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**Testimony to the House Corrections and Juvenile Justice Committee
SB92 Collection of Data on the Presence of Pornography
March 11, 2013**

Chairman Rubin and Committee Members,

As law enforcement officers we are always interested in identifying ways to reduce crime. This is of our highest concern with violent crime. However, we want to be sure you have all relevant information as you are asked to make this policy decision. Be assured law enforcement will make every effort to comply with the policy decision becoming law.

First, this bill clearly has a cost to the taxpayers at both the state and local level. The fiscal note addresses the state costs clearly. We are concerned with a bill that requires the KBI to expend a great deal of their funds without any accommodations for available funding. We know funding is difficult and while we would love to have the funds designated to enhance the KBI offense report system, it is our opinion there are higher priorities this year for the available funding for the KBI.

Second, there is a cost to local law enforcement agencies as well. A change in the offense report requirements will not only require a change in the state software, but also in the local records management software. We cannot forward to the KBI what we cannot collect in our own software systems. The exact cost of this is somewhat elusive because it is dependent on whether the local agency has an electronic system, if so what system they use, and the terms of their contractual relationship with a purchased system vendor. The typical charge for this kind of change is \$15,000 to \$20,000 for each agency having purchased software and don't have it otherwise covered in a contract. The alternative to making these changes in their software is to submit the reports on paper to the KBI rather than electronic. To be clear paper reporting is not a step that the KBI or most local agencies find desirable and will also bring additional expenses to the KBI. While we don't want to go down that path, if the funding isn't available locally for these changes we may not have a choice, at least for some period of time until the software changes can be made.

Third, you should be aware that today law enforcement will list pornography on the offense report when it is identified as evidence. This would be determined based on the relevance of the pornography to the case. Of course child pornography would always be seized and a new offense would be recorded and investigated. This is currently recorded in the "property and evidence" section of the report. Unfortunately, that section of the report is not transferred to the state data, at least in part because the KBI system is too antiquated to accommodate it. If the data we already collect were transferred into the state system the data being sought would be available when it is found to be present and having a connection to the crime. If the KBI offense report software were modernized, we would not have to change the report to collect data relative to pornography connected to criminal activity.

Fourth, the current law on offense reports leaves the contents of the offense report to the Office of the Attorney General. When changes have been made they have been completed through collaborative efforts between the Office of Attorney General with state and local law enforcement. The aim of those changes has always been at enhancing investigations and prosecutions. The result is a current offense report that is totally designed around the needs to investigate crime, identify those responsible for committing the crime, and to prosecute the accused. This bill will break away from that methodology and will be the first requirement to direct law enforcement time and resources at collecting data solely for studying a social issue. Once we start down this path we have to wonder 1) who else will want us to collect data for studying social issues, and 2) what expansion of the data will be requested in the future. A bill similar to this was introduced several years ago that would have required the collection of significantly more data. Will the proponents be back in a couple of years seeking to expand the data elements? An example of how this can explode is our Kansas Motor Vehicle Crash Report. Over the years the accident report has expanded from a two page report into a report that can involve 6 or more pages of data collection on a simple two car non-injury accident. The vast majority of that data has no application in the investigation of a violation or the prosecution of any violations that are found. Much of it has nothing to do with assisting the insurance companies in claims settlement or directing liability. In the bill at hand, one check box isn't much and won't take much time. But if this type of demand continues to grow, it will develop into a significant amount of precious law enforcement time.

And last, we are struggling with consistency of data. How will we train officers on what they will consider of pornography? Will all officers see that the same? After all, the courts haven't even been able to define pornography, how will the officers? Of course some material is clearly pornography. But is a Playboy magazine pornography? Is a Maxim magazine? Is a Cosmopolitan magazine? Is a nude art book pornography?

You have a difficult decision ahead of you with this bill. You have been requested to make a policy decision that will balance value with dollars. We hope this information will assist you in identifying the proper balance.