

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on January 30, 2007 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research  
Athena Andaya, Kansas Legislative Research  
Jill Wolters, Office of Revisor of Statutes  
Duston Slinkard, Office of Revisor of Statutes  
Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:

Representative Nile Dillmore  
Melissa Alley, Citizen  
Dale Goter, City of Wichita  
Senator Phil Journey  
Secretary Roger Werholtz

The hearing on **HB 2095 - repealing the prohibition on local residential restrictions on sex offenders**, was opened.

Representative Nile Dillmore appeared as the sponsor of the proposed bill. He believed that local units of governments should have the power to place residency restrictions on sex offenders, since the legislature has not enacted any statutes doing so. He agreed that restrictions could create a false sense of security but that the legislature cannot guarantee that bad things will not happen. (Attachment 1)

Committee members were reminded that the Iowa County Attorneys Association study found that a large number of sex offenders simply did not register change of residences or provided false addresses and therefore the state could not track where they actually were living. It also found that sex offenders were essentially being "zoned" out of town.

The Iowa Coalition Against Sexual Assault study suggested that an average of 13.25 percent of children who are sexually assaulted by the age of 12 reported being violated by a stranger. A majority of the time it is often a trusted person who assaults them.

Melissa Alley, Citizen, suggested that the legislature consider expanding the restriction of group housing being placed at 2,000 feet from a facility where children congregate to individual homes. (Attachment 2)

Dale Goter, City of Wichita, explained that the City of Wichita had an ordinance regarding residential restrictions for facilities housing of sex offenders until the legislature enacted the prohibition. (Attachment 3)

Wichita set the following regulations:

- no new or renewed licenses for facilities within 1,200 feet of day care centers, parks, schools, businesses that primarily serve youth, and residential zoning districts
- the number of offenders was limited
- facilities had to meet strict security requirements and requirements for lighting
- any facility housing sexual offenders had to hand-deliver notice to area residences, churches, and businesses in the neighborhood
- facilities had to disclose their supervision plan and work with the surrounding neighborhood and police to engage in community education
- facilities were subject to periodic audit and there were provisions for suspension and revocation of the licenses or criminal penalties for violation of the ordinance.

Senator Phil Journey appeared as an opponent of the bill. He just returned from a national symposium which held SB 506, from the 2006 Legislative Session, as model legislation for other states to emulate. It was suggested at the symposium that while a number of states are considering residency requirements there is no evidence that these types of laws actually protect children. Studies suggest that there is no relationship

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on January 30, 2007 in Room 313-S of the Capitol.

between sex offense recidivism and a sex offenders proximity to schools or other places where children congregate. Senator Journey urged the committee to not repeal current statute. (Attachment 4)

Secretary Roger Werholtz stated that all the research he's seen comes to the same conclusions that residency restrictions do not make children any less accessible to sex offenders. 80-93 percent of children are assaulted by individuals known to them and those who are in a position of trust. Most often it's a family member or close friend. (Attachment 5)

A request was made to receive information on the number of individuals who are in custody by the department of corrections who committed a sex crime against a child that they personally know.

The hearing on **HB 2095** was closed.

The committee meeting adjourned at 5:00 p.m. The next meeting was scheduled for January 31, 2007.

STATE OF KANSAS

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TOPEKA

HOUSE OF

REPRESENTATIVES

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## Testimony on HB 2095

I supported Miki's bill last year as I thought we needed to send a strong message that those who prey on our children should expect harsh penalties for their actions. As part of that legislation, the legislature placed a two-year moratorium on the ability of local government to pass any residency restrictions on sexual offenders. I did not like that provision for two reasons: local government should not be unduly constrained without an overall state policy justification, and because I received a great deal of concern from my constituents that it makes sense to establish residency restrictions.

Miki's bill also created a policy board to make recommendations on residency restrictions to the legislature. I attended the hearing in November when the policy board and the special committee heard the testimony on the issue. I also testified to that committee that if the legislature was not going to enact restrictions then they should free the locals to deal with issue as they saw fit.

I was not surprised to hear that the experts on this issue recommended that residency restrictions not be enacted. However, at least one conferee, Professor Walker, from the University of Arkansas stated that:

- There is a definite convergence of potentially motivated child sex offenders living in close proximity to concentrations of potential victims
- That sex offenders who offend against children are more likely to offend against children again

In fairness, Professor Walker also stated, "Residency requirement are not effective".

As I talked with my constituents about the issue, their response was they could not believe that restrictions were not currently in place. Many had the false impression that the danger posed by sexual predators was widely recognized and that policy makers were proactive in taking steps to protect the citizenry.

One of the justifications for doing nothing is that residency restrictions create a "false sense of security". Why in the world would we believe that taking even the most modest steps to separate the dangerous from our children creates a "false sense of security"? Life does not come with guarantees. We take steps every day to minimize risk. People

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are not stupid and understand that no matter what we do, we cannot guarantee that bad things won't happen. However, by prohibiting local government from taking any steps to minimize risk we risk creating a false sense of indifference on our part.

Many of the experts put forth the proposition that the greatest risk of sexual exploitation of children comes from people close to the family and not from strangers. Over the weekend, one child advocate stated, "If you really think about it, how often does a stranger abduct your child? That's not the danger. The danger is the people the children know. That's the bigger danger." I agree that "stranger danger" maybe less of a threat, but do we need to wait for that threat to materialize before we act?

Policy makers have no difficulty restricting the location of sexually orientated businesses, but to not restrict the convicted child sex offender based on creating a false sense of security seems obviously absurd to me.

I understand that discussion on how best to deal with offenders continues, and is going on as we speak. I support that discussion and am pleased that this issue has not been put to rest. I am troubled however, that while this process continues local government is handcuffed in responding to the risk perceived by their constituents and that the Senate is considering extending the moratorium until 2009. I believe that local government knows the needs of its community better than anyone does. I have confidence that they can address this issue in a manner that is consistent with the values and wishes of their constituents.

Thank you for the opportunity to stand in support of HB 2095 and urge its passage.

Afternoon,

I am here today to speak to about bill HB2095, a bill that would allow cities to put their own laws in place to protect children from sex offenders.

In 2006 when the legislature passed bill SB506, the bill that prohibits half way houses from being located within 2000 ft. of a facility where children are located, it was the absolute right thing to do, and I applaud you for passing that bill. However the moratorium on cities and counties from adopting their own residential restrictions on sex offenders till June 30, 2008, is problematic. While the Sex Offender Policy Board is being put together and special Judiciary Committees are listening to testimony from outsiders. We have sex offenders moving into our state to set up residency any where they choose, even across from school playgrounds, (yes this is true it happened in my neighborhood) because of the lack of laws in place in the state of Kansas.

Problematic is an understatement when you consider that the sex offender residency restrictions that cities and counties had already put into place were also wiped away with bill SB506. This means all the laws that the citizens of Kansas wanted and voted on to keep their children safe from sex offenders were erased in one fell swoop, with the passing of this bill. I can't help but think if these citizens were aware of what has happened to the laws that they believe are in place to protect their children are now gone, they would be outraged.

I am asking you today, to please pass bill HB2095. Let the local governments pass their own laws. Let the citizens of Kansas decide what is best for their children.

Thank you.

Melissa Alley

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# TESTIMONY

City of Wichita

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Dale Goter

Government Relations Manager

**Jan. 30, 2007**

## **HB 2095 – Offender Residency**

HB 2095 would repeal some unfortunate legislation that was passed by the 2006 Legislature as part of a broader consideration of sexual offenders. KSA 22-4913 (2006 SB 506, sec. 2) preempts cities and counties from adopting or enforcing residential restriction for “offenders” as defined in the bill. That statute effectively gutted the City of Wichita’s licensing and regulation process for the housing of sex offenders.

In 1996 Sedgwick County and the City of Wichita formed a task force to study the reintegration of offenders into the community in the form of “alternative correctional housing.” This broad-based task force (co-chaired by Council member Joan Cole and County Commissioner Melody McCray-Miller) studied the concerns of neighborhoods and the judicial system as well as the needs of alternative correctional housing providers. The result was the creation of a system of regulation and audits and the formation of a board to oversee that regulation. After several years of operation, the ordinance and zoning code were further amended in 2000 and 2001 to specifically address the needs and concerns arising from the housing of sexual offenders.

The City of Wichita Alternative Correctional Housing Code required the licensing of providers of housing for sexual offenders. It included the following provisions over and above the standards required of all other types alternative correctional housing.

- No new or renewed licenses for facilities within 1200 feet of incompatible uses such as day cares, parks, schools, businesses that primarily served youth, and residential zoning districts.
- The number of sexual offenders in a facility was limited.
- Facilities had to meet strict security requirements and requirements for lighting.
- Any facility housing sexual offenders had to hand-deliver notice to residences, churches, and businesses in the neighborhood on a prescribed form.
- Facilities had to disclose their supervision plan and work with the surrounding neighborhood and police to engage in community education and dialog on personal safety
- The facilities were subject to periodic audit and there were provisions for the suspension and revocation of the licenses or criminal penalties for violation of the ordinance.

The Wichita ordinance was more detailed and enforceable than the new legislation that preempted it. The new legislative scheme has many unanswered questions that were dealt with by the Wichita ordinance, such as treatment of pre-existing facilities, housing of youth offenders in their own homes, and the types of penalties for various violations.

This 2006 legislation wiped out years of study, community dialog, and operational experience of alternative correctional facilities for sexual offenders in Wichita. It is submitted that

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neighborhoods were safer and offender had more reintegration options in Wichita a year ago under the City ordinance than now.

While we do not object to statewide legislation and regulation, the City of Wichita urges the legislature to allow local communities to maintain their own regulations such as those that have been carefully studied and adapted to the needs of those local communities. This is a basic precept of Home Rule for cities.

## SENATOR PHILLIP B. JOURNEY

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TOPEKA

SENATE CHAMBER  
**Testimony before the  
Kansas House of Representatives Judiciary Committee  
In Opposition to House Bill 2095**

## COMMITTEE ASSIGNMENTS

MEMBER: SPECIAL CLAIMS AGAINST THE STATE  
(JOINT), CHAIR  
HEALTH CARE STRATEGIES  
JUDICIARY  
PUBLIC HEALTH AND WELFARE  
TRANSPORTATION

CORRECTIONS AND JUVENILE JUSTICE  
OVERSIGHT (JOINT)

SOUTH CENTRAL DELEGATION, CHAIR

I want to thank the Committee and the Chairman for the opportunity to address the Committee regarding House Bill 2095.

While many of my friends and colleagues were celebrating Kansas Day this weekend, I attended the United States Department of Justice's Bureau of Justice Assistance and Counsel on State Governments National Legislative Briefing Sex Offender Management and Policy in the States. In that symposium held last weekend on January 27 and 28, 2007, legislation that many of us supported from the 2006 legislative session, Senate Bill 506, was held up as model legislation for other state legislatures to emulate. One of the major themes of the symposium was a survey of current legislative acts dealing with the management of sex offenders in the criminal justice system. Senate Bill 506 is an example of rational legislation dealing with this issue that is based on empirical evidence with the intent of reducing recidivism and victimization by sex offenders and predators.

One of the major components of Senate Bill 506 is the creation of the Sex Offender Policy Board. I believe we should let the board do its work. Municipalities, if House Bill 2095 was adopted, would surely enact inconsistent and even conflicting rules regarding the exclusion zones of offenders. Such a patchwork of laws would lead to unfair and perhaps discriminatory enforcement of the laws against individuals who deserve to be treated in a way that reduces their potential for recidivism and complies with the Constitution.

One of the attendees was a representative from the National Alliance to End Sexual Violence, NAESV, and in their portion of the program in discussing residency requirements they said, "A number of states and locales are considering residency restrictions in which sex offenders may not reside within a certain radius of schools, parks, skating rinks . . ." They go on to say "There is no evidence that these laws protect children. In fact, those states that have studied the issue carefully have found no relationship between sex offense recidivism and sex offenders proximity to schools or other places where children congregate . . . Residency restrictions are having unintended consequences that decrease public safety. For example, Iowa Department of Public Safety statistics show that the number of sex offenders who are unaccounted for has doubled since a registry restriction law went into effect in June 2005. Sex offenders who continually move will become homeless as a result of residency restrictions are more difficult to supervise and monitor thereby increasing the risk of reoffense." Meta-studies which surveyed all of the information available, in many cases in excess of 20 separate studies, determined that offenders

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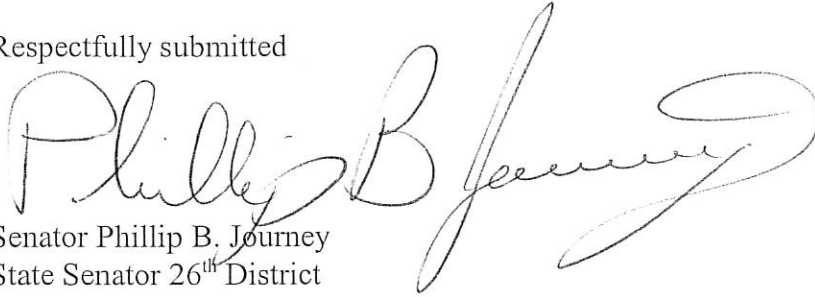
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are twice as likely to reoffend when their situation in life is destabilized causing them to indulge in behaviors that ultimately result in committing a new crime.

Now that Kansas has been held out as an example for the nation of reasonable empirically-based statutes regarding offenders in the case of Senate Bill 506, I would urge my colleagues on the Committee not to undercut the leadership we have begun to demonstrate to the rest of the country.

Respectfully submitted

A handwritten signature in cursive script that reads "Phillip B. Journey". The signature is written in black ink and is positioned to the right of the typed name.

Senator Phillip B. Journey  
State Senator 26<sup>th</sup> District



# KANSAS

KANSAS DEPARTMENT OF CORRECTIONS  
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on HB 2095  
to  
The House Judiciary Committee

By Roger Werholtz  
Secretary  
Kansas Department of Corrections  
January 30, 2007

HB 2095 would repeal the moratorium enacted by the 2006 Legislature on the adoption and enforcement by cities and counties of restrictions on the residence of registered offenders. K.S.A. 22-4913 (2006 Supp.) provides a moratorium on local establishment of residential restrictions until June 30, 2008. The Department does not support HB 2095. For the Committee's information, SB 87, now before the Senate Judiciary Committee, would extend that moratorium to June 30, 2009.

The 2006 Legislature also created the Sex Offender Policy Board under the auspices of the Kansas Criminal Justice Coordinating Council. K.S.A. 74-9501 (2006 Supp.). The Sex Offender Policy Board was directed to study the issue of residential restrictions for sex offenders. The membership of the Sex Offender Policy Board consists of Donald Jordan, Acting Secretary of Social and Rehabilitative Services serving as the Chair; Gary Daniels former Secretary of Social and Rehabilitative Services; Larry Welch, Director of the Kansas Bureau of Investigation; Retired Justice of the Supreme Court, Tyler Lockett; Scott Jackson, Executive Director of Family Life Center, Inc.; Sandra Barnett, Executive Director of the Kansas Coalition Against Sexual and Domestic Violence; and me. The Board's report was submitted to the Council, Governor, Attorney General, Chief Justice of the Supreme Court, Chief Clerk of the House of Representatives and Secretary of the Senate at the beginning of this legislative session. A copy of the Board's report pertaining to residential restrictions is attached to my testimony.

In addition to the public meetings conducted by the Board, a public meeting on residence restrictions was held with the Special Committee on Judiciary on November 15, 2006. The Board and the Special Committee on Judiciary had the privilege of hearing presentations from Dr. Jill Levenson of Lynn University (Florida), Dr. Jeffery Walker, University of Arkansas at Little Rock, Pamela Dettmann, of the Des Moines County (Iowa) Attorney's Office, Mary Richards of the Iowa Coalition Against Sexual Assault, Christopher Lobanov-Rostovsky of the Colorado Department of Public Safety/Division of Criminal Justice, Representative Nile Dillmore, Melissa Alley of Wichita, Kansas and Doug Vance of the Kansas Recreation and Parks Association.

Based upon the study conducted by the Sex Offender Policy Board, it is my recommendation that HB 2095 not be enacted. The Board found that there is no positive correlation between residency restrictions and preventing re-offending behavior. Of greater concern was the detrimental effect of residential restrictions upon public safety. The research and expertise presented to the Board indicated that residential restriction zones were detrimental to the treatment and supervision of sex offenders and to law enforcement efforts. The Board found that the,

“[r]esearch and best practices in the field of corrections, law enforcement, sex offender treatment and more particularly, victims’ advocacy groups, equally discount residence restrictions as a useful means to manage, supervise and treat sex offenders.”

Further,

“[w]ith regard to enforcement, the overwhelming experience of states such as Iowa that have been vocal enough to share their experiences in attempting to enforce residence restrictions underscores the theory that normally compliant offenders will take desperate measures to either comply with or circumvent residence restrictions. This increases the time law enforcement must spend on locating offenders, decreases the time they are able to spend on protecting the majority of potential child sexual abuse victims and subverts the usefulness of offender registries.”

The value of focusing law enforcement resources in an effective manner is illustrated by the joint effort of the Department’s parole services and the Wichita Police Department and Sedgwick County Sheriff’s Department’s Endangered and Missing Children Unit which provides forensic computer expertise in assisting parole officers in searching the computer hard drives of sex offenders. Arbitrarily imposed residency restrictions would be detrimental to such law enforcement efforts. Law enforcement resources would be diverted to merely locating those offenders who lost a stable residence or cease reporting, rather than being used to detect what those persons are actually doing. Most importantly, forcing relocation of released offenders from urban areas that have the resources to search computer information or where treatment programs are located to more rural areas where those resources are not available protects no one. Those relocated can easily travel back to the urban area.

Policies regarding the residence of released offenders should be based upon case management reflecting the individual characteristics of the offender, those persons co-habituating with the offender, stability of the residence, employment, and treatment as well as utilization of tailored supervision requirements and techniques. Policies that divert resources from the protection of the largest segment of sexually victimized children; the 80-90% who are victimized by people known to them do not serve public safety.

Finally, the moratorium on cities and counties regarding the adoption or enforcement of residential restrictions prevents localities from engaging in a competition of ever increasing residential barriers that do not serve public safety.

## Acknowledgments

### Kansas Sex Offender Policy Board Members

**Donald Jordan, Chair**

Acting Secretary of Social and Rehabilitation Services  
Former Commissioner of Juvenile Justice Authority

**Roger Werholtz**

Secretary of Department of Corrections

**Gary Daniels**

Former Secretary of Social and Rehabilitation Services

**Larry Welch**

Director of the Kansas Bureau of Investigation

**Justice Tyler Lockett, Retired**

Designee for Chief Justice of the Supreme Court

**Scott Jackson, Executive Director**

Family Life Center, Inc.

**Sandra Barnett, Executive Director**

Kansas Coalition Against Sexual and Domestic Violence

The Kansas Sex Offender Policy Board would like to recognize the work of staff that assisted the Board in its work, Joshua Mosier and Haley DaVee who prepared the draft reports and Tiffany Fisher and Juliene Maska. The Board also expresses its appreciation to the many conferees who are experts on the topic and staff from the various state agencies that assisted the Board's work.

## KANSAS SEX OFFENDER POLICY BOARD

### Report on Residence Restrictions for Sex Offenders

#### Introduction

The Kansas Sex Offender Policy Board met with the Special Committee on Judiciary on November 15, 2006 to discuss the issue of residence restrictions for sex offenders. The Board heard testimony on the subject from two Kansas community representatives as well as five researchers and subject matter experts from across the country.

In its analysis of this topic, the Board chose to focus on available research and the experiences of other states. While available research on this topic is limited, that which is available is consistent.

Information presented to Sex Offender Policy Board members included research studies from Arkansas, Colorado, Minnesota and Florida, as well as statements and position papers to the Iowa legislature from the Iowa County Attorneys Association and the Iowa Coalition Against Sexual Abuse. The Board also received a variety of news items collected starting in January of 2006 which discussed the experiences of other states that have dealt with the issue of residence restrictions.

Sex offender residence restrictions, or buffer zones, typically mandate a legally determined barrier around places where children congregate, such as parks, playgrounds and schools. These barriers have been known to range from 500 to 2,500 feet and exclude sex offenders from living within these areas. Proponents of residence restrictions often argue that the further away sex offenders are from potential victims, the less likely they are to re-offend against those victims.

Testimony provided indicated that residency restrictions are extremely popular with the general public, thus making policy makers' decision on this issue a difficult one. In 2004, 14 states had residence restrictions, commonly from 500-1,000 feet. In 2006, a total of 21 states had residence restrictions. In addition, hundreds of local jurisdictions have passed zoning laws, restricting sex offenders from living near 2,500 feet (about ½ mile).

The appeal of residence restrictions is to protect public safety, and more specifically, the safety of children. The fundamental issues to consider are whether residence restrictions for sex offenders have been proven to protect public safety, whether the theory behind residence restrictions is consistent with research and best practices in the fields of corrections and law enforcement, the viability of enforcing the restrictions, and whether the resources utilized for such an effort would be best directed toward alternative measures that would protect a larger

segment of the population and/or one that is at a higher risk of victimization.

*Research on Public Safety and Limitations*

Residency restrictions are extremely popular and have received overwhelming public and political support. It is important to acknowledge that the public believes they are safer with residency restrictions, when in fact, they are not. Of the research studies available to the Sex Offender Policy Board on the issue of residence restrictions for sex offenders, none found a positive correlation between residence restrictions and preventing re-offending behavior.

One presenter noted during his presentation to legislators and the Board that governments cannot control the location of potential targets (day cares, schools, and parks) and there is no evidence that attempts to limit where sex offenders live have been successful. Meanwhile, a second presenter emphasized that research shows no correlation between residency restrictions and reducing sex offenses against children or improving the safety of children. A third conferee noted there is no evidence that proximity to schools increases recidivism, or, conversely, that housing restrictions reduces re-offending or increases community safety.

Dr. Jill Levenson provided the Board with an overview of the research on whether offender proximity to schools/child care centers, increased recidivism. Levenson referred to a 2004 study of 130 Colorado sex offenders on probation who were tracked for 15 months. Though 15 (12 percent) of the offenders were rearrested for new sex crimes, they were all “hands off” offenses, such as peeping, voyeurism, or indecent exposure. The 15 recidivists were scattered randomly throughout the study area and appeared to live no closer than non-recidivists to schools or child care centers. The study concluded that residence restrictions are unlikely to deter sex offenders from committing new sex crimes, further stating that such policies should not be considered viable strategies for protecting communities.

In a 2003 study, 329 sex offenders considered at highest risk to re-offend were tracked for three to six years. (Appendix C—Reference #14) Of the 13 cases of sexual re-offending (four percent of the study group), none of the offenses occurred in or near schools. While two of the offenses did take place near parks, those areas were several miles from the offenders’ homes and were arrived at by car. Researchers concluded that sex offenders’ residential proximity to schools or parks was not a factor in recidivism, nor did it enhance public safety. The study added that blanket policies restricting where sex offenders are allowed to live are unlikely to benefit community safety.

Another concern presented included the issue of available housing for sex offenders. A 2003 report to the Minnesota legislature observed that residency restrictions “would likely force level three sex offenders to move to more rural areas that would not contain nearby schools and parks but would pose other problems, such as a high concentration of offenders with no ties to the community; isolation; lack of work, education and treatment options; and an

increase in the distance traveled by agents who supervise offenders.”

This was supported by Levenson’s presentation, citing her 2005 report to the Florida legislature. In it she stated “such laws aggravate the scarcity of housing options for sex offenders, forcing them out of metropolitan areas and farther away from the social support, employment opportunities and social services that are known to aid offenders in successful community re-entry.”

The Association for the Treatment of Sexual Abusers (ATSA) is well-recognized for its progress in the field of treating sex offenders. 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.”

One of the presenters shared an ATSA position paper entitled *Facts About Adult Sex Offenders*. In it, ATSA makes recommendations for the effective treatment of sex offenders.\* Those recommendations include:

1. *Lifestyle circumstances can affect the chances of new offenses. Stable housing and employment, healthy social and leisure activities, a vigilant and pro-social support system and ongoing treatment are all important to ensure success.*
2. *Despite its effectiveness, treatment is only one component of an effective strategy to protect the community from sex offenders. Monitoring and support by community corrections agents, other professionals, the offender's social support system and the entire community play a crucial role.*

The above ATSA precepts are broadly accepted by professionals who manage, supervise and treat sex offenders, and offer insight into a crucial drawback to the imposition of residence restrictions.

#### Enforcement of Residence Restrictions

The State of Iowa implemented a 2,000-foot residence restriction, prompting the Iowa County Attorneys Association to issue a statement in January 2006. In it, the Association specifically concluded that Iowa’s residence restriction policy was, “contrary to well-established principles of treatment and rehabilitation of sex offenders” and that its goals are “severely impaired by the residency restriction, compromising the safety of children by obstructing the use of the best known corrections practice.”

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\*This and other ATSA position papers can be found on its website at <http://www.atsa.com>

Furthermore, the Iowa County Attorneys Association voiced concern with the observations of law enforcement that residency restrictions are causing offenders in Iowa to become homeless, to change residences without notifying authorities of their new locations, to register false addresses or to simply disappear.

Information presented by the Iowa Coalition Against Sexual Assault also addressed concern with residency restrictions' impact on homelessness and its impact on public safety. They stated Iowa sex offenders are absconding in large numbers for the first time, interfering with probation and parole supervisors' ability to effectively monitor and treat offenders who are living under bridges, in parking lots, in tents at parks, or at interstate truck stops.

Information from law enforcement has provided similar statements. The Iowa residence restriction law causes more sex offenders to be deceptive and lie about their whereabouts, making tracking them much more difficult. The result of this is damage to the reliability of the sex offender registry, along with a decrease in public safety.

Testimony from Pamela Dettmann with the Des Moines County Attorney's Office voiced concern about ever-changing mapping due to the opening of new schools or day cares and the closing of existing schools or day cares, the ability to verify and enforce the statute on individuals no longer required to be on sex offender supervision and the enactment of local ordinances which create issues of banishment and exodus to other communities.

#### Alternative Measures

Testimony to the Special Committee on Judiciary and the Board referenced Bureau of Justice Statistics research that found the, "vast majority (80 to 90 percent) of sex crimes against children are committed by a relative or acquaintance who has a prior relationship or access to the child." This research finding is accepted by all of the experts who testified, as well as victims' advocates, law enforcement officials and treatment providers nationwide.

The Iowa Coalition Against Sexual Assault, referenced a 2006 study where only 10.8 percent of female, and 15.7 percent of male adults sexually victimized before the age of 12 reported being sexually violated by a stranger, stated, "the sad reality is that most of the time children know, and often have trusted, the person who sexually abuses them."

Of the long-held theory of teaching children to stay away from strangers as a means to protect them from victimization, the Center for Missing and Exploited Children notes on its website, "The National Center for Missing & Exploited Children (NCMEC) has never supported the 'stranger-danger' message, especially because experience has shown that most children are actually taken by someone they know or are familiar with."

Given the fact that the vast majority of children are sexually victimized by people who are



known to them and have relationships to their families, residence restrictions do not address the major source of child sexual victimization. As a result, it is the Board's belief that broadly applied residency restrictions should not be considered and their usage should be defined strictly on an individualized basis.

The question then becomes how best to protect *all* children from victimization. On this, experts from every field are abundantly clear. The most viable alternative for protecting children is a wholesale comprehensive education program for children, their families and the community.

In its January 2006 statement on the issue, the Iowa County Attorneys Association supported the replacement of residence restrictions with more viable alternatives, such as educational programs for young children aimed at keeping them safe from *all* offenders. Both the Jacob Wetterling Foundation and the Center for Missing and Exploited Children underscore the need for widespread, comprehensive, community and family education, especially prior to the occurrence of a tragic event. The Jacob Wetterling Foundation has staff available to provide such training and the Center for Missing and Exploited Children provides a framework, guidance and support for communities to develop their own such training.

The theory of community education is consistent with Dr. Jeffery Walker's presentation. He stated in his 2001 study, that while the enforcement of residency restrictions is difficult, "what the police can do, however, is make as many people in the neighborhood (especially those who are the guardians of potential victims or may be potential victims themselves) aware of the presence of a potentially motivated offender."

This education program could be broadly applied through public education that would be intended to reach all victims and potential victims of child sexual abuse rather than just a select few. Such an education program could be augmented by community involvement in the already existing system of sex offender management, supervision and treatment. It is recommended that necessary resources be provided to an agency determined appropriate by the legislature to educate Kansas parents, children, and communities regarding effective ways to prevent the sexual abuse of children and to respond to it when it occurs.

In addition to community education, the Colorado Sex Offender Management Board has developed "Community Supervision Teams" for the management, supervision and treatment of sex offenders on probation, parole and community corrections programs. Though the protocols for the teams include many of the fundamentals of current Kansas sex offender supervision, they also formalize the element of multidisciplinary involvement in the supervision process.

Each Colorado community supervision team is charged with making many of the pivotal

decisions about the ongoing management and supervision of sex offenders. The teams consist of the supervising officer, the treatment provider, and a polygrapher. In the true spirit of community involvement, this team could be expanded in non-confidential settings to include, for instance, a member of local law enforcement and perhaps a volunteer from a local neighborhood watch organization. Similar groups, known as Community Accountability Panels, currently are being used in the supervision of other Kansas offenders.

### Conclusion

A wealth of information is available to indicate that sex offender residence restrictions have not reduced the risk of re-offending behavior. In fact, research supports the likelihood that these types of restrictions often cause alienation, destabilization and isolation that lead to re-offending behavior.

Research and best practices in the field of corrections, law enforcement, sex offender treatment and more particularly, victims' advocacy groups, equally discount residence restrictions as a useful means to manage, supervise and treat sex offenders.

With regard to enforcement, the overwhelming experience of states such as Iowa that have been vocal enough to share their experiences in attempting to enforce residence restrictions underscores the theory that normally compliant offenders will take desperate measures to either comply with or circumvent residence restrictions. This increases the time law enforcement must spend on locating offenders, decreases the time they are able to spend on protecting the majority of potential child sexual abuse victims and subverts the usefulness of offender registries.

For these reasons, sex offender residence restrictions have no demonstrated efficacy as a means of protecting public safety.

### Recommendations

- Although resident restrictions appear to have strong public support, the Board found no evidence to support its efficacy. It is imperative that policy makers enact laws that will actually make the public safe and not laws giving the public a false sense of security.
- It is recommended that the legislature make permanent the moratorium on residential restrictions. However, the moratorium should not be intended to interfere with a locality's ability to regulate through zoning the location of congregate dwellings for offenders such as group homes.
- Residency restrictions should be determined based on individually identified risk factors.

- The most effective alternative for protecting children is a comprehensive education program. It is recommended that the necessary resources be provided to an agency determined appropriate by the legislature to educate Kansas parents, children and communities regarding effective ways to prevent and respond to sexual abuse. Such an education program should include all victims and potential victims of child sexual abuse.
- In order for an effective model policy to be developed, the issue of sex offender residence restrictions should be referred to the Council of State Governments, the National Governor's Association and similar organizations to prevent states and localities from shifting the population and potential problems of managing sex offenders back and forth among states.

## **List of Presenters**

### **Electronic Monitoring**

Bruce Thacher and Staff, Behavioral Interventions, Inc.,  
John Wells, Alternatives Program, Wichita, Kansas  
Chris Rieger, Kansas Department of Corrections  
Lisa Fleming, Johnson County Court Services Officer  
Phill Greer, Electronic Monitoring Coordinator for Johnson County Dept. of Corrections  
Kerri Platt, Sedgwick County Criminal Justice Alternatives Coordinator  
Joshua Mosier and Haley DaVee, Staff for the Board

### **Public Notification**

Donald Burns, Shawnee County Undersheriff  
Jane Nohr, KBI Assistant Attorney General  
Sheryl Lidtke, Assistant District Attorney for Wyandotte County  
Kathy Williams, Executive Director for Wichita Area Sexual Assault Center  
Brad Totman, Mulberry, Kansas

### **Management of Juvenile Offenders**

Cheryl Rathbun, LSCSW, St. Francis Academy, Salina, Kansas  
Katrina Pollet, Superintendent at Beloit Juvenile Correctional Facility  
Annie Grevas, Director of the 28<sup>th</sup> Judicial District Community Corrections, Saline County  
Amber Mazzaferro, Johnson County Court Services Officer  
Michael Boniello, Clinical Therapist in Private Practice, Prairie Village, Kansas

### **Residency Restrictions**

Dr. Jill Levenson, Lynn University (Florida)  
Dr. Jeffery Walker, University of Arkansas at Little Rock  
Pamela Dettmann, Des Moines County (Iowa) Attorney's Office  
Mary Richards, Iowa Coalition Against Sexual Assault  
Christopher Lobanov-Rostovsky, Colorado Department of Public Safety/Division of Criminal  
Justice  
Representative Nile Dillmore  
Melissa Alley, Wichita, Kansas  
Doug Vance, Kansas Recreation and Parks Association