS:** First, that adult businesses be at least 1/10 mile (about 500 feet) from residential areas. Second, that adult businesses should not be adjacent to each other or even a different type of late night business (i.e., 24-hour laundromat, movie theaters). third, that adult businesses should be in large commercial zones in various parts of the city (to aid police patrol and help separate adult businesses from residential neighborhood). The report said "policies which foster or supplement attitudes and activities that strengthen the qualities of the neighborhoods are more likely to have desired impacts on crime and housing values than simple removal or restriction of adult businesses."

## St. Paul, Minnesota

### Land Use Study

Dated Aril, 1988 (Supplemental to 1987 study)

**OVERVIEW:** As a "result of a growing concern among St. Paul citizens that the City's existing adult entertainment zoning provisions, adopted in 1983," did not "adequately address the land use problems associated with adult entertainment", the City Council directed the Planning Commission to study possible amendments to the Zoning Code. The Commission's proposed amendment was based on findings made during public hearings. The "substitute" "Amendment", adopted by the City Council, is a result of those findings and the findings made by the Council during its public hearings. The 1988 Study

includes the findings, addresses the nine key features of the "substitute" "Amendment", and gives the rationale for each.

### **FINDINGS, "AMENDMENT", AND RATIONALE:**

- 1) "[A]dult uses are harmful to surrounding commercial establishments but that significant spacing requirements between adult uses can minimize the harm in zones reserved for the most intensive commercial activity."
- 2) The "Amendment" treats all nine defined adult uses the same. Included are: "adult bookstores", "cabarets", "conversation/rap parlors", "health/sport clubs", "massage parlors", "mini-motion picture theaters", "motion picture theatres", "steamroom/bathhouse facilities", and "other adult uses." Each is defined as providing "matter", "entertainment", or "services" which is "distinguished or characterized by an emphasis on the "depiction", "description", "display" or "presentation" of "specified sexual activities" or "specified anatomical areas." "Most, if not all, existing statistical studies of the impact of adult uses do not differentiate between different types of adult uses and do not recognize that the land use impact of various types of adult uses is significantly different." "[E]qual treatment is consistent with the emphasis on deconcentration".
- 3) The "Amendment" set spacing between adult uses at 2,640 feet outside of the downtown area and 1,320 feet downtown. A six-block goal could not be met because of the necessity to provide a "sufficient land mass". The Phoenix and Indianapolis land use studies indicate that "the negative land use impact of a single adult use extends for up to three blocks".
- 4) Distances between adult uses and residential zones were increased from 200 feet to 800 feet "outside of downtown" and from 100 to 400 feet downtown in the substitute "Amendment". The goal of 1,980 feet outside of "downtown" and 990 feet downtown could not be met because of the necessity to provide "enough land and sites for potential future adult uses."
- 5) Distances from "protected uses" outside of downtown were increased from zero to 400 feet and from 100 to 200 feet downtown. Protection for zones "other than residential or small neighborhood business zones" was "justified" because their populations are "particularly vulnerable to the negative impacts of adult uses." "Protected uses" are: day care centers; houses of worship; public libraries; schools; public parks/parkways/public recreation centers and facilities; fire stations (because of use for bicycle registration and school field trips); community residential facilities; missions; hotels/motels (which often have permanent residents).
- 6) Limiting one type of adult use per building was justified by experience with two pre-existing "multi-functional" adult businesses, numerous studies by other cities, and St. Paul's own study in 1978, which documented significantly higher crime rates associated with two adult businesses in an area, and significantly lower property values associated with three adult uses in an area. The 1987 study included statistics showing that most "prostitution arrests in the city occur within four blocks on either side of the concentration of four adult businesses." Other problems included "the propositioning" and "sexual harassment of neighborhood women mistaken for prostitutes", "discarding of hard-core pornographic literature" ("which is "most strongly associated with adult bookstores") "on residential property where it becomes available to minors", a "generally high crime rate," and "a general perception" that such an area "is an unsafe place due to the concentration of adult entertainment that exists there". Redevelopment experience in St. Paul showed that adult use areas caused a "blighting influence inhibiting development". Multi-functional adult uses will attract more customers which "increases the likelihood that such problems will occur." A "Sex for Sale Image" attracts more street prostitutes and their customers, and demoralizes other businesses and neighborhood residents".
- 7) Amount of land available for 24 existing adult uses (which includes split-off of two multi-functional businesses with three-four types per business) was 6.5% of the City's total land mass, for a maximum of 44 sites based on "absolute site capacity", calculated without regard for existing infrastructure, or 28 sites based on "relative site capacity" on existing street frontage calculated without regard for existing development or suitability of land for development.
- 8) Annual review of the "Special Condition Use Permit" was included in the "Amendment" "to ensure that no additional uses are added to the type of adult use that is permitted."

9) Prohibition of obscene works and illegal activities was included in the "Amendment" to "guard against the conclusion that the Zoning Code permits activities which the City can and should prohibit as illegal."

## Las Vegas, Nevada

### Land Use Study

Dated March 15, 1978

**OVERVIEW:** Prior to adopting a zoning ordinance for adult businesses, the City of Las Vegas conducted a survey of businesses, residences, and real estate brokers and agents. The results of the survey are included in this report. Also included in the report: minutes of the March 15, 1978, City Commission meeting on the matter of adding an adult business zoning chapter to the City code; an affidavit from Donald Saylor, Director of the Department of Community Planning and Development for Las Vegas, on the blighting effect of adult businesses; an affidavit from William Powell, Vice and Narcotics detective with the Las Vegas Metropolitan Police Department, on the link between a high concentration of adult businesses and an increase in criminal activity; and an affidavit from Donald Carns, professor of Sociology at the University of Nevada, Las Vegas, on the problems adult businesses pose for the economic well-being and vitality of a city.

**FINDINGS:** Among brokers and realtors, overwhelming majorities said that adult entertainment establishments had negative effects on the market value (82%), saleability/rentability (78%), and rental value (76%) of properties located near these establishments. According to 81%, there is a decrease in the annual income of businesses in the vicinity of adult establishments. Strong majorities reported that a concentration of adult businesses near other businesses (from under 500 feet to more than 1000 feet) has negative effects on market values, rental values, and rentability/saleability of residential property. Among surveyed homeowners and residents living near adult businesses, the consensus was similar: adult establishments have a negative effect on the 1) neighborhood; 2) business conditions (sales and profits) in the area (2-square block radius); and 3) value and appearance of homes in the vicinity (within 500 feet). Reportedly, 85% said that their normal living habits had been limited or hindered in some way due to the presence of adult businesses in the area. Among surveyed business owners and proprietors, the results were mixed. The majority of respondents did report that adult businesses had a negative effect on homes immediately adjacent to and in the area (500 feet or more) of adult businesses. A majority believed adult businesses had the following secondary effects: complaints from customers (66%), additional crime (58%), and deteriorated neighborhood appearance (58%). Finally, among residents living in areas not located near adult businesses, the consensus was clear: adult establishments have negative effects on neighborhoods, business conditions in the City, the value and appearance of homes, property values, the amount of crime, and resident transiency. These residents were nearly unanimous (96%) in the belief that their living habits had been limited or hindered by the operation of adult businesses.

**RECOMMENDATIONS:** Adult businesses should be prohibited from locating in residential areas. They should also be restricted to designated areas and dispersed throughout those designated areas. Adult businesses should be located at least 1000 feet from playgrounds, churches, schools, and parks.

## Ellicottville, New York

### Land Use Study

Dated January, 1998



**OVERVIEW:** On April 28, 1997, the Ellicottville Village Board of Trustees and Town Board placed a moratorium on approvals of new sexually oriented establishments. There were four purposes for the move: 1) to allow the community time to study the effects of adult entertainment businesses; 2) "to determine if a regulatory response was necessary;" and 3) "if stronger land use controls were warranted to draft the regulatory changes for the legislative board's consideration." As there were no adult businesses in Ellicottville at the time of the study, the report cites secondary effects studies in other jurisdictions as a means of forecasting the effects of an Ellicottville adult business. The negative secondary effects examined included: economic impacts, property values, fear of crime, and negative impact on community character.

**FINDINGS:** Ellicottville is a community that relies upon attracting tourists. As such, "the atmosphere and aesthetic features of the community take on an economic value." Though active land use controls have been practiced to maintain the look and vitality of the community, currently there are no differentiations made between the regulation of an adult business and, say, a juice bar. To assess potential secondary effects, studies administered in other New York jurisdictions will be helpful. The 1994 NYC Adult Entertainment study found the following: adult businesses tend to cluster in certain areas, a rise in crime is linked to clusters of adult businesses, negative reactions toward adult businesses were common among adjacent business and home owners, isolation of adult businesses limited secondary effects, real estate brokers believe property values are negatively impacted by nearby adult establishments, and adult business signs are often larger and more graphic.

Allowing adult businesses to locate within the historic business district would negatively impact Ellicottville's efforts to provide a family-friendly community. Similarly, permitting adult businesses to locate near residences would have an eroding effect on "aesthetic qualities" and property values. The type of signage typically used by adult businesses would run counter to the business district. The following uses seemed most prone to negative secondary effects: the Ellicottville historic district, places of worship (6 churches in Ellicottville), the school, the child care facility, recreation parks/areas/playgrounds and public/civic facilities, and residential neighborhoods.

**RECOMMENDATIONS:** The Town and Village should adopt zoning regulations that create a land use category, and regulate adult establishment uses, allowing them to locate in industrial zones and the industrial-service commercial district. The establishment of adult businesses should be considered Conditional Uses (requiring approval of a special use permit). Exterior advertising, signs, and loudspeakers and sound equipment should be regulated. The following distance buffers should be set for: 500 feet (town) or 300 feet (Village) from residential areas; 1000 feet (town) or 500 feet (Village) from other adult businesses; and 500 feet (town and Village) from a church, school, day care center, park, playground, civic facility or historic resource. Definitions for adult uses should be added to existing zoning regulations.

## Islip, New York

### Land Use Study

Dated September 23, 1980

**OVERVIEW:** This report, compiled by Daniel Dollmann of the Islip Department of Planning, features an analysis of studies and ordinances from other jurisdictions, a case study of an adult business in Islip, research of public outcry against the establishment of adult businesses in Islip, and a survey by hamlet of adult entertainment businesses in Islip. The study includes a lengthy appendix with news articles detailing the history of the Islip zoning ordinance, letters of complaint from local residents, a historical perspective about the Detroit ordinance, copies of ordinances from other jurisdictions, and a copy of the

proposed Islip zoning ordinance, reflecting the findings in this report.

**FINDINGS:** The study looks at the Detroit ordinance, upheld by the U.S. Supreme Court in 1976, which restricted sexually oriented businesses (SOBs) from locating within 1,000 feet of other SOBs, and within 500 feet of residential areas. The Islip ordinance is modeled after the Detroit ordinance's approach to disperse SOBs ("anti-skid row") as opposed to creating a "combat zone," which was unsuccessfully attempted by the Town of Islip in 1975. The study notes that the ordinance incorporates "adults-only" definitions in an attempt to avoid First Amendment issues. In determining its distance requirement between adult businesses and sensitive uses, the Town of Islip took into consideration: distance requirements used in Detroit, MI, Norwalk, CA, Dallas, TX, Prince George's Co., MD, and New Orleans, LA zoning ordinances; it's own measurements on an Islip zoning map of several distance proposals; information from the local case study; and resident feedback. The study analyzes the problems unique to an area called Sunrise Highway (23% of businesses are adult) and compares the differences between Islip and Detroit, including population size and number of SOBs, to justify needs for greater distance limitations between SOBs.

One of the goals of the Town is to protect its historic downtown district and keep it from further deterioration (which occurred in the past due to an increase in multi-family dwellings, transients and bars). The Study noted that limiting SOBs to the Town's light industrial zone would be in keeping with this goal. Currently, there is a "dead zone" in one of the healthier parts of the downtown area due to two adult businesses located there.

The Study includes a case study of the Bohemia Book Store which was located extremely close to a residential area. In 1980 the store was temporarily closed down by court order, as a result of citizen picketing and subsequent violence against the picketers. The operators of this particular SOB were reported to have associations with organized crime (i.e., mob-operated national porno ring, multiple obscenity charges and convictions).

**RECOMMENDATIONS:** the proposed zoning ordinance requires 500 feet between an adult business and residential areas or other sensitive uses, like churches and schools, and a ½ mile distance between SOBs. The ordinance includes a waiver clause for certain conditions, and an amortization clause.

## New York City, New York

### Land Use Study

Dated November, 1994

**OVERVIEW:** This study of the secondary impacts of adult entertainment uses on communities in New York City (NYC), prepared by the Department of City Planning (DCP), includes: a survey of studies in other jurisdictions, a description of the adult entertainment business in NYC, a review of studies previously done in NYC, a DCP survey of the impacts on NYC communities, and maps showing SOB locations.

**FINDINGS:** Recent trends in sexually oriented businesses (SOBs) in NYC show a 35% increase over the last decade (75% of which were located in zoning districts that permit residences). However, since the survey for this information focused only on XXX video and bookstores, adult live or movie theaters, and topless or nude bars, this may be an underestimate of total SOB uses. Also in the past decade the availability of pornographic material has increased, the price has decreased greatly, and the image of nude bars has become more sophisticated or "upscale", contributing to the wide-spread availability of SOBs in NYC. SOBs have continued to concentrate in specific areas, specifically in three communities within Manhattan. Between 1984 and 1993: the concentrated areas of SOBs have nearly tripled; the

number of SOBs has increased from 29 to 86 (74% of which were adult video stores – not included in the 1984 survey); adult theaters declined from 48 to 23, and topless/nude bars increased from 54 to 68 (54%).

After examining studies from other jurisdictions, this study concludes that the negative secondary impacts are similar in every jurisdiction, despite size of city, variations in land use patterns, and other local conditions. The study specifically examines the negative secondary impacts documented in Islip, NY, Indianapolis, IN, Whittier, CA, Austin, TX, Phoenix, AZ, Los Angeles, CA, New Hanover Co., NC, Manatee Co., FL, and MN, which evidenced problems with "dead zones", declining property values, high turnover rates in adjacent businesses, and higher sex crime rates. Various studies done on the City of New York (including Times Square) showed that concentration of SOBs had resulted in significant negative impacts, including economic decline, decreased property values, and deterrence of customers, and significantly increased crime incidence. Business owners strongly believed their businesses were adversely affected by SOBs. The DCP did its study in NYC boroughs where there was less concentration of SOBs. The negative impacts in these areas were harder to measure, but there was a definite negative perception among residents about the presence of SOBs. It has been shown that negative perceptions related to SOBs can lead to disinvestment and tendency to avoid shopping in adjacent areas – leading to economic decline. Residents reared potential proliferation of SOBs and the resultant negative impact on traditional neighborhood-oriented shopping areas. Eighty percent of real estate brokers surveyed responded that an SOB would have a negative impact on property values (consistent with a national survey). Residents were also concerned about exposure to minors of sexual images.

The DCP concluded that it would be appropriate to regulate SOBs differently from other commercial businesses, based on the significant negative impact caused by SOBs.

## Times Square, New York Land Use Study Dated Aril, 1994

**OVERVIEW:** The Times Square Business Improvement District (BID) conducted a study of the secondary effects of adult businesses on the Times Square area. Due to an increase in the number of adult use establishments from 36 in 1993, to 43 in 1994 the BID conducted this study to obtain evidence and documentation on the secondary effects of adult use businesses in the Times Square BID, and of their dense concentrations along 42nd Street and Eighth Avenue. The study was performed by combining available data on property values and incidence of crime, plus in-person and telephone interviews with a broad range of diverse business and real estate enterprises, including major corporations, smaller retail stores, restaurants, theatres and hotels, as well as with Community Boards, block associations, activists and advocates, churches, schools, and social service agencies.

**FINDINGS:** The study made the following four findings:

- 1) Surveys - All survey respondents voiced optimism about the future of Times Square, even as they bemoaned the increase of adult use establishments. Many respondents felt that some adult establishments could exist in the area, but their growing number and their concentration on Eighth Avenue constitute a threat to the commercial property and residential stability achieved in the past few years.
- 2) Crime - Although the study was unable to obtain data from before the recent increase in adult establishments and, thus, unable to show if there's been an increase in actual complaints, there were 118 complaints made to the police on Eighth Avenue between 45th and 48th compared to 50 on the control blocks on Ninth Avenue between 45th and 48th Streets. In addition, the study reveals a reduction in

criminal complaints the further one goes north on Eighth Avenue away from the major concentration of these establishments.

3) **Property Values** - The rate of increase of total assessed values of the Eighth Avenue study blocks increased by 65% between 1985 and 1993 compared to 91% for the control blocks during the same period. Furthermore, acknowledging the many factors that lead to a property's increased value, including greater rents paid by some adult establishments, an assessment of the study blocks reveal that the rates of increases in assessed value for properties with adult establishments is greater than the increase for properties on the same blockfront without adult establishments.

4) **Anecdotal evidence** - Many property owners, businesses, experts, and officials provided anecdotal evidence that proximity to adult establishments hurts businesses and property values.

**CONCLUSION:** BID's findings support the results from other national studies and surveys. Adult use businesses in Times Square have a negative effect on property values, cause a greater number of criminal complaints, and have an overall negative impact on the quality of life for the residents and small businesses of Times Square.

## New Hanover Co., North Carolina Land Use Study

Dated July, 1989

**OVERVIEW:** This Planning Department report cites several studies and reports outlining adverse economic, physical, and social effects of adult businesses generally and specifically in jurisdictions across the country. While noting that New Hanover County does not currently have a noticeable problem with adult establishments, the report emphasizes the need to institute "preventative" zoning measures to protect and preserve the quality of life. It also offers an overview of common zoning approaches and the attendant constitutional issues.

**FINDINGS:** Municipalities across the country have documented, both empirically and anecdotally, the adverse effects of adult businesses on property values, rental values, neighborhood conditions, and other commercial businesses in the immediate area.

Cities have documented a link between adult businesses and urban blight, increased traffic, and light and noise pollution.

Studies have linked concentrations of adult businesses to an increase in crime, specifically prostitution, drugs, assault, and other sex crimes.

Community reputations and general quality of life are also negatively impacted by the presence of adult businesses.

An adult bookstore has been closed and re-opened several times after raids by law enforcement authorities. It is also reported that a topless dancing establishment may be opened in the County.

New zoning regulations would control the establishment of adult businesses near churches, schools, and residential areas.

**RECOMMENDATIONS:** 1) New Hanover should adopt the dispersal (Detroit) zoning approach. 2) Adult businesses should not be permitted to locate within 1,000 feet of each other. 3) Adult businesses should not be permitted within 500 feet of any school, church, park, or residential zone. 4) Adult businesses should only be allowed to locate in designated business and industrial districts, and only by a special use permit. 5) Signs and displays used by adult businesses should be regulated to protect the public, especially teenagers and children, from exposure to obscene material ("any display, device or sign that depicts or describes sexual activities or specified anatomical areas should be out of view of the public way and surrounding property"). 6) The County Attorney's Office and Sheriff's Department should explore the viability of requiring licensing for adult businesses. 7) Definitions for "adult business establishments," "specified sexual activities," and "specified anatomical areas" should be added to the zoning ordinance.

## Cleveland, Ohio

### Land Use Study

Dated August 24, 1977

**OVERVIEW:** This is a Cleveland Police Department report from Captain Carl Delau, commander of the City's vice and obscenity enforcement units and reported by him while he participated in a panel discussion at the National Conference on the Blight of Obscenity held in Cleveland July 28-29, 1977. The topic was "The Impact of Obscenity on the Total Community." Crime statistics are included for 1976 robberies and rapes. Areas evaluated were census tracts (204 in the whole city, 15 study tracts with sexually oriented businesses). At the time of the study, Cleveland had 26 pornography outlets (8 movie houses and 18 bookstores with peep shows). their location was not regulated by city zoning laws.

**FINDINGS:** For 1976, study tracts had nearly double the number of robberies as the city as a whole (40.5 per study tract compared to 20.5 for other city tracts). In one study tract with five sexually oriented businesses and 730 people, there were 136 robberies. In the city's largest tract (13,587 people, zero pornography outlets) there were only 14 robberies. Of the three tracts with the highest incidence of rape, two had sexually oriented businesses and the third bordered a tract with two such businesses. In these three, there were 41 rapes in 1976 (14 per tract), nearly seven times the city average of 2.4 rapes per census tract.

**CONCLUSION:** "Close scrutiny of the figures from the Data Processing Unit on any and every phase of the degree of crime as recorded by census tracts indicates a much higher crime rate where the pornography outlets are located."

## Oklahoma City, Oklahoma

### Land Use Study

Dated March 3, 1986

**OVERVIEW:** This study contains the results of a survey of 100 Oklahoma City Real Estate Appraisers. Appraisers were given a hypothetical situation and a section to comment on the effects of sexually oriented businesses in Oklahoma City. The hypothetical situation presented a residential neighborhood bordering an arterial street with various commercial properties which served the area. A building vacated by a hardware store was soon to be occupied by an "adult" bookstore. No other sexually oriented businesses were in the area and no other vacant commercial space existed. With less than a one month response time, 34 completed surveys were received by the city.

**FINDINGS:** 32% of the respondents said that such a bookstore within one block of the residential area would decrease home values by at least 20%. Overwhelmingly, respondents said an "adult" bookstore would negatively effect other businesses within one block (76%). The level of depreciation is greater for residents than businesses. The negative effects on property values drop sharply when the sexually oriented business is at least three blocks away. In the subjective portion, 86% of the respondents noted a negative impact of sexually oriented businesses on Oklahoma City. Frequent problems cited by the appraisers included the attraction of undesirable clients and businesses, safety threats to residents and other shoppers (especially children), deterrence of home sales and rentals, and immediate area deterioration (trash, debris, vandalism).

**CONCLUSIONS:** Oklahoma City's findings supported results from other national studies and surveys. Sexually oriented businesses have a negative effect on property values, particularly residential properties. The concentration of sexually oriented businesses may mean large losses in property values.

# Oklahoma City, Oklahoma II

## Land Use Study

Dated June 1992

This study, written by Jon Stephen Gustin, a retired sergeant for the Oklahoma City Police Department, examines a history of the successful abatement of sexually oriented businesses (SOBs) in Oklahoma City between 1984 - 1989, which ultimately reduced an alarmingly high crime rate in the city, which is one of many harmful secondary effects related to the operation of SOBs in the community.

This study indicates that in the early 1980's there was a large growth of SOBs in Oklahoma City in conjunction with a boom in the oil industry resulting in a large influx of oil field workers in the area. Houses of prostitution, nude bars and adult theaters spread throughout the city. SOB promoters and entrepreneurs from around the country came to the area to compete for their share in the market. By 1984, over 150 SOBs and an estimated 200 prostitutes operated in the city. SOB owners competed by using more and more blatant signs and advertising. As a result, the city experienced epidemic proportions of crime problems associated with the SOBs. Citizens began to voice concerns over the decay of community moral standards, the increased crime rate, and decreased property values.

Although Oklahoma City had a history of unsuccessful prosecution of cases related to pornography, prostitution, and related SOBs, public pressure from citizens and elected officials ultimately resulted in support by the Chief of Police, the City Council and the city's District Attorney to prosecute SOBs that were in violation of the law. Abating prostitution and related businesses was the first priority. The media aided this effort by publishing names of arrested customers and prostitutes, and airing live coverage of arrests and raids. This bolstered citizen support of police and prosecutors.

At adult bookstores and peep booths arrests were made for customers propositioning undercover officers to engage in sex acts, for the sale and possession of pornography, the display of pornography and for health department violations (including seminal fluids on the walls and floors of peep show booths). [Note that the author uses the term "pornography" referring to illegal pornography, also known as "obscenity."]

The city next focused on prosecution for violations at nude and semi-nude dance bars, where customers engaged in sexual favors with nude employees in exchange for the purchase of expensive cocktails. Repeated arrests in these bars forced them into compliance, causing a lack of customer support. Simple arrests at escort services, which were organized fronts for prostitution, did little to abate the illegal activity. Therefore, police worked undercover, arresting solicitors of the service. Also an attempt was made to prohibit businesses that had been convicted on prostitution charges from having access to phone service.

As a result of the aggressive arrest and prosecution efforts, only a handful of the original 150 SOBs remained by early 1990. All remaining SOBs operated within statutory guidelines. It has been documented that incidents of reported rape in Oklahoma City decreased 27% during that period, while it increased 16% in the rest of the state. In 1983 nearly one-half of the rapes in Oklahoma occurred in Oklahoma City, decreasing to one-third by 1989. This is an example of the benefits of stringent enforcement and prosecution of the so called "victimless crimes" associated with SOBs.

# Amarillo, Texas

## Land Use Study

Dated September 12, 1977

**OVERVIEW:** This Planning Department report cites several sources including national news magazines, "adult business" ordinances from other cities, an American Society of Planning Officials report and pertinent Supreme Court decisions. Lengthy explanation of the *Miller* test (with legal

definitions), discussion of *Young v. American Mini Theatres*, and a comparison of the Boston and Detroit zoning models are included. The city defined "adult businesses" as taverns, lounges, lounges with semi-nude entertainment, and bookstores or theaters with publications featuring nudity and explicit sexual activities. (At the time, Amarillo had 3 such theaters and 4 bookstores with space for such publications).

**FINDINGS:** The police department provided an analysis showing that areas of concentrated "adult only" businesses had 2 1/2 times the street crime as the city average. The Planning Department concluded that concentrations of these businesses have detrimental effects on residential and commercial activities caused by 1) noise, lighting and traffic during late night hours 2) increased opportunity for street crimes and 3) the tendency of citizens to avoid such business areas. The study noted that lack of zoning regulations would lead to concentrations of sexually oriented businesses (causing increased crime) or more such establishments locating near residential areas or family and juvenile oriented activity sites (churches, parks, etc.)

**RECOMMENDATIONS:** 1) Adult businesses locate 1,000 feet from each other. No recommended distance was specified from residential zones or family/juvenile activities. 2) City development of an amortization schedule and permit/licensing mechanism. 3) City regulation of signs and similar forms of advertising. 4) Vigorous enforcement of State Penal Code, especially relating to "Harmful to Minors." 5) City amendments prohibiting minors from viewing or purchasing sexually oriented materials (enforced physical barriers).

## Austin, Texas

### Land Use Study

Dated May 19, 1986

**OVERVIEW:** The report was the basis for developing an amendment to existing sexually oriented business ordinances. At the time, 49 such businesses operated in Austin, mostly bookstores, theaters, massage parlors and topless bars. The study examined crime rates, property values, and trade area characteristics.

The report focused on sexually related crimes in four study areas (with sexually oriented businesses) and four control areas (close to study areas and similar). Two study areas had one sexually oriented business and the others had two such businesses. To determine the effects of these businesses on property values, the city sent surveys to 120 real estate appraising or listing firms (nearly half responded). For trade area characteristics, three businesses (a bookstore, theater and topless bar) were observed on a weekend night to determine customer addresses.

**CRIME:** Sexually related crime ranged from 177-482% higher in the four study areas than the city average. In the two study areas containing two sexually oriented businesses, the rate was 66% higher than in the study areas with one such business. All control areas had crime rates near the city average.

**REAL ESTATE:** 88% said that a sexually oriented business within one block of a residential area decreases the value of the homes (33% said depreciation would be at least 20%). Respondents also said such a business is a sign of neighborhood decline, making underwriters hesitant to approve the 90-95% financing most home buyers require. They said commercial property is also negatively effected by such businesses.

**TRADE AREA CHARACTERISTICS:** Of 81 license plates traced for owner address, only 3 lived within one mile of the sexually oriented business. 44% were from outside Austin.

**RECOMMENDATIONS:** 1) Sexually oriented businesses should be limited to highway or regionally-oriented zone districts. 2) Businesses should be dispersed to avoid concentration. 3) Conditional use permits should be required for these businesses.

## Beaumont, Texas

## Land Use Study

Dated September 14, 1982

**OVERVIEW:** This report by the city Planning Department encourages amendments to existing "adult business" ordinances to include eating or drinking places featuring sexually oriented entertainment (strippers, etc.). Zoning laws required "adult uses" to locate 500 ft. from residential areas; 300 ft. from any other adult bookstore, adult theater, bar, pool hall or liquor store; and 1,000 feet from a church, school, park, or recreational facility where minors congregate.

**CRIME:** Police verified that bars, taverns, and lounges (especially those with sexually oriented entertainment) are frequent scenes of prostitution and the sale/use of narcotics. On the whole, all criminal activity was higher at sexually oriented businesses.

**RECOMMENDATIONS:** 1) Add eating/drinking places that exclude minors (under Texas law), unless accompanied by a consenting parent, guardian or spouse. 2) Require specific permits for areas zoned as General Commercial-Multiple Family Dwelling Districts. 3) Reduce the required distance of sexually oriented businesses from residential areas, schools, parks, and recreational facilities from 1,000 to 750 ft.

## Cleburne, Texas

### Land Use Study

Dated October 27, 1997

**OVERVIEW:** This is a report by Regina Atwell, City Attorney for the City of Cleburne, Texas, on how and why the city organized a joint, county-wide sexually oriented business (SOB) task force. The purpose of this report is to educate and provide assistance to other jurisdictions on what the author considers important aspects of organizing, drafting and adopting an SOB ordinance or amendment to an SOB ordinance. In the introduction, Ms. Atwell cautions that although SOBs now appear more sophisticated and have begun to integrate into the mainstream, the secondary effects of these businesses are still harmful to the community. She offers a set of questions to help assess a local government's needs to enact or update its SOB ordinance. Also, she gives a brief legal history of zoning regulations for SOBs.

**ORDINANCE ENACTMENT:** The City of Cleburne decided to update its existing SOB ordinance in response to plans by Houston and Dallas to revise their SOB ordinances, as well as related concerns that Dallas-Ft. Worth SOBs might subsequently infiltrate the Cleburne area. After learning that the County did not have an SOB ordinance, county officials and officials from all cities in the county were invited to appoint task force members to join the Cleburne's SOB Task Force. Due to an excellent response from the county and many cities within the county, a Joint County-Wide SOB Task Force was formed, realizing that a united stand on this issue was imperative.

After researching the law, consulting experts, examining sample ordinances from other jurisdictions, thoroughly investigating SOBs and their negative secondary effects on the community, and deciding which time/place/manner regulations were most appropriate to protect the governmental interests of their area, the Joint Task Force presented a draft of an SOB Ordinance to their city and county officials. For all its functions, the Task Force relied on the following guidelines: (1) Drafting an ordinance is done by the city planning office, the city attorney and the ordinance review committee, in reliance on case studies discussing secondary effects of SOBs. It is important that the actual studies be presented to legislators; (2) Public hearings should be held to discuss the ordinance and a legislative record created to preserve testimony, studies, maps, and other evidence; (3) Draft a good "Preamble" indicating the council's concern with secondary effects of SOBs; (4) Keep legislative record clean from any suggestions that impermissible motives have influenced the legislative process; (5) Be sure the ordinance allows reasonable "alternative avenues of communication" for SOBs to locate, and include



zoning maps with measurements and available sites for the record; and (6) If interested in enacting a licensing ordinance, be sure that it is narrowly drawn to serve legitimate state interests without restricting 1A speech of SOBs. The report also gives extensive tips for how to hold public hearings.

**CONCLUSIONS:** Regulation of SOBs, including licensing, was necessary to combat the detrimental effects of SOBs, including high crime rate, depreciated property values, and spread of communicable diseases. In addition, the Task Force recommended enforcement of public nuisance laws, diligent prosecution of obscenity and sexual offense cases, and specialized training for local police and sheriffs.

## Dallas, Texas

### Land Use Study

Dated April 29, 1997

This study, which is an update of a December 14, 1994 report prepared by The Malin Group, analyzes the effects of sexually oriented businesses (SOBs), specifically those that offer or advertise live entertainment and operate as an adult cabaret, on the property values in the surrounding neighborhoods. The study concludes that there is a much greater impact on the surrounding neighborhoods when there is a high concentration of these businesses in one locale.

The study found that the presence of an SOB in an area can create a "dead zone" which is avoided by shoppers and families with children that do not want to be in areas that also have adult uses. Also, the late hours of operation combined with loitering by unsavory people in the area where SOBs are located, appear to lead to higher crime in the area. In fact, a look at police calls for service over a four year period (1993-1996) shows that SOBs were a major source of the calls. One area averaged more than one call to police per day, where there was a concentration of seven SOBs. In that same area there was a much higher incidence of sex crime arrests than in similar areas with none or fewer SOBs.

This study applied the conclusions of several other studies completed by New York, Phoenix, Indianapolis, Austin, and Los Angeles, finding that the methodology used was appropriate and the conclusions were sound. This study concludes that the finding in these other studies would not be any different in Dallas. The studies found that SOBs have negative secondary impacts such as increased crime rates, depreciation of property values, deterioration of community character and the quality of life. In addition, real estate brokers interviewed in the Dallas area reported that SOBs are "perceived to negatively affect nearby property values and decrease market values." There were similar results from surveys taken in New York City and a national survey completed in Indianapolis and Los Angeles. The study also showed that community residents were concerned that the business signs used by SOBs were out of keeping with neighborhood character and could expose minors to sexual images. In areas where SOBs were concentrated, the signs were larger more visible and more graphic, to compete for business.

The study shows that a concentration of SOBs has a higher negative impact on the surrounding communities than an area with one isolated SOB. When concentrated, SOBs tend to be a magnet for certain businesses such a pawn shops, gun stores, liquor stores, etc., while driving away more family-oriented businesses. It can be harder to rent or sell vacant land in areas where SOBs are located. In fact, the negative perceptions associated with these areas have a significant impact on declining property values, even where other negative effects of SOBs are difficult to measure. Interviews with owners of commercial property near SOBs confirmed that the loss of property value manifested in a variety of ways, including: increased operating costs, like additional security patrols, burglar alarms, and trash cleanup; properties selling at much lower sales prices; and extreme difficulty in leasing properties. Owners thought that if the SOBs were gone, their property values would increase.

## El Paso, Texas

### Land Use Study

Dated September 26, 1986

**OVERVIEW:** This study done by the Department of Planning, Research and Development, the City Attorney's Office, the Police Department Data Processing Division, and New Mexico State University involved one year of studying the impacts of SOBs on the El Paso area. A separate report by the New Mexico State University on perceived neighborhood problems is also included. The study is in response to resident concern about the negative impacts resulting from the significant growth in SOBs over the past ten years. The study results show that SOBs are an important variable in the deviation from normal rates for real estate market performance or crime. Also included in the study are detailed maps showing the locations of SOBs in El Paso and within the selected study areas.

**FINDINGS:** In studying the impacts caused by SOBs, three study areas (with SOBs located in the area) and three control areas (similar areas in size and population, but without SOBs) within El Paso were identified and studied. Using the results of the study areas and the attitudes of the residents living near SOBs, the study concluded that the following conditions existed within the study areas: (1) the housing base within the study area decreases substantially with the concentration of SOBs; (2) property values decrease for properties located within a 1-block radius of SOBs; (3) there is an increase in listings on the real estate market for properties located near SOBs; (4) the presence of SOBs results in a relative deterioration of the residential area of a neighborhood; (5) there is a significant increase in crime near SOBs; (6) the average crime rate in the study areas was 72% higher than the rate in the control areas; (7) sex-related crimes occurred more frequently in neighborhoods with even one SOB; (8) residents in the study areas perceived far greater neighborhood problems than residents in control areas; (9) residents in study areas had great fear of deterioration and crime than residents in control areas.

The study of perceived neighborhood problems done by the New Mexico State University revealed strong concern by residents of the impact of SOBs on children in the neighborhood. In addition, some respondents told survey interviewers they feared retaliation from SOBs if they gave information about problems related to SOBs. Overall, this survey showed a strong, consistent pattern of higher neighborhood crime, resident fear and resident dissatisfaction in the neighborhoods containing SOBs.

**RECOMMENDATIONS:** The main recommendations included that a zoning ordinance be adopted with distance requirements between SOBs and sensitive uses, that a licensing system be established, that annual inspections be required, that signage regulations be established, and that a penalty/fine section be included for violations.

## Houston, Texas

### Land Use Study

Dated November 3, 1983

**OVERVIEW:** Report by the Committee on the Proposed Regulation of Sexually Oriented Businesses determining the need and appropriate means of regulating such businesses. Four public hearings provided testimony from residents, business owners, realtors, appraisers, police, and psychologists. The committee and legal department then reviewed the transcripts and drafted a proposed ordinance. More hearings obtained public opinion on the proposal and the ordinance was refined for vote by the City Council.

**TESTIMONY:** The testimony was summarized into six broad premises: (1) The rights of individuals were affirmed. (2) Sexually oriented businesses can exist with regulations that minimize their adverse effects. (3) The most important negative effects were on neighborhood protection, community enhancement, and property values. (4) Problems increased when these businesses were concentrated. (5)

Such businesses contribute to criminal activities. (6) Enforcement of existing statutes was difficult.

**ORDINANCE:** (1) Required permits for sexually oriented businesses (non-refundable \$350 application fee). (2) Distance requirements: 750 ft. from a church or school; 1,000 ft. from other such businesses; 1,000 ft. radius from an area of 75% residential concentration. (3) Amortization period of 6 months that could be extended by the city indefinitely on the basis of evidence. (4) Revocation of permit for employing minors (under 17), blighting exterior appearance or signage, chronic criminal activity (3 convictions), and false permit information. (5) Age restrictions for entry.

## Houston, Texas II

### Land Use Study

Dated January 7, 1997

**OVERVIEW:** This is a summary of a legislative report prepared by the Sexually Oriented Business Revision Committee for the Houston City Council, analyzing the strengths and weaknesses of the City's current SOB ordinance, and making recommendations for amendments and additions principally pertaining to employee licensing, lighting configurations, location requirements, prohibition of "glory holes," elimination of closed-off areas, public notification of SOB applications, clear lines of vision inside SOBs, and dancer "no-touch" policies. This report summary includes discussion of prior regulation efforts, testimony by HPD Vice Department, citizen correspondence, industry memos, legal research, and summaries of public testimony.

**SUMMARY:** This study was a result of increasing community concern over increasing proliferation of SOBs under the existing SOB ordinance and the HPD's need for better control over increasingly repetitive serious violations at numerous SOBs. The Committee made the following findings: (1) Due to criminal activity associated with SOBs, licenses should be required for all SOB employees (requiring criminal background investigations); (2) There are obstacles to successful enforcement of public lewdness, prostitution, indecent exposure, and other criminal activities (i.e. entertainers can detect when a patron is an undercover cop); (3) "Glory holes" between enclosed booths promote anonymous sex and facilitate the spread of disease, so prohibition of these openings was recommended; (4) The lack of a clear line of vision between manager's stations and booths or secluded areas (V IP rooms) encourages lewd behavior and sexual contact (also difficult to observe during inspections); (5) Multi-family tracts were being counted as one tract, so new formula devised based on homeowners' property size; (6) Inadequate lighting in SOBs makes it difficult for SOB managers and police to monitor illegal activities, so minimum requirements for "exit" signs in Uniform Building Code was suggested; (7) Locked rooms within SOBs are usually fronts for prostitution, so prohibition of enclosed rooms recommended; (8) Public and expert testimony requested the inclusion of "public parks" as a sensitive use in the zoning location ordinance; (9) Repeated testimony requested notification to public regarding pending SOB permits, so posting of a sign notifying of pending permit was required; and (10) Continuing amortization provisions was preferable to grandfathering in those SOBs not in compliance with the amended ordinance (i.e. 6 months plus extensions for recouping investment).

**CONCLUSIONS:** The Committee concluded that strengthening the ordinance would achieve expedited revocation process, accountability to SOB employees through licensing, aid to police investigations by improved lighting and configurations, protections to the community by increasing distance requirements, and reduction of disease from anonymous spread by eliminating "glory holes."

## Newport News, Virginia

### Land Use Study

**Dated MARCH, 1996**

**OVERVIEW:** As of November, 1995, there were 31 "adult use" establishments: 14 "adult entertainment" establishments ("exotic dancing girls", "go-go" bars, "gentlemen's clubs", etc.); 8 "adult book/video stores" (outlets selling and renting pornographic magazines, videos, and sex devices); and 9 night clubs (music, dancing, or other live entertainment). Of the 31 uses, 17 are in the General Commercial zone, 5 in the Regional Business District zone, 7 in the Retail Commercial zone, and 2 are in the Light Industrial zone. They are dispersed along two streets with a few clusters. A proposed ordinance would require "adult uses" to be 500 feet from other "adult" uses and to locate at least 500 feet away from sensitive uses (churches, schools, homes, etc.), with no distance limits in the downtown zone.

**CRIME:** The Police Department researched calls for police responses to the 31 businesses, by address, for the period of January 1, 1994, to October 31, 1995, with a cross-check to assure accuracy of the calls to the correct address. The effects of concentrations of "adult uses" were also checked by comparing study areas with control areas. Study area 1, with 4 "adult" uses, had 81% more police calls than nearby control area 1. When adjusted for population differences, the study area had 57% higher police calls and 40% higher crimes than the control area. For the 31 sexually oriented businesses, there were 425 calls of those: 65% were to strip clubs and go-go bars, averaging 23 calls per "adult entertainment" business; night clubs had 30% of the calls, averaging 14 calls per business; and "adult" bookstores and video stores had 4%, averaging 2 calls per business; . The reasons for the calls included: 25 assaults; 18 malicious destructions of property; 39 intoxications; 60 fights; and 151 disorderly conduct incidents. A selected list of restaurants with ABC licenses averaged 11 calls for service during the same period. One particular downtown "adult entertainment" establishment had 116.7 "police calls per 100 occupancy" compared to a regular restaurant, non-adult use, located across the street, with 50 calls per 100 occupancy.

**MERCHANTS/REAL ESTATE:** A very high percentage of realtors indicated that having "adult uses" nearby can reduce the number of people interested in occupying a property by 20 to 30%; would hurt property values and resale of adjacent residential property. Realtors expressed concern for personal safety, increased crime, noise, strangers in the neighborhood, and parking problems. Merchants associations surveyed supported strengthening the city's regulations of "adult uses" and expressed a common concern that additional "adult uses" would contribute to deterioration of their areas.

## **Bellevue, Washington**

### **Land Use Study**

**Dated February, 1988**

**OVERVIEW:** This is a compilation of materials prepared for the City Council Members of Bellevue, Washington for use in enacting an SOB zoning ordinance. The study includes general information about regulation of SOBs, secondary impacts from SOBs, experiences from nearby communities, description of Bellevue's current situation, and recommendations for appropriate forms of regulation of SOBs within Bellevue. Also included is a bibliography of land use studies, articles, correspondence and reference materials from adjacent municipalities made available for council members' use. Minutes from two public hearings about regulation of SOBs, maps showing the location of current SOBS, and memos from the planning department are also included.

**FINDINGS:** The study begins by explaining the legal basis history behind regulating SOBs. Existing provisions in the State and local codes relating to obscenity or licensing are mentioned. The study notes that the goal of regulating SOBs is to mitigate the secondary impacts of these uses in the communities. It concludes that the implications of the data and experience studied in other jurisdictions are significant to

Bellevue. It discusses the link between crime rates and areas with concentrations of SOBs, as revealed by police research, noting the "skid row" effect that occurred in Detroit, and the higher percentages of crime documented in Cleveland (in the 1970's), and other cities. The study noted that while police crime statistics showed a strong connection between criminal activity and some adult uses, there is no clear consensus (in psychological studies) that exposure to pornography causes criminal behavior. The study also discusses the impact to property values. It notes a Kent survey of real estate appraisers that revealed an overall consensus that the impact on residential property values is probably negative. In Bellevue, the three existing SOBs are widely dispersed and centrally located in commercial areas, which have thusfar not experienced deterioration in surrounding structures and areas. Based on a Puget Sound study, it was noted that SOBs are incompatible with residential, educational and religious uses. *The Northend Cinema v. Seattle* case agreed that the goal of preserving the quality of residential neighborhoods by prohibiting disruptive adult uses was a valid, substantial interest. This case also points out that residents' perceptions may be a major factor in siting SOBs. Overall the study concludes that research has shown SOBS may lead to the secondary effects mentioned above, but it is not possible to say definitely in each case. The study goes on to review regulations adopted by different jurisdictions, analyzing approaches of dispersal and concentration of SOBs. The study enumerates several sections of code showing public policy concerns to be considered when deciding Bellevue's approach to regulating SOBs. Currently, the three existing SOBs in Bellevue show no particular negative impacts on the surrounding community, and are widely dispersed from each other and other sensitive uses (residences, etc). However, there is not guarantee that future concentrations of SOBs will not occur.

**RECOMMENDATIONS:** The study recommended the adoption of a modified dispersal/concentration approach (i.e. dispersal within CB, OLB and CBD zones), with a 600-foot distance limitation between SOBs and other sensitive uses.

## Des Moines, Washington

### Land Use Study

Dated August, 1984

**OVERVIEW:** This land use study includes an independent report prepared by R. W. Thorpe & Associates, Inc for the Des Moines City Council, and a report from the City Administration on the impacts of Sexually Oriented Businesses (SOBs) on the area. Appendices include: a theater admission report, a 1978 Des Moines Community opinion survey, a copy of a Des Moines ordinance requiring an impact study of SOBs on the city, a list of criminal incidents related to the adult theater, a business activity chart of businesses adjacent to the adult theater, a copy of *Northend Cinema, Inc. v. City of Seattle*, 585 P.2d 1153 (1978), and transcripts of the hearing and testimonies.

**FINDINGS:** When the study was made, Des Moines had an adult theater operating in the Revitalization area/central business district of the city. It had been operating as such since the 1970's. The Administration report noted a 1978 Community Opinion Survey reporting that the majority of residents in the area were opposed to the theater. The Administration's report also lists several negative impacts caused by the presence of the adult theater in the community, including: decreased property values, refusal to shop in stores adjacent to the adult theatre, noticeable deterioration of the district, deferred maintenance, parking and traffic problems, attraction of transients, increased crime, and interference with parental responsibilities for children. As a result, the study noted that there had been numerous business failures and high business turnover in the commercial areas near the adult theater. Public testimony, staff studies and the independent study all concluded that the continued presence of the adult theater would nullify any investment in the revitalization efforts of downtown Des Moines. The study examined efforts to regulate SOBs in North Carolina, Detroit, Maryland, and Seattle. The Administration's study took particular note of Seattle's zoning ordinance, which restricted location of

SOBs to a certain part of the city. It was upheld by that state's highest court, which said the city's important interest in regulating the use of its property for commercial purposes was sufficient justification.

The independent study submitted by R. W. Thorpe & Associates, Inc for the Des Moines City Council mostly focused on and made comparisons to studies done in cities in the western part of Washington State. However, the study also looked at other jurisdictions like Boston, and New Orleans. It looks at various negative impacts on the community including crime, decline in adjacent land uses, economic impact (decreased property values), and community impact (incompatibility with sensitive uses and areas where minors may meet collectively). It discussed differing approaches to regulating SOBs, including clustering and dispersal.

**RECOMMENDATIONS:** The Administration's report, based partly on the independent study, concluded that a zoning ordinance should be enacted, locating adult businesses in the CG zone along Highway 99. This would keep SOBs away from the central business district that the city was trying to revitalize and maintain a family friendly atmosphere there. Dispersal of SOBs was also recommended to minimize impact of crime potential volatile situations associated with close proximity of SOBs.

## Seattle, Washington

### Land Use Study

Dated March 24, 1989

**OVERVIEW:** The report concerns a proposed amendment to add topless dance halls to existing land use regulations for "adult entertainment establishments." Seattle had eight such dance halls (termed "adult cabarets"), six established since 1987. The study relies on reports from a number of cities, including Indianapolis, Los Angeles, Phoenix, Austin and Cleveland.

**FINDINGS:** The increased number of cabarets resulted in citizen complaints, including phone calls, letters (from individuals and merchants associations), and several petitions with hundreds of signatures. Protests cited decreased property values; increased insurance rates; fears of burglary, vandalism, rape, assaults, drugs, and prostitution; and overall neighborhood deterioration. The report notes that patrons of these cabarets most often are not residents of nearby neighborhoods. Without community identity, behavior is less inhibited. Increased police calls to a business, sirens, and traffic hazards from police and emergency vehicles are not conducive to healthy business and residential environments.

**RECOMMENDATIONS:** Since city zoning policy is based on the compatibility of businesses, the report recommends that the cabarets locate in the same zones as "adult motion picture theaters." This plan allows about 130 acres for such businesses to locate throughout the city.

## St. Croix Co., Wisconsin

### Land Use Study

Dated September, 1993

**OVERVIEW:** At the time the St. Croix County Planning Department did this study, the County had two adult cabarets, but did not have a problem with concentration of sexually oriented businesses (SOBs). The study acknowledges that SOB zoning ordinances have generally been upheld by the courts as constitutional and suggests the County consider following the lead of other communities who have enacted similar ordinances. The main concern surrounded possible growth of SOBs resulting from future plans for an interstate highway system linking St. Croix County and the great Twin Cities metro area. To preserve the County's "quality of life" the study indicates the need to take preventative vs. after-the-fact action.

**SUMMARY:** The study notes the continued growth of the SOB industry and analyzes the economic,

physical, and social impact it has on the community. It examines documented economic impact of SOBs in Los Angeles, CA, Detroit, MI, Beaumont, TX, and Indianapolis, IN, noting that concentrations of SOBs results in decreased property values, rental values, and rentability/salability. General economic decline is also associated with concentration of SOBs. Residents surveyed in other studies perceived a less negative impact on property values of residential and commercial areas the further away SOBs were located. The study also noted that economic decline caused physical deterioration and blight. During night time operation hours, traffic congestion and noise glare could also be problems. Social impacts studied included negative effects on morality, crime, community reputation and quality of life. It noted the 1970 Commission on Obscenity and Pornography saying porn has a deleterious effect upon the individual morality of American citizens. It sites the Phoenix, AZ study reporting a tremendous increase in crime in three study areas containing SOBs (43% more property crimes, 4% more violent crimes, and over 500% more sex crimes). The study mentions Justice Powell's quote in *Young v. American Mini-Theatres* regarding using zoning to protect "quality of life."

The study analyzes different zoning techniques, including dispersal and concentration of SOBs, and their constitutionality. It also discusses the use of "special use" and "special exception" permits. Other regulatory techniques discussed include licensing ordinances, active law enforcement, sign regulations, and nuisance provisions. The study includes detailed examples of SOB definitions, a proposed zoning ordinance, and a bibliography of the sources used for this study.

**RECOMMENDATIONS:** The study recommended that the county adopt a zoning ordinance using the dispersal technique. It also suggested the county explore the possibility of licensing SOBs.

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## **U.S. Sexually Transmitted Diseases/STD**

### ***NEW CASES OF:***

- **Syphilis : 32,871 (2002)**
- **Chlamydia: 834,555 (2002)**
- **Gonorrhea: 351,852 (2002)**
- **AIDS: 44,232 (2003)**

**Center For Disease Control**



Fact: According to FBI statistics, pornography is found at 80 percent of the scenes of violent sex crimes or in the homes of the perpetrators.<sup>1</sup> Pornography consumption is one of the most common profile characteristics of serial murderers and rapists.<sup>2</sup>

1. D. Baker, "Pornography Isn't Free Speech," *Dallas Morning News*, 17 Mar. 1989
2. "The Men Who Murdered" *FBI Law Enforcement Bulletin*, Aug 1985.

**Pornography - it's not harmless fun**

Fact: Researchers have found that exposure to pornography of any type leads to a higher inclination to use force with sex.<sup>1</sup> A multi-state study at the University of New Hampshire found that on average, every 2% increase in circulation of pornography was linked to a 1 % increase in the incidence of rape.<sup>2</sup>

1. J. Check, "The Effects of Violent and Nonviolent Pornography," Department of Justice, Ottawa, Canada, June 1984.
2. M. Baxter, "Flesh and Blood," *New Scientist*, May 5, 1990 p41.

**Pornography - it's not harmless fun**

Myth: There is no correlation between pornography use and sex crimes.

Fact: The liberalization of pornography laws in the United States, Britain, Australia, and Scandinavian countries have been accompanied by a rise in reported rapes. In countries where restrictions on pornography have been adopted, reported rapes have decreased.<sup>1</sup>

1. C. Sunstein, "Pornography and the First Amendment," *Duke Law Journal*, September 1986, 595ff.

**Pornography - it's not harmless fun**

**Kansas Statute**  
**12-770**  
**S.O.B. Definitions**

**&**  
**Zoning Law**

# KANSAS STATUTE 12-770

## Chapter 12.--CITIES AND MUNICIPALITIES

### Article 7.--PLANNING AND ZONING

#### 12-770. Nonconforming uses; sexually oriented businesses; definitions. (a)

When used in this section:

(1) The words and phrases used in this section shall have the same meaning ascribed thereto by K.S.A. 12-742, and amendments thereto;

(2) "**adult arcade**" means any place to which the public is permitted or invited in which coin-operated, slug-operated or for any form of consideration, electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

(3) "**adult bookstore**", "adult novelty store" or "adult video store" means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

*(A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or*

*(B) instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities;*

(4) "**adult cabaret**" means a nightclub, bar, restaurant or similar commercial establishment which regularly features:

(A) Persons who appear in a state of nudity or semi-nudity; or

(B) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(C) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;

(5) "**adult motel**" means a hotel, motel or similar commercial establishment which:

(A) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(B) offers a sleeping room for rent for a period of time that is less than 10 hours; or

(C) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours;

(6) "**adult motion picture theater**" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;

(7) "**adult theater**" means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of

nudity or semi-nudity, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities;

(8) **"escort"** means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person;

(9) **"escort agency"** means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration;

(10) **"nude model studio"** means any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a college, community college or university supported entirely or in part by public money; a private college or university which maintains and operates educational programs in which credits are transferable to a college, community college or university supported entirely, partly by public money or in a structure or private studio:

(A) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;

(B) where, in order to participate in a class, a student must enroll at least three days in advance of the class; and

(C) where no more than one nude or semi-nude model is on the premises at any one time;

(11) **"nudity"** or a **"state of nudity"** means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of the covered male genitals in a discernibly turgid state.

(12) **"sexual encounter center"** means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(A) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(B) activities between either male and female persons or persons of the same sex, or both, when one or more of the persons is in a state of nudity or semi-nude;

(13) **"semi-nude"** or in a **"semi-nude condition"** means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. Such term shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part;

(14) **"sexually oriented business"** means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center;

(15) **"specified anatomical areas"** means:

(A) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(B) less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

(b) The governing body may adopt, in the manner provided by K.S.A. 12-741 et seq., and amendments thereto, reasonable regulations for the gradual elimination of sexually oriented businesses which constitute nonconforming uses.

**History:** L. 1997, ch. 147, § 10; May 1.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

ABILENE RETAIL #30, INC.,

Plaintiff,

v.

Case No. 04-2330 JWL

THE BOARD OF COMMISSIONERS  
OF DICKINSON COUNTY, KANSAS,

and

KEITH D. HOFFMAN

Defendants.

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MEMORANDUM AND ORDER

This case involves a claim by Abilene Retail (doing business as The Lion's Den Adult Superstore) against officials of Dickinson County ("the County"), Kansas, for declaratory and injunctive relief against the County's Ordinance No. 121304A ("the Ordinance"). The Ordinance is a zoning provision that regulates The Lion's Den, a sexually oriented business located in Dickinson County. This matter comes before the court on the County's motion for summary judgment (doc. # 48). For the reasons explained below, the motion is granted.

STATEMENT OF MATERIAL FACTS<sup>1</sup>

In 2003, Abilene Retail opened the Lion's Den Adult Superstore in Dickinson County, which has a population of roughly 6,100. The Lion's Den sells hundreds of sexual devices, and at least 90% of its inventory is sexually explicit items, materials, or devices. It is the only sexually oriented business in Dickinson County.

In July 2004, the County passed Ordinance No. 070804, which regulated sexually oriented businesses. Abilene Retail immediately challenged that ordinance. The parties agreed to non-enforcement against Abilene Retail, and that ordinance was soon repealed by the passage of a new ordinance at the end of 2004.<sup>2</sup>

Dickinson County passed the new ordinance, Ordinance No. 121304A, on December 13, 2004. It substantially limited the scope of the previous zoning ordinance. Among its provisions regulating sexually oriented businesses in Dickinson County, it (1) increased the threshold of sexually oriented merchandise to 35%; (2) increased the threshold of ownership interest to 30%; (3) provided for judicial review of any licensing dispute and provisional licensing pending any judicial review; (4) reduced the distance limitations from 1,500 feet to

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<sup>1</sup> Consistent with the established standard for summary judgment, the following facts are either uncontroverted or stated in the light most favorable to the nonmoving party.

<sup>2</sup> Abilene Retail did challenge Ordinance No. 070804 in its complaint, but the parties now agree this challenge is moot.

1,200 feet; (5) eliminated all restrictions against signage advertising; and (6) prohibited sexually oriented businesses from operating between midnight and 6 A.M.

About one week before the commissioners passed the new ordinance, they received testimony at a public hearing. They also reviewed reports and studies, case law, and legislative evidence on the secondary effects of sexually oriented businesses. Reflecting on these efforts, the new ordinance included in its preamble nearly four pages explaining that the Ordinance's purpose is to regulate the secondary effects of sexually oriented businesses. Notably, it discussed 27 court cases affirming the secondary effects of sexually oriented businesses, including guidance in *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998). It also discussed 22 reports verifying these secondary effects, including 7 reports cited affirmatively by the Tenth Circuit in *City of Aurora*. See *id.* at 687, n.1. Later, in March 2005, the County passed Ordinance No. 032805. It designated ten available areas for sexually oriented businesses to locate in Dickinson County.

Abilene Retail disputes that the County actually relied on any of the cases or reports documenting the secondary effects of sexually oriented businesses. In support, it points to parts of the record where the commissioners could not clarify their understanding or specific reliance upon the cases and reports at issue. During the course of litigation, it retained an expert witness, Dr. Linz, who substantially questions the methodology underlying many of the reports cited by the County. In turn, the County retained its own expert, Dr. McCleary, who largely refuted Dr. Linz's allegations. The County also identified several federal cases that

have rejected Dr. Linz's arguments as legally insignificant under the established framework for upholding a zoning ordinance that regulates sexually oriented businesses.

#### SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate if the moving party demonstrates that there is "no genuine issue as to any material fact" and that it is "entitled to a judgment as a matter of law." Fed.R.Civ.P. 56(c). In applying this standard, the court views the evidence and all reasonable inferences therefrom in the light most favorable to the nonmoving party. *Spaulding v. United Transp. Union*, 279 F.3d 901, 904 (10th Cir. 2002). A fact is "material" if, under the applicable substantive law, it is "essential to the proper disposition of the claim." *Wright ex rel. Trust Co. of Kansas v. Abbott Laboratories, Inc.*, 259 F.3d 1226, 1231-32 (10th Cir. 2001) (citing *Adler v. Wal-Mart Stores, Inc.*, 144 F.3d 664, 670 (10th Cir. 1998)). An issue of fact is "genuine" if "there is sufficient evidence on each side so that a rational trier of fact could resolve the issue either way." *Adler*, 144 F.3d at 670 (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).

The moving party initially must show the absence of a genuine issue of material fact and entitlement to judgment as a matter of law. *Spaulding*, 279 F.3d at 904 (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986)). In attempting to meet this standard, a movant that does not bear the ultimate burden of persuasion at trial need not negate the other party's claim; rather, the movant need simply point out to the court a lack of evidence for the other party on an essential element of that party's claim. *Adams v. American Guarantee & Liability Ins. Co.*,



233 F.3d 1242, 1246 (10th Cir.2000) (citing *Adler*, 144 F.3d at 671).

Once the movant has met this initial burden, the burden shifts to the nonmoving party to “set forth specific facts showing that there is a genuine issue for trial.” *Spaulding*, 279 F.3d at 904 (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986)); *Anderson*, 477 U.S. at 256; *Celotex*, 477 U.S. at 324. The nonmoving party may not simply rest upon its pleadings to satisfy its burden. *Anderson*, 477 U.S. at 256; accord *Eck v. Parke, Davis & Co.*, 256 F.3d 1013, 1017 (10th Cir. 2001). Rather, the nonmoving party must “set forth specific facts that would be admissible in evidence in the event of trial from which a rational trier of fact could find for the nonmovant.” *Mitchell v. City of Moore, Oklahoma*, 218 F.3d 1190, 1197-98 (10th Cir.2000) (quoting *Adler*, 144 F.3d at 671). To accomplish this, the facts “must be identified by reference to an affidavit, a deposition transcript, or a specific exhibits incorporated therein.” *Adams*, 233 F.3d at 1246.

Finally, summary judgment is not a “disfavored procedural shortcut”; on the contrary, it is an important procedure “designed to secure the just, speedy and inexpensive determination of every action.” *Celotex*, 477 U.S. at 327 (quoting Fed.R.Civ.P. 1). In responding to a motion for summary judgment, “a party cannot rest on ignorance of facts, on speculation, or on suspicion and may not escape summary judgment in the mere hope that something will turn up at trial.” *Conaway v. Smith*, 853 F.2d 789, 794 (10th Cir. 1988).

#### ANALYSIS

The court faces six primary issues: (1) whether Abilene Retail has standing to challenge the Ordinance; (2) whether the Ordinance is content-based or content-neutral and what level of constitutional scrutiny the court should apply; (3) upon deciding that the ordinance is content-neutral, whether the Ordinance advances a substantial government interest while being narrowly tailored and leaving open alternative avenues of communication; (4) whether the Ordinance violates the overbreadth doctrine; (5) whether the inspection provisions of the Ordinance violate the Fourth Amendment; and (6) whether the Ordinance violates the Fourteenth Amendment right to privacy.

After examining each of these issues, the court finds there is no genuine issue of material fact and that as a matter of law the Ordinance is valid as a content-neutral zoning regulation that seeks to prevent the secondary effects of sexually oriented businesses in Dickinson County.

**1. Standing**

Before reaching the merits, this court must confirm that Abilene Retail has standing. *Essence, Inc. v. City of Federal Heights*, 285 F.3d 1272, 1280 (10th Cir. 2002) (citing *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 1998)). A federal district court may only adjudicate an Article III case or controversy. *Id.* (citing *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986)). Article III standing has three independent requirements:

First, the plaintiff must suffer an injury-in-fact. An injury in fact is an "invasion of a legally protected interest" that is (a) concrete and particularized and (b) actual or imminent, i.e., not conjectural or hypothetical. Second, the injury must

be “fairly trace[able] to the challenged action of the defendant,” rather than some third party not before the court. Third, it must be likely that a favorable court decision will redress the injury of the plaintiff.

*Id.* (internal citations omitted).

In this case, the County alleges that Abilene Retail lacks standing because of the third factor: redressability. It asserts that there is no First Amendment protection for sexual devices. Based on this premise, it contends that First Amendment analysis of the Ordinance is unnecessary because Abilene Retail still would be regulated as a sexual device seller, regardless of any favorable First Amendment holding. See *Nova Health Systems v. Gandy*, 416 F.3d 1149, 1159 (10th Cir. 2005) (recognizing that a plaintiff lacks standing if a favorable decision will not redress the plaintiff’s injury).

Abilene Retail responds with three reasons why it has standing, but the court will focus on its third reason. It claims that it could restructure its inventory by not selling sexual devices and selling only materials and items protected by the First Amendment. In support, it analogizes to *City of Erie v. Pap’s A.M.*, 529 U.S. 277 (2000). Admittedly in that case the issue was mootness and not redressability, but the analogy remains convincing. There the Supreme Court allowed a nude dancing establishment to challenge a nude dancing ordinance even though the establishment had closed its doors and sold its property. The Court reached the merits after concluding that the establishment remained an incorporated entity under state law and “could very easily get back into the nude dancing business.” *Id.* at 303. Likewise, given a favorable decision on the First Amendment issue in this case, Abilene Retail could very easily reopen its store without selling sexual devices. Although disputed, Abilene Retail’s

claim of standing is tenable in light of the Supreme Court's analysis in *City of Erie*. The court will therefore reach the merits of this case.

**2. Whether the Ordinance is Content-based or Content-neutral**

As a threshold matter, the court must decide whether the Ordinance is content-based or content-neutral. This determines whether the court applies strict scrutiny or intermediate scrutiny to the Ordinance. This issue has been heavily litigated, and the Tenth Circuit has concluded that zoning regulations similar to the Ordinance are content-neutral. Thus, the court will apply intermediate scrutiny in its First Amendment analysis.

In deciding whether the Ordinance is content-based or content-neutral, "the government's purpose in enacting the regulation is the controlling consideration." *City of Aurora*, 136 F.3d at 686. If the Ordinance "serves purposes unrelated to the content of expression" it is considered content-neutral, "even if it has an incidental effect on some speakers or messages but not others." *See id.* (citing *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 47-48 (1986)). *City of Aurora* held that a zoning ordinance regulating sexually oriented businesses is generally content-neutral so long as the ordinance is "intended to curb the secondary effects" rather than First Amendment expression. *Id.*

Drawing from the actions taken by the city commission in *City of Aurora*, the preamble of the Ordinance establishes that Dickinson County relied upon 22 secondary effects reports and 27 court cases affirming the secondary effects of sexually oriented businesses, including *City of Aurora* itself. Moreover, allegations of a hidden motive by the County against Abilene

Retail are irrelevant. *City of Aurora*, 136 F.3d at 686-87. Accordingly, the court accepts the County's statement in its preamble that the secondary effects of sexually oriented businesses prompted the Ordinance. Intermediate scrutiny is thus the proper standard. *See also City of Littleton*, 311 F.3d at 1238 n.15 (10th Cir. 2002), rev'd on other grounds, *City of Littleton*, 541 U.S. 774 (applying intermediate scrutiny).

In addition, the Ordinance appears to be indistinguishable from the ordinance in *City of Aurora*. In that case, the city's ordinance targeted "off-site" sexually oriented retail stores with "comprehensive licensing, operating, and inspection requirements for sexually oriented businesses located within the city limits. The ordinance further required sexually oriented businesses to locate in industrially-zoned areas, and prohibited them from locating within 1500 feet of churches, schools, residential districts or dwellings, public parks, and other sexually oriented businesses." 136 F.3d at 685. Because Abilene Retail could not distinguish the Ordinance in this case from the ordinance in *City of Aurora* in any meaningful regard, the court relies on the on-point holding in *City of Aurora* throughout this decision.

**3. Whether the Ordinance Survives Intermediate Scrutiny**

As the Supreme Court announced in *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), a "content-neutral time, place, and manner" regulation is acceptable so long as it: (1) serves a substantial governmental interest; (2) is narrowly tailored; and (3) does not unreasonably limit alternative avenues of communication. *Id.* at 47; *City of Aurora*, 136 F. 3d

at 688. Abilene Retail challenges the Ordinance under each of the three requirements of the *City of Renton* test. The court will now address each challenge.

**A. Substantial Government Interest**

The Ordinance advances a substantial government interest if the County fulfills its burden of proof to “demonstrate that the recited harms are real, not merely conjectural, and that the regulation will in fact alleviate these harms in a direct and material way.’ On the other hand, the [Supreme] Court has repeatedly emphasized that ‘municipalities must be given a ‘reasonable opportunity to experiment with solutions’ to address the secondary effects of protected speech.” *Heideman v. South Salt Lake City*, 348 F.3d 1182, 1197 (10th Cir. 2003) (internal citations omitted).

Here, in the preamble of the Ordinance, the County includes 22 secondary effects reports and 27 cases discussing the secondary effects of sexually oriented businesses. Abilene Retail alleges that the County’s reliance on these outside materials was merely a pretext, a sham to cloak its true intent to suppress the protected First Amendment rights of Abilene Retail.

But this argument fails as a matter of law. To begin, “[t]he First Amendment does not require a city, before enacting such an ordinance, to conduct new studies or produce evidence independent of that already generated by other cities, so long as whatever evidence the city relies upon is reasonably believed to be relevant to the problem the city addresses.’ Accordingly, it is common in these cases for cities to cite and rely on seemingly pre-packaged

studies, as well as the findings of courts in other cases.” *Id.* (quoting *City of Renton*, 475 U.S. at 51-52). The proper standard for reviewing the evidence and the burdens of the parties is currently as follows:

This is not to say that the municipality can get away with shoddy data or reasoning. The municipality's evidence must fairly support the municipality's rationale for its ordinance. If plaintiffs fail to cast direct doubt on this rationale, either by demonstrating that the municipality's evidence does not support its rationale or by furnishing evidence that disputes the municipality's factual findings, the municipality meets the standard set forth in *Renton*. If plaintiffs succeed in casting doubt on a municipality's rationale in either manner, the burden shifts back to the municipality to supplement the record with evidence renewing support for a theory that justifies its ordinance.

*Id.* at 1199.

In this case, there is ample evidence that the County “reasonably believed” that the reports and cases discussed in its preamble were “relevant to the problem” addressed by the Ordinance. *City of Renton*, 475 U.S. at 51-52. The County did not simply cite previous secondary effects studies and flatly ignore the challenges proposed by Abilene Retail’s expert, Dr. Linz.<sup>3</sup> Instead, the County retained the author of one of the recognized secondary effects studies, Dr. McCleary, who directly reviewed and contradicted the findings of Abilene Retail’s expert, Dr. Linz.

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<sup>3</sup> This distinction alone negates Abilene Retail’s reliance on *Peek-A-Boo Lounge v. Manatee County*, 337 F.3d 1251 (11th Cir. 2003). In that case, the court qualified its holding: “Significantly, the County has not attempted to counter the Adult Lounges’ evidence with local studies of its own. We are not dealing, therefore, with a case involving a battle of competing experts.” *Id.* at 1272.

Rather than freshly evaluating the evidence of secondary effects, the Tenth Circuit, in line with the Supreme Court's repeated holdings, has "refused to set such a high bar for municipalities that want to address merely the secondary effects of protected speech." *Id.* (citation omitted). Instead, "cities are entitled to rely, in part, on 'appeal to common sense,' rather than 'empirical data,' at least where there is no 'actual and convincing evidence from plaintiffs to the contrary.'" *Id.* This court may not reweigh the legislative findings of local policymakers. *See id.* (observing that "courts should not be in the business of second-guessing fact-bound empirical assessments of city planners.") (citation omitted). Repeatedly, the federal courts have viewed Dr. Linz's methodological attacks as immaterial. In *City of Erie*, for instance, the Court urged that it already had "flatly rejected that idea." *Id.* at 302. It reiterated that "invocation of academic studies said to indicate that the threatened harms are not real is insufficient to cast doubt on the experience of the local government." *Id.*

Although Dr. Linz might raise new arguments, he does not dispute all aspects of the County's reliance. Numerous federal courts have examined this challenge, and routinely they have refused to critique in hindsight the internal decision-making processes of local governments, particularly when the local governments make findings of legislative facts and review studies and cases in the field of secondary effects. Abilene Retail thus fails to trigger the burden shifting process discussed above. *See G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631, 639 (7th Cir. 2003) (not shifting the burden to the city to establish secondary effects because Dr. Linz's reports were "not sufficient to vitiate the result reached in the Board's legislative process"). Moreover, in this case, not only did the County rely on



22 reports and 27 prior cases, but its expert also directly refuted the findings of Dr. Linz. Thus, even if Abilene Retail shifted the burden to the County, the County responded with adequate evidence to support the Ordinance. This meets the required showing to establish secondary effects under *City of Renton* and its progeny:

To the extent [plaintiff] argues that the city has not “demonstrate[d] that the recited harms are real, not merely conjectural,” we disagree. [The city] need not wait for sexually oriented businesses to locate within its boundaries, depress property values, increase crime, and spread sexually transmitted diseases before it regulates those businesses. It may rely on the experience of other cities to determine whether the harms presented by sexually oriented businesses are real and should be regulated. In other words, the city may control a perceived risk through regulation. The Court has long held, and we agree, that [the city’s] stated governmental interests in circumscribing the adverse secondary effects of sexually oriented businesses “must be accorded high respect.”

*City of Aurora*, 136 F.3d at 688 (internal citations omitted).

Abilene Retail also challenges the Ordinance under the substantial interest prong by asserting that the Council singled it out for regulation and had a hostile motive. Again, this argument fails. *See, e.g., City of Erie*, 529 U.S. at 279 (noting that in line with a string of earlier cases, “this Court will not strike down an otherwise constitutional statute on the basis of an alleged illicit motive.”); *City of Renton*, 475 U.S. at 49 (same).

The County therefore fulfills the first prong of the *City of Renton* test by proving that the Ordinance advances a substantial government interest.

**B. Narrowly Tailored**

The second prong of the *City of Renton* test requires that the Ordinance be narrowly tailored. Abilene Retail challenges that the Ordinance fails under this prong because the

Ordinance restricts the hours of operation between midnight and 6 A.M., the Ordinance includes within its scope retail-only stores, and the disclosure requirements for ownership are too demanding. Each of these challenges fails as a matter of law.

The objection against closing between midnight and 6 A.M. is invalid. If the Ordinance is included within the category of a “time, manner, and place regulations” as defined by *City of Renton*, then by definition some time restriction is allowed. Abilene Retail cannot identify any reason why the limit from midnight to 6 A.M. will have more than a *de minimis* effect on its First Amendment rights. *Accord Doctor John’s, Inc. v. City of Roy*, 333 F. Supp. 2d 1168, 1184 (D. Utah 2004). Further, the Tenth Circuit already has dismissed the second objection, involving a distinction between “on-site” and “off-site” retail stores, as “constitutionally irrelevant.” *Id.* at 688. The final objection regarding ownership interest disclosure for those with a 35% or higher interest is also unfounded. *Cf. American Target Advertising, Inc. v. Giani*, 199 F.3d 1241, 1248 (10th Cir. 2002) (“The Supreme Court has indicated that registration and disclosure provisions do not raise First Amendment problems.”).

In *City of Aurora*, the Tenth Circuit reversed the district court because it “construed the narrow tailoring inquiry too narrowly, and held [the city] to a far more stringent standard than required by *Renton*. . . .” 136 F.3d at 689. The Tenth Circuit commanded that narrowly tailored “need not be the least restrictive or least intrusive means of doing so.” *Id.* Because the Ordinance here is not “substantially broader than necessary,” it is narrowly tailored. *Id.*

**C. Alternative Avenues of Communication**

In assessing the final prong under *City of Renton*, the court examines whether Abilene Retail can relocate The Lion's Den to other areas of Dickinson County. The First Amendment merely requires that the County "refrain from effectively denying [Abilene Retail] a reasonable opportunity to open and operate" within Dickinson County. *See City of Renton*, 475 U.S. at 932. The County bears the burden to make this showing. *City of Aurora*, 136 F.3d at 688. As a zoning provision, the Ordinance is valid "so long as 'reasonable alternative avenues of communication' are left open, a question that is answered through an analysis of how much land is available in which adult businesses may be located under the zoning system. In undertaking that analysis, the courts must examine what land is actually available, but also must keep in mind that adult businesses must 'fend for themselves in the real estate market, on an equal footing with other prospective purchasers and lessees.'" *City of Littleton*, 311 F.3d at 1239, rev'd on other grounds, *City of Littleton*, 541 U.S. 774.

Upon review, the Ordinance survives. As it stands, the County designated ten available sites for sexually oriented businesses, and no other such businesses currently are in Dickinson County. This clearly meets the final prong of the *City of Renton* test. *See City of Littleton*, 311 F.3d at 1240-41 (observing that designating seven available sites is sufficient if only one adult business exists in a city). In the end, the County has not used "the power to zone as a pretext for suppressing expression, but rather has sought to make some areas available for [sexually oriented stores] and their patrons, while at the same time preserving the quality of life in the community at large by preventing those [stores] from locating in other areas. This, after all, is the essence of zoning." *Id.*

4. **Whether the Ordinance is Overbroad**

A party challenging an ordinance as overbroad has the burden “to demonstrate a realistic danger that the [regulation] will significantly compromise recognized First Amendment protections of individuals not before the Court.” *City Council of Los Angeles v. Vincent*, 466 U.S. 789, 802 (1984). In describing the danger posed by the overbreadth doctrine, the Tenth Circuit cautioned:

Facial challenges are strong medicine. Article III of the Constitution ensures that federal courts are not “roving commissions assigned to pass judgment on the validity of the nation's laws,” but instead address only specific “cases” and “controversies.” As the Supreme Court recently observed, “facial challenges are best when infrequent. . . . Although passing on the validity of a law wholesale may be efficient in the abstract, any gain is often offset by losing the lessons taught by the particular, to which common law method normally looks.” Because facial challenges push the judiciary towards the edge of its traditional purview and expertise, courts must be vigilant in applying a most exacting analysis to such claims.

*Ward v. Utah*, 398 F.3d 1239, 1246-47 (10th Cir. 2005) (internal citations omitted).

Because of these potential harms, “there comes a point at which the chilling effect of an overbroad law, significant though it may be, cannot justify prohibiting all enforcement of that law—particularly a law that reflects legitimate state interests in maintaining comprehensive controls over harmful, constitutionally unprotected conduct. At that point, there are ‘substantial social costs *created* by the overbreadth doctrine. . . .’” *Faustin v. City and County of Denver*, 423 F.3d 1192, 1199-1200 (10th Cir. 2005) (citations omitted). Thus, “particularly where conduct and not merely speech is involved, we believe that the overbreadth of a statute must not only be real, but substantial as well, judged in relation to the statute's

plainly legitimate sweep.” *Hill v. Colorado*, 530 U.S. 703, 731-32 (2000). Given these daunting standards, Abilene Retail’s overbreadth challenge is baseless. It merely offers hypothetical speculation. The Ordinance’s scienter provision, which Abilene Retail never even addresses, further limits any overbreadth or vagueness of the Ordinance. See *Ward*, 398 F.3d at 1252. Because its conjectures are neither “real” nor “substantial” as articulated by the Tenth Circuit, its overbreadth challenge fails.

**5. Whether the Inspection Provisions Violate the Fourth Amendment**

Abilene Retail also alleges that the inspection provisions of the Ordinance violate the Fourth Amendment. That argument fails, however, because the inspections do not amount to a “search” within the Fourth Amendment. Initially, the court notes that “the Fourth Amendment protects people, *not places*.” *United States v. Longoria*, 177 F.3d 1179, 1183 (10th Cir. 1999) (quoting *Katz v. United States*, 389 U.S. 347, 351 (1967)). In addition, “[w]hat a person knowingly exposes to the public, ‘even in his own house or office, is not a subject of Fourth Amendment protection.” *United States v. Flowers*, 336 F.3d 1222, 1228 (10th Cir. 2003) (quoting *Katz*, 389 U.S. at 351). Also, there is a substantially reduced expectation of privacy in a commercial building open to the public. *United States v. Anderson*, 154 F.3d 1225, 1229 (10th Cir. 1998).

This general rule applies particularly to open places in sexually oriented businesses. See *Maryland v. Macon*, 472 U.S. 463, 469 (1985) (“The officer’s action in entering the bookstore and examining the wares that were intentionally exposed to all who frequent the

place of business did not infringe a legitimate expectation of privacy and hence did not constitute a search within the meaning of the Fourth Amendment.”). Because Abilene Retail has no reasonable expectation of privacy in the areas of its store open to the public, no “search” ever occurs based on the inspection provisions of the Ordinance. Thus, there is no Fourth Amendment violation.

**6. Whether the Ordinance Violates the 14th Amendment Right to Privacy**

As a final matter, Abilene Retail alleges that the Ordinance violates the Fourteenth Amendment substantive due process right to privacy. This argument lacks support. To begin, the Supreme Court already rejected a similar argument under the Fourteenth Amendment. *Cf. City of Renton*, 475 U.S. at 55 n.4 (“As should be apparent from our proceeding discussion, respondents can fare no better under the Equal Protection Clause than under the First Amendment itself.”).

In addition, Abilene Retail heavily relies upon *Carey v. Population Services Int’l*, 431 U.S. 678 (1977). The facts and holding of that case are too attenuated to support its Fourteenth Amendment claim here. In *Carey*, the Supreme Court prevented states from restricting access to contraceptives. In this case, the privacy interest at stake is much less, and the regulation is merely a zoning regulation, not an outright restriction. The Ordinance forces sexual device stores to close between midnight and 6 A.M., but the Ordinance specifically exempts pharmacies and drug stores. Either may sell sexual devices at any hour of the day. Abilene Retail’s cited authorities simply do not support its claim that a minor restriction from

midnight to 6 A.M. on licensed sexual device stores violates the Fourteenth Amendment. The court finds no privacy violation.

**6. Conclusion**

For all of the above reasons, the County has refuted all of Abilene Retail's challenges to the Ordinance. The Ordinance is a valid, content-neutral zoning regulation as outlined by the Tenth Circuit in *City of Aurora*, 136 F.3d 683.

**IT IS THEREFORE ORDERED BY THE COURT** that the defendants' motion for summary judgment (doc. # 48) is granted.

**IT IS SO ORDERED** this 1<sup>st</sup> day of December, 2005.

s/ John W. Lungstrum  
John W. Lungstrum  
United States District Judge

**HB 2680**  
**Needs a Preamble:**

**Stating the 'PURPOSE'**  
**and**  
**Answering the Question**  
**"WHY?"**



**PREAMBLE TO THE TAXATION FOR SEXUALLY ORIENTED  
BUSINESSES AND MATERIALS AS DEFINED IN  
KANSAS STATUTE 12-770**

**WHEREAS**, This ACT is calling for a State wide taxation of sexually oriented businesses and materials as defined in KS Statute 12-770. This proposed taxation is to address the secondary negative effects of sexually oriented businesses and materials upon the State of Kansas. This tax is designed to offset the costs associated with protecting the health and safety of the citizens of Kansas from the proven deleterious effects of Sexually Oriented Businesses and products; and

**WHEREAS**, The provisions of this taxation have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this taxation resolution to restrict or deny access by adults to sexually oriented businesses and products protected by the First Amendment. It is not the intent nor effect of this taxation resolution to restrict the distributors and exhibitors of sexually oriented entertainment access to their intended market as protected by the First Amendment; and

**WHEREAS**, It is not the intent of this taxation to condone or legitimize the distribution of pornographic or obscene materials. It is recognized that state and federal law prohibits the distribution of obscene materials and expects and encourages local and state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities in Kansas; and

**WHEREAS**, sexually oriented businesses and products require special regulation and supervision in order to protect and preserve the health, safety, and welfare of the patrons of such businesses, as well as the citizens of the communities where they locate; and

**WHEREAS**, there is convincing documented evidence that sexually oriented businesses and materials, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them; causing increased crime, the downgrading of property values, contributing to urban blight and to the decline in the quality of life; and

**WHEREAS**, it has been found that sexually transmitted disease is a legitimate health concern of the State of Kansas that demands taxation of sexually oriented businesses and materials in order to offset the costs associated with protecting the health and well-being of the citizens; and

**WHEREAS**, based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports available to the Kansas State Legislature, and on findings incorporated in the various court cases (*City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. City of Newport, Ky*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir.1997); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir.1986); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir.1995); and *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 608 (11th Cir.1984); as well as studies conducted in other cities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas) and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention,

**IT IS KNOWN THAT,**

- (1) Sexually oriented businesses and materials lend themselves to ancillary unlawful and unhealthy activities.
- (2) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. *See, e.g.,* Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.
- (3) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. *See, e.g., California v. LaRue*, 409 U.S. 109, 111 (1972); *See also* Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- (4) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. *See, e.g.,* Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
- (5) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses. *See, e.g., Arcara v. Cloud Books, Inc.*, 478 U.S. 697, 698 (1986); *see also* Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
- (6) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections. *See, e.g.,* Study of Fort Meyers, Florida.
- (7) For the period 1985 through 1995, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 523,056. *See, e.g.,* Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (8) The total number of cases of early (less than one year) syphilis in the United States reported during the ten year period 1985-1995 was 367,796. *See, e.g.,* Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (9) The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,250,581 cases reported during the period 1993-1995. *See, e.g.* Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (10) The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (11) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. *See, e.g.* Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (12) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities

and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities. *See, e.g.,* Final Report of the Attorney General's Commission on Pornography (1986) at 377.

(13) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view "adult" oriented films. *See, e.g.,* Final Report of the Attorney General's Commission on Pornography (1986) at 377.

(14) Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity. *See, e.g., Barnes v. Glen Theatre*, 501 U.S. 560, 583 (1991).

(15) Nude dancing in adult establishments increases the likelihood of drug-dealing and drug use. *See, e.g., Kev, Inc. v. Kitsap County*, 793 F.2d 1053, 1056 (9th Cir.1986).

(16) The findings noted in paragraphs numbered (1) through (15) raise substantial governmental concerns.

(17) Sexually oriented businesses and sexual products have characteristics which should be reasonably regulated and taxed in order to provide additional resources to protect those substantial governmental concerns.

(18) The general welfare, health, and safety of the citizens of the State of Kansas will be promoted by the enactment of this taxation to reduce the negative secondary effects of Sexually Oriented Businesses and materials.

**THEREFORE BE IT RESOLVED**, that the appropriate means be taken by the Kansas Legislature to enact such a taxation statute for the existing or future sexually oriented businesses and materials which locate and are marketed in our State.

**Testimony Before  
The United States Senate  
Subcommittee**

**November 2004**

**Testimonies on the Addictive Nature  
of Pornography from:**

- 1. Judith A. Reisman, Ph.D.**
- 2. Mary Anne Layden, Ph.D.**
- 3. Jeffrey Satinover, M.S., M.D.**

### **EARLY EXPOSURE**

Most who get addicted to porn start early. They see porn when they are very young and it gets its foot in the door.

### **PORN ADDICTION**

You keep coming back to porn. It becomes a regular part of your life. You're hooked and can't quit.

### **ESCALATION**

You start to look for more graphic pornography. You start using devices and porn that disgusted you earlier. Now, it excites you.

### **DESENSITIZATION**

You start to become numb to the images you see. Even the most graphic porn doesn't excite you any more. You become desperate to feel the same thrill again, but you can't find it.

### **ACTING OUT SEXUALLY**

This is the point where persons make a crucial jump and start acting out the images they have seen. Some move from the paper and plastic porn into the real world, with real people, in destructive ways.

Statement of Judith A. Reisman, Ph.D.,  
President, Institute for Media Education

Testimony before the United States Senate,  
Subcommittee on Science, Technology, and Space  
of the  
Committee on Commerce, Science, and Transportation

on

"The Brain Science Behind Pornography Addiction and  
the Effects of Addiction on Families and Communities"

November 18, 2004

Good afternoon. Thank you for the opportunity to speak with you today. I am Judith Reisman, Ph.D., President of The Institute for Media Education, Scientific Advisor to the California Protective Parents Association and the Subcommittee on Junk Science for The American Legislative Exchange Council's April 2004 report.<sup>1</sup>

I specialize in the communication effects of images on the brain, mind and memory; fraud in the human sexuality field; and the addictive properties of sexually explicit images, commonly called pornography.<sup>2</sup>

My working, *scientific* definition of pornography is *measurable*: "intimate private-space behavior in public space forums, provoking psychopharmacological responses in viewers that puts the model and those s/he *represents*, at risk." See Appendix A.

Thanks to the latest advances in neuroscience, we now know that *emotionally arousing images imprint and alter the brain*, triggering an instant, involuntary, but lasting, *biochemical memory trail*.

This applies to so-called "soft-core" and "hard-core" pornography, which may, arguably, subvert the First Amendment by overriding the cognitive speech process.

Once our neurochemical pathways are established they are difficult or impossible to delete. Erotic images also commonly trigger the viewer's "fight or flight" sex hormones producing *intense arousal states* that appear to fuse the conscious state of libidinous arousal with unconscious emotions of fear, shame, anger and hostility.<sup>3</sup>

These media erotic fantasies become deeply imbedded, commonly coarsening, confusing, motivating and addicting many of those exposed. (See "the Violence Pyramid" at <http://www.vbii.org/violence.html>).

Pornography triggers a myriad of endogenous, internal, natural drugs that mimic the "high" from a street drug. Addiction to pornography is addiction to what I dub *erototoxins* – mind altering drugs produced by the viewer's own brain.

How does this 'brain sabotage' occur? Brain scientists tell us that "in 3/10 of a second a visual image passes from the eye through the brain, and whether or not one wants to, the brain is structurally changed and memories are created - we literally 'grow new brain' with each visual experience."<sup>4</sup>

Children and others who cannot read can *instantly decode and experience images, hence images are not speech.*<sup>5</sup> *In fact, erotic (any highly arousing) images commonly subvert left hemisphere cognition.*<sup>6</sup>

Since the 50s, as pornography became mainstreamed and pushed the envelope of normal sexual conduct, law enforcement reported that sex crimes mimicking comparable acts were being inflicted on women and children. (See OJJDP study)<sup>7</sup>

I have spent decades addressing the effects of pornographic "humor" and photos on children, fathers, husbands and wives and communities, much of which is found in my book, *"Soft" Porn Plays Hardball*, 1990,<sup>8</sup> in my U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP) report, *Images of Children, Crime and Violence in Playboy, Penthouse and Hustler*,<sup>9</sup> and in my white paper on "The Psychopharmacology of Pictorial Pornography: Restructuring Brain, Mind & Memory & Subverting Freedom of Speech" (<http://www.dJjudithreisman.com/brain.pdf>).

A basic science research team employing a *cautiously protective* methodology should study erototoxins and the brain/body. As with tobacco, these data could be helpful in public education and in legal change.

Testimony from victims and police commonly finds pornography to be an on-site-sex-abuse manual.<sup>10</sup>

An offensive strategy should be planned mandating law enforcement collection of all pornography data, as with guns, drugs, etc, at crime sites.

Judges, police, legislators and lawyers should be trained in the hard data of sexology fraud and erototoxins as changing the human brain, mind, memory at unconscious levels and therefore absent *informed* consent.

Congress should consider ceasing the funding of educational institutions that train their students via the flawed methodology of *Kinseyan "academic" pornography*.<sup>11</sup>

Congress should consider determining which sexology institutes have received financial support from *pornographers*. Based on this obvious conflict of interest, their authority to confer professional credentials or to hold themselves out as expert witnesses might be rescinded.

These initial steps can help reestablish the blessings of liberty and tranquility for our children, our communities and our country.

Thank you very much.

#### ENDNOTES

<sup>1</sup> See *vitae* for other details (<http://www.drjudithreisman.org/vitae.htm>).

<sup>2</sup> I also document the ways pornography commonly involve "estrus" displays, falsely presenting human females as non-human animals in "heaf" and triggering both anger and libido in male, even some female, viewers. The full definition relies upon the four scientific disciplines of Proxemics, Ethology, Neuropsychology and Psychopharmacology, seen ve in Appendix A.

<sup>3</sup> Richard Restak, (1988). *The Mind*, Bantam Books, New York. "Inhibition rather than excitation is the hallmark of the healthy brain. If all of the neurons in the brain were excitatory we would be unable to do something as simple as reaching out for a glass of water," p. 283.

<sup>4</sup> Restak in Bill Moyers, "Mind & Body: The Brain," PBSTV, February 1993.

<sup>5</sup> *On the undeveloped adolescent brain and its lack of cognitive maturity see Science, "Neuroscience: Crime, Culpability, and the Adolescent Brain," Vol 305, Issue 5684, 596-599, July 2004. Shall teenagers under 18 get the death sentence--based in part on brain studies, pp. 596-599.*

<sup>6</sup> See Gary Lynch in Restak (1984). "The Brain, Learning & Memory" The Annenberg/CPB Collection, in his discussion of the way arousing images alter the structure of the human brain, WNET/NY, full documentation in 8. Exhibits 1 and 2.

<sup>7</sup> Exhibit 1.

<sup>8</sup> Exhibit 2.

<sup>9</sup> Exhibit 3.

<sup>10</sup> John Rabun, now COO for the National Center For Missing & Exploited Children. See Senate Hearings on "Effect of Pornography on Women and Children," 1984. In that Senate hearing, Rabun testified that when arrested, "all, that is 100%" of rapists, pedophiles, etc., in their study possessed adult pornography, "such as Playboy, on up." Also see Dr. C. Everet Koop on pornography as a "crushing" health problem, in *American Medical News*, (October 10, 1986).

<sup>11</sup> Exhibit 3. See JA Reisman, *Kinsey, Crimes & Consequences*, 2003, pp. 160-180, esp. 170-'80: for the use of the SAR, Sexual Attitude Restructuring, as days, weeks or months of viewing pornography to be "accredited" as a certified sex educator, or to earn a Masters, PhD., etc., in Human Sexuality, AIDS Prevention and the like.



TESTIMONY FOR  
U. S. SENATE  
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

November 18, 2004

Mary Anne Layden, Ph. D.

Co-Director  
Sexual Trauma and Psychopathology Program  
And  
Director of Education

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Thank you, Senators, for allowing me to speak to you today.

Pornography, by its very nature, is an equal opportunity toxin. It damages the viewer, the performer, and the spouses and the children of the viewers and the performers. It is toxic mis-education about sex and relationships. It is more toxic the more you consume, the "harder" the variety you consume and the younger and more vulnerable the consumer.

The damage is both in the area of beliefs and behaviors. The belief damage may include Pornography Distortion, Permission-Giving Beliefs and the attitudes about what constitutes a healthy sexual and emotional relationship. The behavioral damage includes psychologically unhealthy behaviors, socially inappropriate behaviors and illegal behaviors.

Let me give some examples. Pornography Distortion is a set of beliefs based in pornographic imagery, sent to the viewer while they are aroused and reinforced by the orgasm. An example of Pornography Distortion would include beliefs such as "Sex is not about intimacy, procreation or marriage. Sex is about predatory self-gratification, casual recreation, body parts, violence, feces, strangers, children, animals and using women as entertainment." All of these are messages regularly sent by pornography.

Permission-Giving Beliefs are a set of beliefs that imply that my behavior is normal, acceptable, common and/or doesn't hurt anyone so I have permission to continue to behave in the way that I am. In all types of violence and addiction, Permission-Giving Beliefs are involved. Examples would include "All men go to prostitutes" "Women like sex mixed with violence" and "Children enjoy sex with adults". These particular Permission-Giving Beliefs are also common in pornography.

Both Pornography Distortion and Permission-Giving Beliefs increase the problem of mis-education about sexuality and relationships. For example, the myth that women are

sexually aroused by engaging in behaviors that are actually sexually pleasuring to men is a particularly narcissistic invention of the pornography industry. This is sexual mis-education.

The consequences of all these distorted beliefs are varied. For the viewer, pornography increases the likelihood of sexual addiction and they respond in ways similar to other addicts. Sexual addicts develop tolerance and will need more and harder kinds of pornographic material. They have escalating compulsive sexual behavior becoming more out of control and also experience withdrawal symptoms if they stop the use of the sexual material. The executive who goes to his office and logs on to the Internet porn sites at 9:00 AM and logs off at 5:00 PM is out of control and risks a great deal. Research indicates that 70% of the hits on Internet sex sites occur between 9-5 on business computers. Research also indicates and my clinical experience supports that 40% of sex addicts will lose their spouse, 58% will suffer severe financial losses, and 27-40% will lose their job or profession. Those whose marriages don't end, may find themselves increasingly dissatisfied with their spouses appearance and sexual behavior and increasingly sexually acting out which leads to an increase in sexually transmitted diseases. Research indicates that even non-sex addicts will show brain reactions on PET scans while viewing pornography similar to cocaine addicts looking at images of people taking cocaine. This material is potent, addictive and permanently implanted in the brain.

Those who use pornography have also been shown to be more likely to engage in illegal behavior as well. Research indicates and my clinical experience supports that those who use pornography are more likely to go to prostitutes, engage in domestic violence, stranger rape, date rape, and incest. These behaviors should not be surprising since pornographic videos containing all of these themes are readily available and the permission-giving beliefs of these pornographic videos reinforced by the orgasm say that all these behaviors are normal, acceptable, common and don't hurt anyone.

I have also seen in my clinical experience that pornography damages the sexual performance of the viewers. Pornography viewers tend to have problems with premature ejaculation and erectile dysfunction. Having spent so much time in unnatural sexual experiences with paper, celluloid and cyberspace, they seem to find it difficult to have sex with a real human being. Pornography is raising their expectation and demand for types and amounts of sexual experiences at the same time it is reducing their ability to experience sex.

The viewers are not the only ones to be affected by pornography. The performers are damaged as well although the performers were often damaged before they entered the industry. No healthy six-year-old growing up in a healthy home environment says, "I hope I grow up to be a porn star, stripper or prostitute". Those who now work in the porn industry were often little girls who got into their beds each night, rolled themselves into a fetal position and each night he came in and pealed her open. They work in the porn industry with its physical invasion and visual invasion because it feels like home. Once they are in the industry they have high rates of substance abuse, typically alcohol and cocaine, depression, borderline personality disorder which is a particularly serious disorder and dissociative identity disorder which used to be called multiple personality disorder. The experience I find most common among the performers is that they have to be drunk, high or dissociated in order to go to work. Their work environment is particularly toxic. One study on strippers indicated that they were likely to be punched, slapped, grabbed, called cunt and whore and to be followed home or stalked. Not

surprisingly, these women often work with bodyguards. This live form of pornography causes violence and the customers receiving these Permission-Giving Beliefs become carriers of these beliefs back to their homes, onto their jobs, into the street, onto the school yard. There they encounter women and children who do not have bodyguards.

The terrible work life of the pornography performer is often followed by an equally terrible home life. They have an increased risk of sexually transmitted disease including HIV, domestic violence and have about a 25 % chance of making a marriage that lasts as long as 3 years.

The viewers and the performers of pornography are the most direct victims. However, the children and the partners are also damaged by this industry. My clinical experience indicates that the spouses of porn viewers are often depressed, and are more likely to have eating disorders, body image disorders and low self-esteem. These wives can't function in the fake sexual world in which their husbands live. The wives may try to please their spouse by engaging in sexual behaviors that they find degrading. The wife may think that they can increase the sexual energy in the relationship and satisfy her husband if she views the pornography with him. My clinical experience is that these wives often get a short-lived boost in sexual activity but soon she notices that when her husband is having sex with her, he is turning around to watch the porn on the TV screen. She then realizes that he isn't having sex with her at all. He's masturbating inside her body while he is having sex with the women on the screen.

Some wives will resort to plastic surgery especially breast implants. Research indicates that women who get breast implants are four times as likely to commit suicide as other women are.

The children also show the damage. As pornography becomes normalized, it is left around the house. Children can get exposed to it. These are tender minds that are just developing their conceptualizations of sex. Normalizing abnormal sex increase the likelihood that they will engage in these behaviors. This increases the likelihood of early sexual experience and with it, the increasing risk of pregnancy, and sexually transmitted diseases. These children often think that all relationships are sexual. That sex is the core of their personalities and is the way in which you raise your self-esteem. This may be one reason that we see sexual addiction running in families. The distorted beliefs are not only reinforced but modeled as well. In one report in Australia, children who had become sexual predators before the age of 12, all had experienced pornographic material on the Internet and large number believed that the only use of the Internet was for pornographic material.

Children who have porn-viewing fathers complain that when he looks at them it feels "creepy". The parental gaze has now become the "porn gaze". The child of the porn user finds that every thing is now about sex.

There are no studies and no data that indicate a benefit from pornography use. If there were a benefit, then pornography users, pornography performers, their spouses and their children would show the most benefit. Just the opposite is true. The society is awash in pornography and so in fact the data are in. If pornography made us healthy, we would be healthy by now.

## Effects of Pornography Addiction on Families and Communities

James B. Weaver, III

Presented before the Subcommittee on Science, Technology, and Space of the  
Senate Committee on Commerce, Science, and Transportation  
Washington, DC  
November 18, 2004

Over the last three decades the status of pornography in the American entertainment marketplace has been radically transformed and expanded. Production and distribution of such materials has rapidly evolved from a "cottage industry" to a stable and well-refined mass-production enterprise. Spurred by new digital communication technologies, the marketplace for pornography has changed from one tailored to a subculture of connoisseurs into a mass market offering prolific content availability and diversity (cf., Weaver, 1994).

### **Research on Effects of Pornography Addiction**

It is against this backdrop that the question at hand – what is the impact of pornography addiction on families and communities? – is framed. Unfortunately, research directly assessing the impact of pornography addiction on families and communities is limited. However, it seems reasonable to expect – especially in this age of "cybersex" – that the compulsive and/or obsessive use of pornography could precipitate economic and social repercussions for individual consumers, their families and coworkers, and the broader community.

Fortunately, there is a large body of social science research evidence that can inform our discussion (Weaver, 1994). The manifest content of pornography has been extensively examined, for example, revealing that (1) pornography's dominant theme is one of unrestrained human sexual promiscuity and (2) it is devoid of coercion and violent action (Brosius, Weaver, & Staab, 1994). Further, the findings of numerous studies suggest that pornography consumption promotes sexual deviancy, sexual perpetration, and adverse sexual attitudes (cf. Oddone-

Paolucci, Genuis, & Violato, 2000). Of this research, a series of studies demonstrating the effects of pornography within a repeated-exposure, delayed-measurement experimental paradigm are particularly illuminating for the question at hand (Zillmann, 2004).

### **Experimental Evidence: Repeated-Exposure to Pornography**

The repeated-exposure, delayed-measurement paradigm simulates pornography consumption under relatively realistic conditions (i.e., daily or weekly exposure over an extended period of time) and then delays impact assessments for days and weeks to rule out any transitory effects. The paradigm thus may be considered an empirical surrogate for the phenomenon of pornography addiction in that it is sensitive to both (1) the consequences of cumulative exposure and (2) the formation of chronic effects.

Research employing this repeated-exposure paradigm has been conducted with both men and women drawn from diverse socio-economic backgrounds in the United States and Canada and has used pornography explicitly depicting all conceivable sexual activities devoid of violence performed among consenting adults. The findings are best summarized around the following themes: (1) Immediate reactions, (2) perceptions of sexuality, (3) sexual callousness, (4) rape proclivity, (5) family values and desire for progeny, and (6) sexual satisfaction.

#### Immediate Reactions

(a) Initial reactions of emotional discomfort and disgust dissipate rapidly with repeated exposure to pornography, eventually vanishing entirely.

(b) Initial hesitations to enjoy the material are rapidly lost with repeated exposure and give way to unadulterated reactions of enjoyment.

(c) Prolonged consumption of pornography eventually produces sexual and, more generally, excitatory habituation as well as boredom.

(d) Prolonged exposure to pornography stimulates a preference for depictions of group sex, sadomasochistic practices, and sexual contact with animals.

#### Perceptions of Sexuality

(a) Prolonged exposure to pornography leads to an overestimation of almost all sexual activities performed by sexually active adult.

(b) Prolonged exposure to pornography fosters increased estimates of the incidence of pre- and extramarital sexual activity, as well as increased assessments of male and female promiscuity.

(c) Prolonged exposure to pornography thither leads to the related perception of less honesty and trust, specific to covert sexual engagements, among intimates.

(d) Prolonged exposure to pornography fosters and strengthens the belief that promiscuous behavior is healthy, whereas sexual repression constitutes a health risk.

#### Sexual Callousness

(a) In men, prolonged exposure to pornography creates and enhances sexual callousness toward women.

(b) Prolonged exposure to pornography trivializes rape as a criminal offense. [Rape trivialization was ascertained in the lenient sentencing of convicted rapists. After prolonged exposure to pornography, men and unexpectedly also women, deemed rape a lesser offense.]

(c) Prolonged exposure to pornography trivializes nonviolent forms of the sexual abuse of children. [Effects were again measured in the lenient treatment of convicted perpetrators. Whereas all minor abuses, such as genital fondling and sexual cooperation in the absence of vigorous objection, were met with greater leniency, the brutal rape of children was not.]

Rape Proclivity

(a) Prolonged exposure to pornography increases men's self-acknowledged rape proclivity. Both noncoercive and coercive sexual displays have this effect.

(b) Psychoticism exacerbates the influence of pornography on men's rape proclivity. Psychotic men are strongly affected, whereas men with minimal psychotic inclination are not.

Family Values and Desire for Progeny

(a) Prolonged exposure to pornography spawns doubts about the value of marriage as an essential social institution and about its future viability.

(b) It also diminishes the desire for offspring in such settings. The strongest effect of this kind concerns the aspiration of female viewers for female children.

Sexual Satisfaction

(a) Prolonged exposure to pornography fosters sexual dissatisfaction among both male and female viewers.

(b) It also fosters, although to a lesser degree, dissatisfaction with an intimate partner's affection.

**Conclusions**

Taken together, the research at hand establishes that prolonged consumption of pornography – a critical condition presumably underlying pornography addiction – is a significant contributing factor in the creation of perceptions, dispositions, and behaviors that reflect sexual callousness, the erosion of family values, and diminished sexual satisfaction. Generalizing from these findings, we can anticipate that the compulsive and/or obsessive use of pornography should produce adverse consequences for individual consumers, their families and coworkers, and the broader community.

Consideration of the pragmatic implications of the research evidence at hand suggests, first of all, that the distorted messages of unrestrained human sexual promiscuity conveyed by pornography could be, as others have argued, a potent catalyst for abusive behaviors such as domestic violence and rape. Prolonged exposure to pornography, it must be remembered, results in both a "loss-of-respect" for female sexual autonomy and the disinhibition of men in the expression of aggression against women. Extensive research evidence shows that these two factors are prominent interwoven components in the perceptual profiles of sexually abusive and aggressive individuals.

A second implication concerns the extent to which pornography-induced misogynistic perceptions negatively influence the welfare of women in everyday, nonsexual circumstances. Repeated exposure to pornography, the data reveal, fostered acceptance of the notion that women are subservient to men and promoted an adversarial, distrustful relationship between the sexes. Many voices have suggested that the most damaging consequences of prolonged consumption of pornography are evident in the ill treatment of women (e.g., employment discrimination, economic exploitation) simply because of their gender.

Finally, there is reason to suspect that pornography –with its seemingly factual, documentary-style presentation of sexual behaviors –has usurped most other socialization agents to become the de facto sex education for adolescents and adults alike. Thus, the likelihood persists that the main messages of pornography have a stronger influence on the formation of sexual dispositions, including coercive disposition, than alternative forms of sexual indoctrination. Within this framework, the desirability of pornography as a rudimentary "educator" about sex must be contemplated.



## References

- Brosius, H. B., Weaver, J. B., HI, & Staab, J. F. (1993). Exploring the social and sexual 'reality' of contemporary pornography. *The Journal of Sex Research*, 30, 16 1-170.
- Oddone-Paolucci, E., Genuis, M., & Violato, C. (2000). A meta-analysis of the published research on the effects of pornography. In C. Violato, E. Oddone-Paolucci, M. Genuis (Eds.), *The changing family and child development* (pp. 48-59). Aldershot, England: Ashgate Publishing.
- Weaver, J. B., 111 (1994). Pornography and sexual callousness: The perceptual and behavioral consequences of exposure to pornography. In D. Zillmann, J. Bryant, & A. C Huston (Eds.), *Media, family, and children: Social scientific, psychodynamic, and clinical perspectives* (pp. 215-228). Hillsdale, NJ: Erlbaum.
- Zillmann, D. (2004). Pornografie. In R. Mangold, P. Vorderer, & G. Bente (Eds.), *Lehrbuch der Medienpsychologie* (pp. 565-5 85). Göttingen, Germany: Hogrefe Verlag.

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It may seem surprising that, at this juncture, I should speak of "chemicals", when one might be thinking instead of "sex." But, in fact, modern science allows us to understand that the underlying nature of an addiction to pornography is chemically nearly identical to a heroin addiction: Only the delivery system is different, and the sequence of steps. That is why heroin addicts in particular give up sex and routinely compare their "rushes" to "orgasms".

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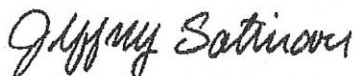
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fMRI Imaging shows that in addictive states, even *craving* is associated with distinct brain states in the addict (*Am J Psychiatry* 158:7, July 2001; *Am J Psychiatry* 2001; 158:86-95), in that part of the brain called the amygdala. Recall that the craving state is associated with endorphin depletion, and endorphins are the chemical pre-eminently associated with orgasm. Other studies show similar changes associated with both alcohol and other addictive cravings as well, unsurprisingly. (Effect of experimenter-delivered and self-administered cocaine on extracellular b-endorphin levels in the nucleus accumbens, I. Roth-Deri, A. Zangen, M. Aleli, R. G. Goelman, G. Pelled, R. Nakash, I. Gispan-Herman, T. Green, Y. Shaham and G. Yadid, *Journal of Neurochemistry*, 2003, 84, 930-938) A review of the new approaches to addiction shows that regardless of the *cause*, changes in brain structure are inevitable (AR Lingford-Hughes, SJC Davies, S McIver, TM Williams, MRC Daghlish and DJ Nutt, *Psychopharmacology Unit, School of Medical Sciences, University of Bristol, Bristol, UK British Medical Bulletin* 2003; 65: 209-222):

Alcohol and psycho-active substance misuse has far-reaching social, psychological and physical consequences. Advances in neuroimaging technology have allowed neurobiological theories of addiction to become better characterized. We describe the neurobiology of dependence, withdrawal, abstinence and craving states in alcohol, stimulant and opiate misuse. Structural neuroimaging techniques such as CT and MRI with new analytical approaches such as voxel based morphometry have shown wide-spread changes in stimulant and opiate abuse and atrophy, particularly in the frontal lobes, in alcoholism. Functional neuroimaging techniques such as PET, SPECT and fMRI reveal altered regional cerebral activity by all drugs of abuse. The neurochemistry of addiction, particularly involving dopamine, serotonin, opiate and GABA, has been studied with PET and SPECT and similarities between all drugs of abuse have been found such as reduced dopaminergic markers. The evidence derived from these advances in neuroimaging is likely to herald the emergence of new biological treatments in this important field.

A review of neuroimaging studies of how the brain changes as a consequence of addictive changes may be found at *Nat Neurosci.* 2004 Mar;7(3):211-4. Epub 2004 Feb 24.

Injection of cocaine alters endorphin levels (which leads to the feedback that eventually causes its depletion as in all addiction). This can be seen immediately on fMRI (Effect of experimenter-delivered and self-administered cocaine on extracellular b-endorphin levels in the nucleus accumbens, I. Roth-Deri, A. Zangen,

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Not only does viewing pornography produce specific responses in certain brain areas as demonstrated using fMRI, the attempt to suppress that response is associated with activation of different areas of the brain (prefrontal and sublimbic regions), which suppression only occurs in non-addicted individuals, a marker for future studies. *The Journal of Neuroscience*, 2001, Vol. 21

References in Testimony Letter:

Lost in Cyberspace: The Web @ Work, DAVID N. GREENFIELD, Ph.D., and RICHARD A. DAVIS, M.A., *CyberPsychology & Behavior*, Volume 5, Number 4, 2002

GREENFIELD, D.N., Psychological Characteristics of Compulsive Internet Use: A Preliminary Analysis. *CyberPsychology & Behavior* 2:403-412 (2000)

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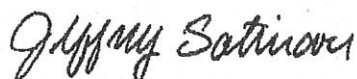
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The brain effect of pornographic imagery versus non-pornographic imagery is instant and immediately identifiable and differentiable between men and women. "SEEN IT!" - EFFECTS OF STIMULUS SEQUENCE ON EMOTIONAL

PICTURE PERCEPTION, Tobias Flaisch, Markus Junghofer, University of Konstanz; Margaret M. Bradley, University of Florida; Harald Schupp, University of Konstanz; and Peter J. Lang, University of Florida. Poster Presentation on fMRI imaging of differential brain effects of rapid pornographic images in males and females. Society for Psychophysiological Research 44th Annual Meeting, October 20-24, 2004, La Fonda Hotel, Santa Fe, New Mexico, Poster Session I, Main Floor Sweeney Convention Center, Thursday, October 21, 8:00 p.m.-10:00 p.m.; also *Human Brain Mapping* 16:1-13(2002) using Quantitative EEG and *Nature Neuroscience* 7:4,411-416 (March, 2004) using fMRI.

fMRI Imaging shows that in addictive states, even *craving* is associated with distinct brain states in the addict (*Am J Psychiatry* 158:7, July 2001; *Am J Psychiatry* 2001; 158:86-95), in that part of the brain called the amygdala. Recall that the craving state is associated with endorphin depletion, and endorphins are the chemical pre-eminently associated with orgasm. Other studies show similar changes associated with both alcohol and other addictive cravings as well, unsurprisingly. (Effect of experimenter-delivered and self-administered cocaine on extracellular b-endorphin levels in the nucleus accumbens, I. Roth-Deri, A. Zangen, M. Aleli, R. G. Goelman, G. Pelled, R. Nakash, I. Gispán-Herman, T. Green, Y. Shaham and G. Yadid, *Journal of Neurochemistry*, 2003, 84, 930-938) A review of the new approaches to addiction shows that regardless of the *cause*, changes in brain structure are inevitable (AR Lingford-Hughes, SJC Davies, S McIver, TM Williams, MRC Daghli and DJ Nutt, *Psychopharmacology Unit, School of Medical Sciences, University of Bristol, Bristol, UK British Medical Bulletin* 2003; 65: 209-222):

Alcohol and psycho-active substance misuse has far-reaching social, psychological and physical consequences. Advances in neuroimaging technology have allowed neurobiological theories of addiction to become better characterized. We describe the neurobiology of dependence, withdrawal, abstinence and craving states in alcohol, stimulant and opiate misuse. Structural neuroimaging techniques such as CT and MRI with new analytical approaches such as voxel based morphometry have shown wide-spread changes in stimulant and opiate abuse and atrophy, particularly in the frontal lobes, in alcoholism. Functional neuroimaging techniques such as PET, SPECT and fMRI reveal altered regional cerebral activity by all drugs of abuse. The neurochemistry of addiction, particularly involving dopamine, serotonin, opiate and GABA, has been studied with PET and SPECT and similarities between all drugs of abuse have been found such as reduced dopaminergic markers. The evidence derived from these advances in neuroimaging is likely to herald the emergence of new biological treatments in this important field.

A review of neuroimaging studies of how the brain changes as a consequence of addictive changes may be found at *Nat Neurosci.* 2004 Mar;7(3):211-4. Epub 2004 Feb 24.

Injection of cocaine alters endorphin levels (which leads to the feedback that eventually causes its depletion as in all addiction). This can be seen immediately on fMRI (Effect of experimenter-delivered and self-administered cocaine on extracellular b-endorphin levels in the nucleus accumbens, I. Roth-Deri, A. Zangen,

M. Aleli, R. G. Goelman, G. Pelled, R. Nakash, I. Gispan-Herman, T. Green, Y. Shaham and G. Yadid, *Journal of Neurochemistry*, 2003, 84, 930-938).

Not only does viewing pornography produce specific responses in certain brain areas as demonstrated using fMRI, the attempt to suppress that response is associated with activation of different areas of the brain (prefrontal and sublimbic regions), which suppression only occurs in non-addicted individuals, a marker for future studies. *The Journal of Neuroscience*, 2001, Vol. 21

References in Testimony Letter:

Lost in Cyberspace: The Web @ Work, DAVID N. GREENFIELD, Ph.D., and RICHARD A. DAVIS, M.A., *CyberPsychology & Behavior*, Volume 5, Number 4, 2002

GREENFIELD, D.N., Psychological Characteristics of Compulsive Internet Use: A Preliminary Analysis. *CyberPsychology & Behavior* 2:403-412 (2000)

# **Political And Popular Resolve**

- 1. Senator Lieberman**
- 2. Senator Brownback**
- 3. Fact Finder 12 Scientific Survey**



# Joe Lieberman

UNITED STATES SENATOR



FOR IMMEDIATE RELEASE  
July 28, 2005

Contact: Rob Sawicki, 202-224-9965  
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## **Lieberman Proposes Safer Internet for Children**

**“All officials in positions of responsibility must choose which side of this battle they are on. We are taking our stand, and we are taking our stand on the side of parents.”**

**25% excise tax on Internet pornography transactions.**

**Centralize and coordinate the allocation of federal resources in support of efforts on the part of law enforcement and others to combat Internet and pornography-related crimes**

**WASHINGTON – Senator Joe Lieberman** today joined a group of Senate and House colleagues in sponsoring legislation to make the Internet a safer place for America’s children. “The Internet Safety and Child Protection Act of 2005,” introduced by Senator Blanche Lincoln (D-AR), aims to reduce the exposure of children to inappropriate content on the internet.

“The internet can be a marvelous educational resource for our children,” Lieberman said. “But the internet can also be dangerous for kids. Pornography and other obscenity on the internet has begun to undermine some of the basic rules and values that we have traditionally set and enforced as a society that help parents maintain some reasonable standards for their children. Parents are in a fight with the internet pornographers over who has the right to control what their children are exposed to and when they are exposed to it. **All officials in positions of responsibility must choose which side of this battle they are on. We are taking our stand, and we are taking our stand on the side of parents.**”

The legislation was introduced in coordination with the release of a new report by Third Way, a centrist think tank and advocacy group. Third Way’s report exposes alarming statistics linking children to pornographic web sites. **It finds that children between the ages of 12-17 are the largest viewers of Internet pornography, and the average age at which children are first exposed to online pornography is 11 years of age.** The bill sets three clear objectives:

- Requires Age Verification Adult, for-profit websites would be required to use software to verify the age of users attempting to access their websites. Online merchants, banks, and credit card companies could not process payment transactions that are not age verified. The FTC shall issue and enforce the regulations outlined in this section.
- Establish an Internet Safety and Child Protection Trust Fund (ISCP Trust Fund) This fund will **centralize and coordinate the allocation of federal resources in support of efforts on the part of law enforcement and others to combat Internet and pornography-related crimes against children.** Trust Fund resources will also support initiatives that help parents exercise greater supervision over their kids’ online activities.
  - Force Pornographers to Pay the Costs of Child Protection The Internet Safety and Child Protection Trust Fund will not be deficit-financed or financed from taxes paid by the average, working American. Rather, the Trust Fund will be financed by a **25% excise tax on Internet pornography transactions.** Other original cosponsors of Lincoln’s legislation include Senators Tom Carper (D-DE), Debbie Stabenow (D-MI), Mark Pryor (D-AR), Mary Landrieu (D-LA), Ken Salazar (D-CO), Evan Bayh (D-IN), and Kent Conrad (D-ND). In addition, companion legislation was introduced today in the U.S. House of Representatives by Reps Jim Matheson (D-UT) and Robert Menendez (D-N.J.).



# Sam Brownback

UNITED STATES SENATOR • KANSAS

303 Hart Senate Office Building • Washington, DC 20510

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## **Brownback Holds Hearing on Obscenity Prosecution and the Constitution**

**Says government has compelling interest in pornography prosecution**

Wednesday, March 16, 2005

WASHINGTON – U.S. Senator Sam Brownback today made the following statement as he chaired a hearing of the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Property Rights examining the constitutional context for obscenity prosecution.

“The explosion of sexually-explicit material is not a problem that exists in the vacuum of constitutional theory; government has a compelling and real-life interest in the matter, because of porn’s adverse effects on individuals, families, and communities in the forms of criminality and addiction.

“The editor and publisher of a journal of the pornography trade recently stated that ‘it’s scary how much money is made on porn.’ About this, there can be little debate. The porn industry has grown rapidly in the last decade. Part of the reason for this growth is that the nature of, and access to, sexually explicit material in the marketplace has been radically transformed and expanded.

“According to many legal scholars, another reason for the industry’s growth is a legal regime that has undermined the whole notion that illegal obscenity can be prosecuted.

“Just last month federal judge Gary Lancaster of the Western District of Pennsylvania threw out a ten-count Justice Department indictment against Extreme Associates, purveyors of the vilest sort of pornography. The defendants were in the business of producing films that, according to one report, ‘even porn veterans find disturbing.’ A co-owner of Extreme Associates even boasted that the films—which depict rape, torture, and murder—represent ‘the depths of human depravity.’ He also proudly admitted that the films covered by the indictment met the legal definition of obscenity.

“There was a reason why Judge Lancaster had to bypass First Amendment jurisprudence in reaching the result he wanted. Numerous First Amendment precedents distinguish between protected speech and illegal obscenity.

“This hearing will emphasize two well-established legal principles. The first is that the Supreme Court has clearly and repeatedly held that obscenity does not merit First Amendment protection. The second is that the government has a legitimate and constitutionally valid interest in regulating obscenity through, among other things, the enforcement of relevant federal and state statutes.”





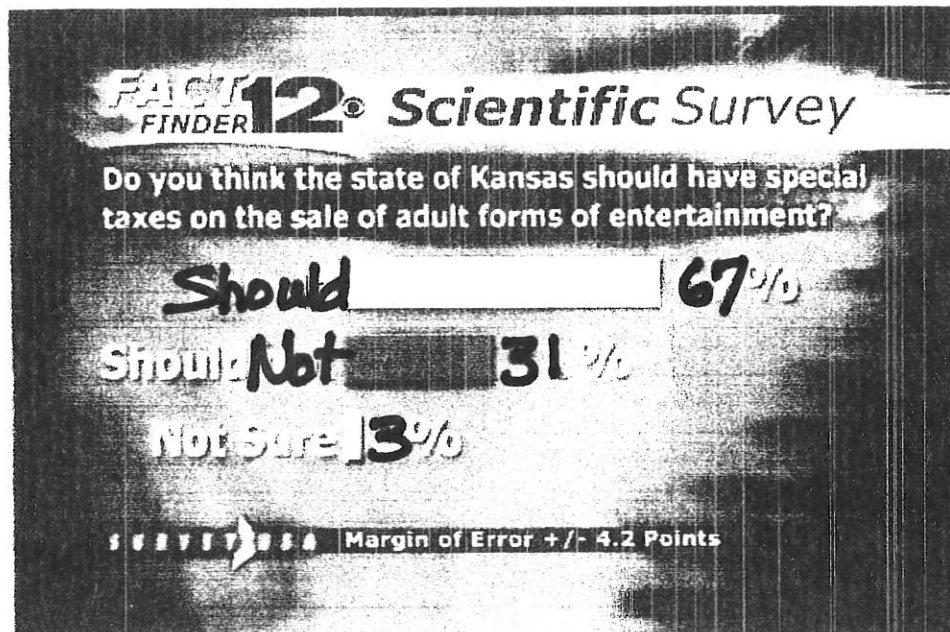
Wichita,  
Kansas

**Home**  
**Storm**  
**Team 12**



Many television stations ask viewers to vote on a particular topic on a station website, such solicitations don't give a statistically accurate result. When *SurveyUSA* conducts research, it uses a demographic breakdown of a given area, based on the United States Census Bureau and other private sources. The sample is representative of the people who live in the area that we poll.

**KWCH 12**



**Features**

## TAXATION OF SEXUALLY ORIENTED BUSINESSES (SOBs) AND PORNOGRAPHY

**Q. DOES TAXATION OF PORNOGRAPHY AND SEXUALLY ORIENTED BUSINESSES (SOBs) LEGITIMIZE THEM?**

**A.** Pornography is already legitimized by the 1<sup>st</sup> amendment protection of "erotic speech" and is only remedied by a "community standard" obscenity trial, thereby deeming it illegal in that community.

Like cigarettes, those taxes did not legitimize or promote tobacco. It did establish a base of finally linking the adverse effects and eventual pecuniary liability settlements against big tobacco. Stop smoking campaigns and no smoking ordinances still march on. One day the pornography industry, like the tobacco industry will have to acknowledge their deleterious effects. Building on the 30 years of constitutionally upheld SOB zoning law based on the negative effects of the sex business on communities is a logical progression.

**Q. MIGHT THE GOVERNMENT GET ADDICTED TO THE MONEY THAT THE SEX INDUSTRY PROVIDES THROUGH A TAX AND THEN IT WILL STOP PROSECUTING OR ZONING?**

**A.** Again taxation of cigarettes did not stop eventual huge monetary judgments and passage of no smoking ordinances. We should not stop compelling our elected Sheriffs and District Attorneys from bringing charges of "promotion of obscenity" against pornography shops or stop electing City and County Commissioners that will pass strong zoning ordinances designed to vigorously regulate the sex industry.

**Q. WHAT ABOUT THE "NO TAX PLEDGE" SIGNED BY SOME KANSAS LEGISLATORS?**

**A.** When it comes to the issue of the "no tax pledge" I believe the overriding moral issue of pornography on top of the compelling state interest of protecting the safety and health of our State will trump the "no tax" position. Money cannot dictate values or the imperative to protect citizens from this dramatically growing threat to public safety. Each individual legislator needs to listen to the compelling evidence of the negative effects of SOBs on communities, families and individuals and vote their values. I believe most Kansans will understand their decision. Legislators take an "oath" of office to defend the Constitution which in part states..."*provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity,...*" Perhaps during the politics of working the bill a "licensure fee" or offsetting reduction of general tax funds could be an accommodation.

**SUMMATION: One of the legitimate, God ordained purposes** of governments is providing for the common defense or safety of our communities.

Sexual predators, like Jeffery Dalmer, John Wayne Gacy and BTK are being spawned from pornography and are prowling about, driven to feed their lusts on innocent victims. Our State needs to have the resources to prosecute and restrain these criminals to protect our children and families.

**Rom 13: 3-6** For rulers are not a cause of fear for good behavior, but for evil. Do you want to have no fear of authority? Do what is good, and you will have praise from the same; for it is a minister of God to you for good. But if you do what is evil, be afraid; for it does not bear the sword for nothing; for it is a minister of God, an avenger who brings wrath upon the one who practices evil. Wherefore it is necessary to be in subjection, not only because of wrath, but also for conscience' sake. **For because of this you also pay taxes**, for rulers are servants of God, devoting themselves to this very thing.

There are roughly 9,000 inmates in Kansas prisons and 25% of those inmates are in prison for sex crimes. The KS Department of Corrections annual budget is roughly \$ 431,000,000. The cost to you in Kansas for just one prisoner each year is \$ 48,000. According to the Kansas sentencing guidelines a first offense rape carries a presumptive prison sentence of 10 years. Total cost to you is roughly \$ 480,000 for just one rape sentence. Today, you and I pay the full burden of this cost while the sex industry, which is profiting and fueling this lust, is not paying for the damages.

The courts have upheld zoning laws for this same logic of increased crimes and now I believe the courts will uphold an SOB and pornography tax for the very same logic. The sex industry needs to pay for the proven damages they are inflicting on our communities. A chemical company would pay a premium for a toxic spill, so should the SOBs.

**PORN OUTLETS**

**STRIP CLUBS**

**ESCORT SERVICES**

**DISEASE**

**PROSTITUTION**

**SLAVERY**

**PEDOPHILIA**

**SNUF FILMS**

**PREDATORS**

**HARASSMENT**

**RAPES**

**MURDERS**



# Ward Parkway Presbyterian Church

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Dr. Doug Burford, Pastor  
Resident of Mission, Kansas  
Testimony before the Special Committee on  
Assessment and Taxation  
Kansas House of Representatives, Topeka  
Friday, Feb. 9, 2006

### **Why do children no longer roam free in America?**

A scientist from South Africa worshiped at the church I serve for a year while he was engaged in a research project at UMKC. He asked me once, "Where are the children?" I said, "Excuse me?" He said, "Where are the children? In South Africa, they are always out running around, playing ball or hide and seek or kick the can, or something. In America, I never see any children." I immediately recognized that he was absolutely right, and that it was a big difference from when I grew up near the same neighborhoods. When I was little, my sisters and I used to leave the house at 8 a.m. on a summer morning and be gone until dinner time. Mom never worried about us. I don't know *any* parents today who just let their children roam all day long. Why not? What has changed? Who are we afraid of? Robbers? Kids don't carry much money, if any. Kidnappers? People who want to snatch kids for ransom don't hang around my neighborhood. Who are we afraid of? Isn't it the pedophile; the oversexed person who might play out his fantasies on our vulnerable children? That's who we're afraid of! Would we want teaching our children a high school teacher who watches pornographic videos like, "Cheerleader Lust" or "Because Teacher Said So?" The ACLU would probably say we have to let him teach, but wouldn't we be afraid of him? Would we allow to babysit our children someone who brought pornographic videos to watch after bedtime?

House Taxation  
2-10-06  
Attachment 4

So, where were these universally-feared pedophiles when I was growing up? Some will say that they were there and we're just doing a better job of identifying them and counting them, but that's an argument without evidence. Indeed, it's just wishful thinking. We've *created* them. We've put before our citizens decades of perversion and sexual corruption and - surprise, surprise - some have tried it in real life. Many of these people fall into one of the three categories of sex addicts. But ask yourself, if sex addicts are often formed by childhood trauma like divorce and early experiences with sexuality or pornography, are we going to see more or less of them in the future?

We can't crack down on kids who are promiscuous at younger and younger ages and people who sexually harass others at work and pedophiles and sex criminals and NOT crack down on the fuel that feeds their fantasies and fans them into flame; indeed the fuel that *forms* many of these people at a young age, just like violent media has been shown to be causal in the creation of aggressive children who are more likely to grow up to be aggressive adults.

Given the sexual license we've seen since the 60s and the escalation of perversion in pornography since the first issue of Playboy, what will the next fifty years bring? Could we see the acceptance of pedophilia? Or should we call it "intergenerational sexuality?" That's what it's now being called in academic circles.

**It's common sense, just like the effect of media violence . . .**

It used to be questioned whether media violence contributed to violence in culture, especially among children. The jury is no longer out on that question. After more than one thousand studies, we now know scientifically what common sense had been telling us for decades and what every mother of young boys could have told us without spending a dollar on research. . . . that "children who watch significant amounts of television and movie violence are more likely to exhibit aggressive behavior, attitudes and values." (U.S. Senate Committee on the Judiciary, 1999)

Exactly the same situation is before us with regard to obscenity. Common sense suggests that someone who regularly feeds on images and stories of extramarital sex, promiscuity, orgies, adultery, violent sexual attacks, demeaning sexual acts and bestiality is more likely to engage in some of those behaviors than is someone who does not indulge those images and stories. Scientific research has begun to catch up with what common sense already tells us. In the meantime, steps must be taken to curb the damage pornography and sexually oriented businesses have on men, women, marriages, families and children.

I asked Dr. Doug Weiss, a counselor and prolific author on sexual addiction, whether he tries to influence legislation on obscenity. He responded, "Oh, no. It's too late." . . . I hope he's wrong.

### **The proliferation of pornography**

We are all well aware of the proliferation of pornography since *Playboy* magazine in 1953 brought pornography out of the gutters of back allies and into the circles and lanes of neighborhoods. Dr. Stan Weed notes the proliferation of pornography since then:

. . . in 1970 *Playboy* was the only widely circulated magazine of the genre. By 1985, there were 13 additional titles on the shelves, the dominant ones being *Playboy*, *Penthouse*, and *Hustler*. . . . Production quantity leveled off somewhat until the VCR became widely available in the very late 1970s, after which another high level of production occurred. . . . An industry which once depended on either 1) an elite clientele who had the money and connections to acquire the materials, or 2) public showings in theaters and bookstores only visited by the few who dared be seen in such establishments, now thrives on sophisticated, mass produced sexually explicit materials via video tape and cable outlets that are viewed in private and affordable to all.<sup>1</sup>

### **Once hard to find, now hard to avoid**

The result is that whereas before the advent of *Playboy* in 1953, one had to go out of their way to access pornography; now, we have to go out of our way to avoid it. Where once such magazines were hidden behind counters in wrappers, now we have to avert our eyes from the top shelf of magazine stands in airports and convenience stores. We have to install filters on our computers and scramblers on our cable-TVs. Sometimes, we can't even watch a Super Bowl halftime show.

### **Reluctant users and shame-driven addiction**

This availability has led to what I call "reluctant users" of pornography; men who didn't go looking for it, but it came aggressively looking for them and snared some of them. Dr. Patrick Carnes, the leading expert in research on sex addictions, has identified this reluctant group of users as the "Discovery Group."<sup>2</sup> They are people who did not fall into the "Predisposed group." They're just regular people who happened to stumble upon pornography and got hooked. Many of them are family men; many are Christian men who have intense shame over their usage. That shame keeps their problem hidden, which causes further shame. That shame seeks medication in the very pornography that caused the pain. Such is the nature of addictions; in this case an addiction that profits the pornography industry a great deal and costs many a man a clear conscience, an intimate marriage, a productive work life and in some cases, freedom, if they turn to illegal ways to act out their lustful intoxications. If tobacco can be held responsible for its effects on smokers, then the peddlers of obscenity can be held responsible for the devastation their product brings to many lives and families.

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<sup>1</sup> Stan E. Weed, Dr., *Pornography: A Review of Scientific Literature*, Report for the National Coalition for the Protection of Children and Families, (1997).

<sup>2</sup> Patrick Carnes and Kenneth M. Adams. *Clinical Management of Sex Addiction*. New York: Brunner-Routledge, 2002.

### **Contributing factors to sex addiction**

My dissertation sought to find common factors in the lives of men who became compulsive, secretive users of pornography. The most frequent common factors included an emotionally distant relationship with father; childhood trauma like the death or abandonment of a parent; an addictive family history; intense shame due to victimization, early sexualization and early exposure to pornography. These men would fall into Dr. Carnes' predisposed group. They are vulnerable due to their woundedness. They are victims whom pornographers further victimize. They are looking for love - real intimate love - and are finding counterfeit intimacy with inanimate images. These men are looking for a real salve to their wounds and are given snake oil, instead.

### **Pornography's messages**

Pornography *educates*, or more accurately, *miseducates* about sexuality.

Its false lessons include these:

- Sex is appropriate with anyone, anywhere, at anytime.
- Extramarital promiscuity is preferable to marital monogamy.
- Adultery is common; marital faithfulness is rare.
- Pregnancy and children are undesirable consequences of sex to be avoided.
- The more taboo the sex act, the more exciting.
- Perverse sex acts present no risks to physical, mental or spiritual health.
- Victims of sexual assault enjoy it if their attacker persists.
- Women enjoy sodomy, swallowing semen, sharing partners, sexual violence, and demeaning sex acts.

Hefner may feel he "liberated" our culture from sexual norms common in pre-Kinsey, pre-Hefner America. But the 1994 study, *Sex in America* found that 37 percent of young women in the survey first had sex due to peer pressure. In previous generations, that number was 13 percent. It makes one wonder how many "liberated" women are looking for love and settling for sex. The same study found that the most sexually satisfied people were monogamous, married couples.

### **Better off or worse off?**

Doesn't common sense tell us that pornography and sexually-oriented businesses have contributed to the worsening of the following social ills?

- America leads the industrialized world in sexually transmitted diseases. (currently 70 million cases.)
- American teenagers are the most likely to have multiple sex partners.
- On average, 2,700 teenagers become pregnant in America every *day*.
- It is estimated that 500,000 women are raped or sexually assaulted every year and that 3/10 of rapes go unreported.
- Despite violent crime being down, reported rapes are not.
- Prostitution and sex slavery are growing industries, worldwide.

And what about

- Abortion
- Incest
- Sexual Harassment in the Workplace
- Adultery
- Marital discord and divorce as porn destroys marital intimacy; encourages "sex with self;" and wives are pressured into demeaning sex acts their husbands viewed in porn.
- What about the escalation of the perversity in movies, TV shows, the Internet and in magazines like Maxim, which contains sexual images similar to those in the first years of Playboy, and it isn't even considered an obscene magazine.

Is it reasonable to believe that pornography's glorification of promiscuous, extramarital, and even forced sex has not contributed to the above social ills?

Michael Craven, Vice President for Religious and Cultural Affairs for the National Coalition for the Protection of Children and Families, has said, "Nowhere do you find *any* positive effects resulting from habitual exposure to pornography."

#### **The Internet - AAA - Accessible, Affordable, Anonymous**

Of course, the Internet has changed everything. The scourge that it has created by the number of people Internet porn has snared has been credited to its AAA nature: Accessible, Affordable and Anonymous. It's accessible from nearly any computer, anywhere, 24 hours a day, seven days a week. It's affordable, with many sites costing nothing, at least for a preview. And its anonymous - there's no getting caught in a dirty book store or strip club. Not even the letter carrier knows.

Dr. Carnes names six components to Cybersex that contribute to its powerful lure:

Intoxicating - Like a drug, it provides a temporary euphoria. We get a "fix."

Isolating - Internet porn requires no contact with people or even the outside world

Integral - The computer is part of most of our daily lives, making avoidance of it difficult.

Inexpensive - Internet service costs roughly \$20-\$50 for unlimited access to unlimited forms of porn. This is far less than a magazine subscription or video rentals or purchases. And much Internet porn is free.

Imposing - The PC's use is "imposed" on us by our culture. We're expected to use e-mail and other PC svcs.

Interactive - We tell the Internet what to do and it follows our instructions.

This doesn't let sexually Oriented Businesses off the hook, however. Because, while the Internet is today's most common portal of entry for new porn users, pornography use typically involves a path of escalation (or descent may be a more accurate term) that can lead men into more and more risky and antisocial sexual behavior, including frequenting adult stores and strip clubs, or soliciting prostitutes.



### **Pastors see the devastation to families**

Every pastor with whom I've discussed this topic knows a family that has been adversely affected by pornography or sexually oriented businesses. Children have been exposed to pornography at home, at the library or at friend's house. Wives have caught their husbands viewing porn on the Internet or paying for obscene hotel pay-per-view movies, or visiting strip clubs or prostitutes.

Reluctant users have discovered this hostile, addictive environment because the courts have been more concerned about protecting a few highly immoral pimps and prostitutes, than they've been about protecting the rest of us by enforcing obscenity laws that have been on the books since 1973 when the Supreme Court ruled that obscenity was not free speech protected by the First Amendment.

Now, why would I use the words pimps and prostitutes instead of pornographers and performers? Simple hyperbole? Shock value? Rudeness? Hatefulness? No. I use it because it is etymologically and ethically accurate.

### **Escalation from first exposure to acting out**

Victor Cline, Ph.D., professor of Psychology at the University of Utah has described the progression of porn usage from first exposure to regular usage to addiction to escalation (of the graphic nature of material required to bring arousal), to desensitization (in which there is no empathy left for the victims in pornographic scenes), to the last stage - acting out (in order to release pent up sexual fantasies based on what has been viewed).

In his own words, Dr. Cline says:

In over 25 years I have treated approximately 350 males afflicted with sexual addictions (or sometimes referred to as sexual compulsions). In about 94% of the cases I have found that pornography was a contributor, facilitator or direct causal agent in the acquiring of these sexual illnesses. I note that Patrick Carnes, the leading U.S. researcher in this area, reports similar findings. In his research on nearly 1000 sex addicts, as reported in his book, *Don't Call it Love: Recovery from Sexual Addictions* (Bantam Books, 1991): "Among all addicts surveyed, 90% of the men and 77% of the women reported pornography as significant to their addiction."

I found that nearly all of my adult sexual addicts' problems started with porn exposure in childhood or adolescence (8 years and older). The typical pattern was exposure to mild porn early with increasing frequency of exposure and eventual later addiction. This was nearly always accompanied by masturbation.

This was followed by an increasing desensitization of the materials' pathology, escalation to increasingly aberrant and varied kinds of materials, and eventually to acting out the sexual fantasies they were exposed to. While this did on occasion include incest, child molestation and rape, most of the damage was through compulsive infidelity (often infecting the wife with Herpes or other venereal

diseases) and a destruction of trust in the marital bond, which in many cases led to divorce and a breaking up of the family.

Many wives found their husband preferring fantasy sex (they would catch them masturbating to pornography) to making love with their partner. This had devastating effects on the marriage.<sup>3</sup>

### **Acting out what is viewed**

Vernon Geberth is a retired NYPD Lieutenant Commander of the Bronx homicide squad and a nationally renowned homicide investigator. He wrote an 800-page book, published in 2003, to assist law enforcement officers in investigations of sex-related homicides. Here is an excerpt from the book, Sex-Related Homicide and Death Investigation (CRC Press)

In one section, he quotes a convicted sex criminal in a section called, "Reinforcement of the Fantasy:

*Case 4 Continued ...'When I got to Denver there were a lot of sex shops. There I found bondage magazines and videos. Magazines of beautiful women and young girls tied, bound and gagged in just about every way possible. I was in heaven. I bought lots of mags and videos. After a year or so of watching, I wanted the real thing. I wanted a woman bound up and sexually abused ... I didn't want a willing partner as (name withheld) had been. I wanted an **unwilling** partner. I would go out and walk the streets and visit clubs looking for the right woman or girl'" (sic) [pp.44-45]*

### **Flat-responders**

It may be this type of acting out of images seen in pornography that we fear most. But Dr. Allan Cooper has noted an equally troubling occurrence that he blames on the sheer *volume* of pornography now available. In his clinical studies, he is seeing an unprecedented number of "flat responders". . . subjects who have seen so much pornography of so many different fetishes that they find almost nothing stimulating. He writes of this experience: "We started to encounter a high proportion of 'flat responders,' who simply didn't find any . . . images stimulating. Neither Erick Janssen nor I, both of whom had been involved in such physiological studies over quite a few years, had ever encountered such a high rate of non-response." <sup>4</sup> (xi)

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<sup>3</sup> Cline, Dr. Victor, "Treatment and Healing of Sexual and Pornographic Addictions," reprinted on <http://www.obscenitycrimes.org/vbctreat.cfm>. Accessed October 10, 2005.

<sup>4</sup> AI Cooper. *Sex and the Internet: A Guidebook for Clinicians*. New York, NY: Brunner-Routledge, 2002, p. xi.

In other words, the stimulating wonderful gift of sexuality that God gave us had become for these men a deadening experience. Given the pattern of escalation, one can only speculate as to the kind of sexual stimuli these men would need to find arousal.

### **Porn is prostitution, etymologically and ethically**

At the risk of sounding like the patriarch in *My Big Fat Greek Wedding*, the word, pornography is formed from two Greek words:

Porne (porne))) means “female prostitute.” It comes from the verb porneuo (porneuo), which means, “sexual immorality.”

Graphy (graph), the suffix, means “writing.” In later Greek, it came to be used for depictions or representations through any mechanical means of reproduction. So, we apply it today to photography, cinematography and the like. In addition to its reference to the *means* of production, the suffix can refer to the *subject* matter, as in oceanography or pornography.

Thus, pornography literally means “writings about prostitutes” or “depictions of prostitutes.”

It is hard to find a difference between an actor or actress being paid to have sex in front of a camera and a prostitute being paid to have sex off camera. Our legal system may distinguish between the two, but etymologically and ethically, there is no difference. And if the performers in pornography are prostitutes, then the makers of pornography are pimps. If prostitution is illegal because it harms society, and it does, then pornography should be illegal for the same reasons. If pimps were smart, they would film every act of prostitution and claim that it was art, not prostitution.

I don't say that hatefully, I say it with a broken heart.

It breaks my heart that there are people so wounded, so deluded, so desperate or so tricked, that they have allowed their bodies to be degraded through prostitution - whether illegal as a prosecutable vice or legal as protected by the non-enforcement of laws against obscenity. It breaks my heart that there are people so calloused and selfish that they would *employ* people to degrade themselves in order to profit from their exploitation.

If lawmakers and the courts are protecting pornographers from us, then who is protecting us from them?

### **Pornographers have no “line”**

At what point will obscenity cross the line and become unacceptable to society and to law enforcement? What depictions will finally be considered too graphic? Orgies? The material is already out there. Rape? It's out there. Bestiality? It's out there. Bondage and torture? Out there. Pedophilia? It's out there in un-prosecuted forms with young-looking actors and actresses portraying children in sex acts and with images digitally remastered to portray *very* young children. The courts have ruled that this is legal. The ACLU has even taken a position in favor of the legal distribution of *actual* child pornography. They

have stated that, while laws were broken in the production of child pornography, it should not be a crime to *distribute* such material.

These realities show that pornographers will exploit anyone and everyone from whom they can make a buck. They care nothing for the ramifications to the individual nor to the culture on whom they unleash their material. They have no line formed by conscience. They know that what they are doing is wrong, if any standard exists in the universe, at all. They MOCK those charged with upholding that standard, such as clergy, legislators and courts. They LAUGH at our ineptitude, all the way to the bank.

### **It's time to act**

Pornography and sexually oriented businesses harm the soul, the family and society. The legislative and judicial systems have a choice. They can wait for scientific evidence to catch up with what common sense is telling us, or act now. They can split legal hairs over whether there is a difference between a prostitute having sex for money and a person having sex for money on film or act on obscenity laws currently on the books. The only question will be how much worse things will be allowed to get, in the meantime.

I urge you to do whatever can be done to enact and enforce laws that limit or eliminate the production and distribution of illegal obscenity. Protect freedom of speech, uphold the constitution and protect the citizens of Kansas from pimps who have no concern for the protection of anyone else from the harm done by their products.

### **Is there a downside to this tax?**

The only downside to taxing sexually oriented businesses is the same risk that accompanies the proposal of an .XXX extension to pornographic domain names. The downside is the legitimizing of such material, as if it were acceptable and legal. In the same way, this legislation carries the risk that sexually oriented businesses will not be aggressively prosecuted for infractions of obscenity laws because of the potential for lost revenue to the state of Kansas.

I urge you to guard against that risk by making this legislation only *one* of many steps in a legal assault on pimps and prostitutes that is as aggressive as the assault they have waged on the residents of Kansas. Help us protect ourselves.

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## Bibliography

- Burgin, Jody, and Steve Stoller, *Dyamic Living for Men: Leader's Guide for Man to Man (M2) Groups* Dynamic Living for Men, ed. Karen Roberts. Cincinnati, OH: Dynamic Living Ministries, 2003.
- Carnes, Patrick, and Kenneth M. Adams. *Clinical Management of Sex Addiction*. New York: Brunner-Routledge, 2002.
- Cooper, Al. *Sex and the Internet: A Guidebook for Clinicians*. New York, NY: Brunner-Routledge, 2002.
- Gardner, Christine J. "Tangled in the Worst of the Web." *Christianity Today* 45, no. 4 (2001): 42-29.
- Biblesoft's New Exhaustive Strong's Numbers and Concordance with Expanded Greek-Hebrew Dictionary. Biblesoft, Seattle, WA.
- Pornography, U.S. Attorney General's Commission on. *Final Report of the Attorney General's Commission on Pornography*: Rutledge Hill Press, 1986.
- Weed, Stan E., "Pornography: A Review of Scientific Literature, 1997." Report for the National Coalition for the Protection of Children and Families.
- McGeady, Paul, *The Obscenity Law Bulletin*, New York, NY: Morality in Media.

AS I SEE IT

# Pornography miseducates about sex

By J. DOUGLAS BURFORD  
Special to The Star

There has been much coverage recently of the 50th anniversary of *Playboy* magazine. Seldom, however, has that coverage adequately acknowledged the social ills that followed Hugh Hefner's publication.

Such ills cannot be completely blamed on *Playboy*, but the proliferation of pornographers since 1953 has certainly done nothing to deter the following:

- America leads the industrialized world in sexually transmitted diseases (70 million cases currently).



Burford

- American teenagers are the most likely to have multiple sex partners.

■ On average, 2,700 teenagers become pregnant in America every day.

- It is estimated that 500,000 women are the victims of rape or sexual assault each year and that three in 10 rapes go unreported.

- Reported rapes are increasing.

- Sex slavery is a growing industry worldwide.

Is it reasonable to believe that pornography's glorification of promiscuous, extramarital and even forced sex has not contributed to these developments?

Pornography educates (or miseducates) concerning sexuality.

Among its lessons are the following:

- Sex is appropriate with anyone, anywhere, at any time.

- Extramarital promiscuity is preferable to marital monogamy.

- Adultery is common; marital faithfulness is rare.

- Pregnancy and children are undesirable consequences of sex to be avoided.

- The more taboo the sex act; the more exciting.

- Perverse sex acts present no risks to physical, mental or spiritual health.

- Victims of sexual assault enjoy it if the attacker persists.

- Women enjoy sodomy, completed oral sex, lesbian activity, sharing partners, sexual violence and demeaning sex acts.

Some say that pornography simply shows people making love. They ask, "What's wrong with that?" But pornography has nothing to do with love. Love is about giving; pornography is about taking. Love protects; pornography exploits. Love is about mutual affection; pornography is about body parts. Love considers others above oneself; pornography sees others as equipment for the fulfillment of selfish desires.

Yes, Hefner "liberated" the culture from sexual norms common before the 1950s. But the 1994 study "Sex in America" found that 37 percent of young women in the survey first had sex because of peer pressure. In previous generations, that number was 13 percent. It makes one wonder how many "liberated" women are looking for love and settling for sex. So much for liberation. The same study found that monogamous, married couples are the most satisfied with their sex lives.

Given these effects since 1953, I wonder what the next 50 years will bring. Maybe acceptance of pedophilia? Excuse me — intergenerational sexuality. That's what it's being called now.

*J. Douglas Burford is pastor of Ward Parkway Presbyterian Church in Kansas City. He lives in Mission.*

## APPENDIX A

### Entities Helping Compulsive or Addictive Users of Pornography

#### Selected Listing

##### American Family Association

107 Parkgate

P.O. Drawer 2440

Tupelo, Mississippi 38803

(800) FAMILIES, Outreach Division: (800) 326-4543

[www.afa.net](http://www.afa.net)

Research on pornography and its effects; organization of grass-roots efforts to combat pornography; help for the addicted.

##### Bethesda Workshops

c/o Woodmont Hills Church

3710 Franklin Road

Nashville, TN 37204

(866) 464-HEAL or (615) 467-5610

A ministry in partnership with Faithful and True Ministries for couples in which one or both partners battle sex addiction

##### Breaking Pornography Addiction

[www.no-porn.com](http://www.no-porn.com)

##### ChristianCounsel.com

Christian Counseling center

Rob Jackson, Licensed Counselor

6745 Rangewood Drive, Suite 220B

Colorado Springs, Colorado 80918

(719) 593-0332

(888) 891-HOPE

[www.christiancounsel.com](http://www.christiancounsel.com)

Christian Healing Ministries  
Dr. Francis and Judith MacNutt  
Jacksonville, FL USA  
904-765-3332

Integrates Jesus' ministry of prayer for healing with the traditional medical and psychological approaches to healing.

Christians for Sexual Integrity  
Rob Jackson M.S., L.P.C., N.C.C.  
500 Lake Street, Suite 105  
Excelsior, MN 55331 (USA)  
612-207-7198  
Email: [rjackson@christiancounsel.com](mailto:rjackson@christiancounsel.com)

Christians in Recovery  
P.O. Box 4422  
Tequesta, FL 33469 USA

Christian Recovery Connection (counseling referrals)  
National Association for Christian Recovery  
P.O. Box 215  
Brea, CA 92822-0215 (USA)  
Phone: (714) 529-6227

Christian Recovery International  
[www.christianrecovery.com](http://www.christianrecovery.com)  
P.O. Box 215  
Brea, CA 92822  
(714) 529-6227

Co-Dependents of Sex Addicts (COSA)  
P.O. Box 14537  
Minneapolis, MN 55414  
(612) 537-6904

Desert Stream Ministries  
Andy Comiskey, E.D.  
(714) 779-6899  
[www.desertstream.org](http://www.desertstream.org)  
Sponsors Living Waters support groups that focus on healing sexual and relational brokenness.

Ellel Ministries  
Based in the UK, Ellel has prayer centers in England, Canada, Hungary, South Africa,



Australia and Scotland. Prayer centers typically offer healing retreats, healing services and prayer ministry.

Every Man's Battle (Steve Arterburn)  
Everymansbattle.com  
(See New Life Ministries)

Faithful and True Ministries, Inc.  
Mark Laaser, Ph.D., Director  
P.O. Box 84  
Chanhassen, MN 55317  
(952) 903-9208  
www.faithfulandtrueministries.com

Focus on the Family  
Colorado Springs, CO 80995  
(800) A-FAMILY (232-6459)  
www.family.org

Research on pornography and its effects; organization of grass-roots efforts to combat pornography; help for the addicted.

Focus on the Family Counselor Referral:  
Counselor referral line; 719-531-3400

Pure Intimacy  
pureintimacy.org  
A ministry of Focus on the Family addressing online sexual temptation.

Recommended by Focus by E-mail:  
CrossOverMinistries, Inc.  
P.O. Box 23744  
Lexington, KY 40523-3744  
606/277-4941  
crossovernow@usa.net  
<http://www.frontpageaccess.com/crossover>

Institute for Sexual Integrity  
6745 Rangewood Drive, Suite 220F  
Colorado Springs, CO 80918  
719/593-8382  
<http://www.sexualintegrity.org/>

Heart to Heart Counseling Center

Doug Weiss, Ph.D.

5080 Mark Dabling Blvd.

Colorado Springs, CO 80918

719-278-3708

[www.sexaddict.com](http://www.sexaddict.com)

Resources, counseling, telephone counseling, teleconferences on sex addiction.

Counseling options range from telephone counseling to 3-day intensives on site.

KeyStone Center Extended Care Unit

2000 Providence Avenue

Chester, PA 19013

(800) 733-6840 or (610) 876-8448

[www.keystonecentercu.net](http://www.keystonecentercu.net)

Residential treatment center.

L.I.F.E. Ministries

P.O. Box 952317

Lake Mary, FL 32795

(407) 647-9560

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

Resources for sex addicts and their partners.

Living Waters Recovery and Support Groups

Sexual recovery groups affiliated with Desert Stream Ministries

(see Desert Stream Ministries)

The Meadows

Dr. Pat Carnes and Pia Mellody, founders

Wickenburg, AZ USA

800-632-3697

A multi-disorder facility specializing in the treatment of trauma and addiction. Reaches beyond single-level treatment to treat the underlying problems. Intensive treatment focuses on addictions, compulsive behaviors, psychological conditions and affective disorders.

Morality in Media

475 Riverside Drive

New York, NY 10115

(212) 870-3222

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

Effectively monitors and contributes to legislation and court proceedings at every level of governance.

National Council on Sexual Addiction and Compulsivity

NCSAC/The National Office

P.O. Box 725544

Atlanta, GA 31139

(770) 541-9912

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

Secular association for professionals, providing resources and counselor referral.

National Council on Sexual Addiction

P.O. Box 161064

Atlanta, GA 30321-9998

(770) 968-5002

National Coalition for the Protection of Children and Families

800 Compton Road, Suite 9224

Cincinnati, Ohio 45231

(513) 521-6227

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

Research on pornography and its effects; organization of grass-roots efforts to combat pornography; help for the addicted.

National Family Legal Foundation

11000 N. Scottsdale Rd., Suite 144

Scottsdale, Arizona 85254

(602) 922-9731

Combats illegal obscenity and child pornography.

New Creation Ministries

2513 W. Shaw, No. 102A

Fresno, CA 93711

(209) 227-1066

[www.new-creation-ministries.org](http://www.new-creation-ministries.org)

Outreach to homosexuals, adulterers and adulteresses, and to compulsive or addicted users of pornography.

New Life Ministries

Stephen Arterburn

[www.my.newlife.com](http://www.my.newlife.com) and [www.everymansbattle.com](http://www.everymansbattle.com)

AKA: Every Man's Battle

1-800-New-Life (1-800-639-5433)

Arterburn's book, Every Man's Battle, and its sequels to young men and to women, has been heavily used by many Christian ministries addressing the use of pornography.

Overcomers Outreach  
520 N. Brookhurst, Suite 121  
Anaheim, CA 92801  
(714) 491-3000  
[www.overcomersoutreach.org](http://www.overcomersoutreach.org)

[www.porn-free.org](http://www.porn-free.org)  
Good online information, stories of addiction & freedom, links to counseling ministries.

Prodigals International  
6619 132nd Avenue NE  
PMB 262  
Kirkland, WA 98033-8627  
[www.iprodigals.org](http://www.iprodigals.org)  
Excellent resources on starting recovery groups in churches; resources; stats and facts regarding sexual addiction.

Pure Life Ministries  
Dry Ridge, KY USA  
800-635-1866  
[www.purelifeministries.org](http://www.purelifeministries.org)  
Resources to help those battling sexual compulsions and pornography usage.  
Biblically based counseling, teaching materials and speaking ministry. Offers both a live in program and an at-home program.

Recovering Couples Anonymous (RCA)  
P.O. Box 11872  
St. Louis, MO 63105  
(314) 830-2600

Renewal for Sexual Addiction (RSA Ministries)

S-Anon Family Groups (S-Anon)  
(615) 833-3152  
[www.sanon.org](http://www.sanon.org)

Setting Captives Free  
[www.settingcaptivesfree.com](http://www.settingcaptivesfree.com)  
Online course: The Way to Purity: Breaking the Addiction to Pornography  
Offers filtered Internet access. Recourses online and in print.

**Sex Addicts Anonymous (SAA)**

P.O. Box 70949  
Houston, TX 77270  
(713) 869-4902  
[www.sexaa.org](http://www.sexaa.org)

**Sex and Love Addicts Anonymous (SLAA)**

P.O. Box 338  
Norwood, Mass. 02062  
(781) 255-8825  
[www.slaafws.org](http://www.slaafws.org)

**Sexaholics Anonymous (SA)**

P.O. Box 111910  
Nashville, TN 37222  
(615) 331-6230  
[www.sa.org](http://www.sa.org)

**Sexual Compulsives Anonymous (SCA)**

Old Chelsea Station  
P.O. Box 1585  
New York, NY 10013-0935  
1-800-977-HEAL  
Stone Gate Ministries  
[stonegateresources.org](http://stonegateresources.org)  
Resources to help those battling sexual compulsions and pornography usage.

**Sexual Recovery Anonymous (SRA)**

P.O. Box 73, Planetarium Station  
New York, NY 10024  
(212) 340-4650

**Stone Gate Ministries**

Dr. Harry Schaumburg  
Colorado Springs, CO  
1-888-575-3030  
[www.stonegateresources.org](http://www.stonegateresources.org)  
Resources to help those battling sexual compulsions and pornography usage.

# KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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October 14, 2005

**To:** Representative Shari Weber  
**From:** Martha B. Dorsey, Principal Analyst  
**Re:** Questions Regarding Sex Offenders and Pedophiles

You have asked several questions related to sex offenders and one related specifically to pedophiles. In researching this issue, I was referred to Richard I. Kendall, MS, state program manager for the DCCCA contract, through which services are provided to the Kansas Department of Corrections (KDOC) for sex offender treatment. The following are Mr. Kendall's responses to your questions:

- How many sex offenders were child victims of sex offenses?

According to Mr. Kendall, considerable research has been conducted on this issue in the United States, Canada, and the United Kingdom. The results are conflicting, he said, ranging from 80 percent to 20 percent. Anecdotally, Mr. Kendall reports, he would be comfortable in estimating the percentage among the Kansas population of convicted sex offenders is 25 to 30 percent.

Mr. Kendall indicated the reason the results differ so widely is that many convicted sex offenders report having been abused sexually as children because they use it as a justification. Later, during their treatment they sometimes retract or discount their claims of having been abused. This happens as the offenders learn to accept responsibility for their offending behavior. In addition, he said, the only ways to confirm whether a sex offender was a child victim are, first, if there is a conviction on record that lists the offender as a victim and, second, if the offender takes a polygraph test. However, Mr. Kendall indicated, according to the Association for Treatment of Sexual Abusers (ATSA)<sup>1</sup>, polygraph testing on the subject of an offender's past victim status is not recommended.

Mr. Kendall's estimate regarding the Kansas sex offender population is based on what he termed a "goodness of fit" analysis: Over the 18-month sex offender treatment period the provider gets to know the offender very well. Offenders provide an autobiography and a sexual history as part of this treatment process.

- How many instances of pedophilia go unreported, as compared to actual convictions of pedophiles?

Special Committee on Assessment and Taxation  
October 17-18, 2005  
Attachment 38

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<sup>1</sup> The ATSA "is a non-profit, interdisciplinary organization. ATSA was founded to foster research, facilitate information exchange, further professional education and provide for the advancement of professional standards and practices in the field of sex offender evaluation and treatment." (Source: [www.atsa.com](http://www.atsa.com))

According to Mr. Kendall there are many types of pedophiles. One can be diagnosed as a pedophile based on the Diagnostic and Statistical Manual (DSM), 4<sup>th</sup> Edition<sup>2</sup>, by meeting multiple criteria, namely:

- The offender is at least 16 years of age.
- The victim is 13 years of age or younger.
- The offending behavior lasted at least six months.
- The offending behavior caused the offender some degree of distress (e.g., the offender was convicted).

Mr. Kendall said one could describe the typical incest case as involving one victim, and the parent's incestuous behavior having lasted anywhere from six months to 16 years. On the other hand, the stereotypical pedophile is the older male who commits acts against males. For these individuals, said Mr. Kendall, a person with a first-time conviction might have offended against anywhere from one to 200 victims.

Finally, Mr. Kendall described what might be termed the "exclusive pedophile," *i.e.*, one who had not ever experienced a sexual relationship with an adult but instead turns exclusively to children. Mr. Kendall stated that, if he were forced to estimate the average number of offenses committed by each such convicted individual, he would estimate in the range of 25 to 50 offenses.

- Is there a connection between sex offenders and the use of sexually oriented businesses?

According to Mr. Kendall, while it cannot be shown that all users of sexually oriented businesses commit sex offenses, it is true that many sex offenders use such businesses. The use of such businesses, Mr. Kendall said, constitutes a high-risk situation for the offender. It often becomes part of the deviant cycle. While it does not cause the behavior, it frequently sets up a cycle that can ultimately lead to sex offending.

I hope this information is helpful to you. Please contact me, if I can provide further assistance.

MBD/kal

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<sup>2</sup> Mr. Kendall indicated the DSM is published by the American Psychiatric Association, and its purpose is to provide clear descriptions of diagnostic categories to enable clinicians and investigators to diagnose, communicate about, study and treat people with various mental disorders.

## **KANSAS TAXPAYERS NETWORK**

**P.O. Box 20050**

**Wichita, KS 67208**

February 10, 2006

**web:www.kansastaxpayers.com**

**316-684-0082**

**Fax 316-684-7527**

### **Testimony Opposing HB 2680**

By Karl Peterjohn, Executive Director

HB 2680 creates a new 10 percent tax on one class of controversial businesses relating to sex and pornography. As a fiscal watchdog organization that has regularly and consistently spoken out against higher Kansas taxes, this bill is unusual when compared with many of the different tax raising proposals that have come before this committee during my legislative advocacy that began in 1993. A tax hike is still a tax hike and despite low interest from KTN supporters on the specific provisions of this bill when compared with property, income and other state taxes this organization remains opposed in principle to raising Kansas taxes and so will provide testimony opposing this legislation.

This bill has created a significant amount of media attention and interest that began last summer during this committee's interim hearings. News reports at that time indicated that this new tax was needed to begin taxing or adding some sort of new charge to gross receipts of this industry based upon a lack of taxation. Kansas Taxpayers Network is unaware of any current exclusion in either the state sales or income tax laws that provided any exception for taxation of retail sales of tapes, magazines or other products of these businesses under current state law. In the case of income taxes there is no exclusion for individual or business income earned in these businesses from this tax either. These businesses are being taxed.

If HB 2680 becomes law in its current form Kansas will be one of a handful of states with a tax or perhaps a better description would be "surtax" or special charge on sex businesses in Kansas. Proponents of this new tax stated last summer that this is a way of raising the cost to consumers of purchasing the various goods and services provided by this industry. However, enactment of this tax would create a dependency upon the level of government that is receiving this new tax's revenues. The nearest similarity that I can recall is the fact that Kansas would be following in the footsteps of the charges imposed in Nevada for the legal houses of prostitution that do exist in some parts of that state. This is problematical in drafting and enforcing this legislation.

This bill fits within the concept of taxing items that are viewed as unsavory or as having social costs to society. Many legislators have stoutly and often courageously spoken out in opposition to all new taxes or raising existing taxes. These elected officials are to be commended in opposing higher property, income, sales, and other state taxes.

The additional tax revenue that would be created with this new sex industry tax would be allocated to new state programs in this bill. Instead of creating new state programs and bureaucracy with these additional tax revenues there is another approach this committee should consider. This proposed tax revenues can and should be used to eliminate or reduce some of the other high Kansas taxes. If this bill is amended so that it is not generating additional net revenue to the state, the Kansas Taxpayers Network would certainly re-examine our position on this bill.