

**MSOTA QUARTERLY MEETING  
MISSOULA  
APRIL 20, 2007**

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Individuals in attendance:

Ginny Watts, Kevin Wyse, Andy Hudak, Bob Page, Charmaine Nicholson, Sam Griffel, Chris Nordstrom, Blair Hopkins, Roger Dowty, Jean Keiley, Ken Brown, Ann Headley, Bob Furu, Mike Scolatti, Sandy Heaton, Karen Baumann, Ron Silvers, Chris Quigley, Lindsay Clodfelter, Gwen Farnsworth

- Meeting called to order by President Watts.
- Introductions
- Agenda review
- Minutes of the last meeting in Bozeman read by Secretary Wyse, approved as read.
  
- Officer Reports:

***President:***

Ginny summarized the events of 2006 calendar year.

**MONTANA SEX OFFENDER TREATMENT ASSOCIATION**

**ANNUAL REPORT**

**2006-2007**

1. Summary of Committee Activities

a. Ethics

The Ethics Committee focused its efforts on confronting individuals who are practicing outside of MSOTA but who are misrepresenting themselves as MSOTA clinical members or as having comparable training. The committee will continue to follow up on this issue which has developed into a potential conflict with the state psychologist's board over their interpretation of "comparable training."

b. Legislative

MSOTA consulted a professional lobbyist, Ms. Gloria Hermanson, this year to help guide the committee's efforts in tracking a host of

sex-offender-related legislation. Andy Hudak has spearheaded this year's legislative activities, traveling regularly to Helena to educate legislators, special interest groups, and other professionals on issues related to the "Jessica's Law" legislation that has been a focus of both the House and Senate. Andy has represented the interests of the MSOTA membership as well as advocating for sane and workable legislation. Andy has also written letters to newspapers across the state, responding to editorials and educating the public on sentencing of sex offenders. Andy and other committee members, including Mike Sullivan, have provided information to the public in regard to the limits of the latest bills addressing mandatory sentencing for sexual offenders.

c. Membership

The membership committee added one new clinical member, reinstated a clinical member, and added three new associate members to our ranks.

d. Education

Marla North, past president of MSOTA, continued her efforts to provide outstanding educational opportunities to MSOTA members by collaborating with MSOTA to present "Computers, Kids and Sex Crimes" a conference in October 2006, featuring Marsha Hurd, Federal Prosecutor, Dan Vierthaler, FBI Agent, and Michael Sullivan, treatment expert. In May of 2007, Marla is sponsoring a workshop by Dr. Dana Anderson on Static and Dynamic Risk Assessment of Sexual Offenders.

e. Standards

The Standards Committee, under Kevin Wyse, developed adolescent standards as well as revising the adult standards. MSOTA members Anne Harris, Regina Basolo, and Roger Dowty accepted appointment to a subcommittee to undertake the development of evaluation and treatment standards for individuals who are developmentally disabled and who have acted out sexually.

2. Old and New Business

- a. The membership used meetings to discuss concerns about legislation affecting services to the sex offender population, to share information about new treatment programs and new additions to established programs, and to exchange information and wisdom with other members including associate members and board members.

- b. A special thanks to the officers and board members who have served over the last year: Robert Page, who once again has accepted a position as an officer of the association; Kevin Wyse, who is undertaking the office of Secretary without benefit of his predecessor's supplies or guidance; Shawn Abbott, who continues her Amazonian effort as Treasurer for a fourth term; and board members Ken Grady, Tom Meissner, Judge Randy Spaulding, and Robert Furu who have contributed their energy, expertise, humor, and wisdom to each quarterly meeting.

Submitted by,

Ginny Watts, President  
Montana Sex Offender Treatment Association

***Vice President:***

No report

***Secretary:***

No report

***Treasurer:***

Shawn Abbott reports that there is \$5000.97 in our checking account and \$ 1550.50 in our savings account. Members are reminded that MSOTA membership dues are due.

**Committees met and reported**

***Ethics:***

Bob Page reports that he has heard back from the Board of Psychologists regarding the on going saga with the former MSOTA member. The Board reports that they examined former member's credentials and MSOTA Treatment and Evaluation Standards and believes that she is qualified to present expert testimony in court cases regarding sexual offenders.

Bob believes it is now best to work with Probation and Parole in helping them to understand the problems with allowing a client to utilize this former MSOTA member. Members of P & P attended this meeting and agreed that utilizing this member would not be appropriate for the treatment or evaluation of sexual offenders.

***Legislative:***

Andy reports that he is on his way to a hearing on the new legislation which is being debated. He is hoping to testify on behalf of MSOTA and our opinions about what is helpful in the treatment of sexual offenders. Following the meeting this addendum was added to the minutes in order to explain the outcome of the 2007 Legislature.

**Jessica's Laws -- Background & Summary by Specific Topic**

(Prepared by Andy Hudak LCPC; May 24, 2007)

**Background:** last October (2006), our United States Congress passed the Adam Walsh Act (also known as Jessica's Laws). (He's TV's "America's Most Wanted" guy whose son was killed by a sexual predator) The law mandates harsher provisions for the punishment of sex offenders, coordinates nationwide registration, and gives states three years to comply, or they'll lose 10% of their states crime grant.

It was passed with no debate through the use of a procedural technicality, and it shows.

Going in to Montana's final free conference committee meeting between selected Senators and Representatives to reconcile the differences in the Senate bill (SB 547), sex offender treatment had been taken out of the bill, sexual assault and incest had been added in for the minimum 25 year prison sentence, and there were no exceptions for specific circumstances with a sex offender that would warrant less than those 25 years, (thanks to representative Sinerud, who is the one that walked out of a committee over the issue of whether I should even be allowed to speak on behalf of MSOTA), etc.

In the negative reactions to the absurdity of some of this bill, some of the victories that occurred have been lost. So, I thought I'd remind you all **that:**

**Montana will NOT join the over 20 some states that have enacted residency restrictions, there are still ways around the mandatory 25 year minimum, they will not apply to juveniles, risk assessments are now mandated in all cases of failure to register, and judges must declare a risk level -- which many were avoiding.**

In case you didn't follow, it was & is **MSOTA's position that we waste a lot of money and unnecessarily scare the public when we call low risk sex offenders predators by defining them by age of the victim or name of crime instead of level of risk.**

This age of victim and name of crime based definition of predator is **INCONSISTENT WITH** the 20-year-old SCIENCE of risk assessment. It WILL

INCREASE the NEGATIVE IMPACT TO VICTIMS (Supported by victim resiliency scientific literature: study of why some sexual abuse victims have little to no symptoms, while others have a huge amount.)

**MSOTA's stance: life sentences for TRUE sexual predators AND longer probation periods for all.** We attempted to point out that Montana's treatment/probation system does better tracking and containment than almost any in the country. (You don't find high-risk guys getting five-year sentences like in other states -- Duncan in Idaho being an example.) "If it ain't broke,..."

**Other MSOTA positions:**

- We are already giving longer sentences to sex offenders than in the 90s or 80s.
- Low-risk guys should get an opportunity in the community, and have to be held accountable through treatment, facing the community they betrayed, paying for their own treatment and not costing the taxpayer -- as long as the risk to reoffend was low.)5/07
- It makes no sense to let true predators go after 25 years, unless we think our grandchildren are less valuable.
- Funds from feds for this bill will never cover true cost. Someone needs to do cost analysis, as it may be cheaper to reject the 10% loss in crime funding.
- MSOTA is about treatment AND accountability, and community safety is a core value of our organization.

Following, are some of the bill's **final outcomes in three categories:**

**Mandatory Minimums/Sentencing, Registration, and Juvenile Sentencing**

**Mandatory minimum sentence of 100 years, the first 25 of which may not be deferred or suspended, (see the exception for this listed after the specific crimes, which was added in the last conference committee -- thank Senators Laslovich, Moss, and Perry -- the latter having been subjected to representative Sinerud's "you are a wimp" tirades in the media)**

**These apply to ADULT sex offenders who commit one of the following offenses against a child 12 years old or younger:**

1. Sexual Intercourse w/o Consent
2. Sexual Abuse of Children
3. Incest
4. Prostitution
5. Promoting Prostitution
6. Aggravated Promotion of Prostitution

**DEPARTURE: Amends 46-18-222 to allow judges to make exceptions to mandatory minimums provided in SB 547.** *Problem:* how many elected judges will be willing to do this in the current media driven hysteria à la CNN's Nancy Grace? *Answer:* Those with integrity, combined with the natural reaction most judges have against determinate sentencing.

**Mandatory minimums would NOT apply to offenders under 18 years of age.**

**Note: The taking out of sexual assault in the preceding 25-year minimums leaves some hope for rational sentencing in many cases.** A plea bargain can be brokered for sexual assault and less than the 25 year minimum when a sex offender is low-risk.

*Problem:* victims and their families who deal with pain through anger and revenge will gain more power at sentencing. We made the point that usually sex offenders are born in such value systems, so why would we think it would impact this problem positively. It is my clinical observation that a crucial difference between victims that passed the pattern to the next generation and those that don't is the ability to process all aspects of what happened to them. This is not possible in a punishing, judgmental, atmosphere. We also pointed out that there are victims who believe in accountability through facing the damage they did and paying for their own treatment, and a host of other intrusive aspects of community sex offender treatment.

Most victims just want the offending to stop, and in most of the 93% (offender known to victim) of child molesting cases they just want it to not happen to other kids.  
5/07

**MSOTA's stance:**

Though thankful for the exception AND sexual assault being removed in the last conferencing meeting, age of victim is not supported in the science of risk assessment as a definition of predator.

Laws based solely on emotional response usually make crappy public policy AND costly!

**Note: The Attorney General's office fought our definition of predator as high-risk sex offenders, which we believe would match what the public assumes it means.** This is based on their concern that they'll lose registration on appeal if they use level of risk in the bill for registration and sentencing. Though I asked them to explain this to me a few times -- the reply was basically; "this is what I do, this is what I know, (I'm right), I don't want to talk philosophy with you". We need to input to Mike McGrath and the new Attorney General before next legislative session.

Increasing the negative impact to families when a guy can be treatable at his own expense in the community due to concerns and speculations (there is no case law) about losing an appeal is wrong. Even if the appeal was lost, the results might allow for a more rational registration law: all levels of risk to law enforcement, and high-risk for the public registry. The public isn't unnecessarily frightened, and we're not creating a force against recovery for sex offenders. (Factors in the scientific literature that show an increase in recidivism: marginalization, loss of jobs, loss of housing, lack of positive pro-social support, teasing & isolation of kids in their families, more sex offenders going underground, etc.)

**Statutory rape/mandatory minimums:** Mandatory 4 year minimum for sexual intercourse without consent applies if victim less than 16 and offender is 4 or more years older. (Current law mandatory 4 year minimum applies if victim less than 16 and offender is 3 or more years older). So, this is a move in the right direction, particularly when you remember the sexual assault plea bargain possibility!

**Registration:** (my comments in parentheses afterwards)

- 1 Post photographs for all registered sex offenders (HORRIBLE idea for low-risk)
- 2 Amend the definition of sexually violent predator (Level 3) to include offenders who commit a sex offense against a victim under 12; (BAD idea -- see above)
- 3 Create registration provisions for homeless offenders; (supported)
- 4 Clarify the registration provisions for juvenile offenders; (clarify = euphemism)
- 5 Require in-person verification of registration information and more frequent photographs of offenders; (supported)
- 6 Require a sex offender convicted of failure to register to submit to a psycho-sexual evaluation; (supported)
- 7 Extend minimum registration for a Level 2 offender to 25 years; (IGNORANT of actual risk involved in moderate guys = BAD idea)
- 8 Strengthen community notification provisions; (COMPLETELY UNNEEDED -- pretends that the current system doesn't work -- in fact, if anything, it's already too restrictive. Many problems with parole board delaying release unnecessarily)
- 9 **Requires all juvenile sex offenders to register unless court relieves them of the duty. (REALLY BAD idea:** judge could always put high-risk on when necessary, and did. Juveniles have even lower reoffense rates than adults. Now judge must make ruling to take them off. *Positive Note:* Hopefully, because these cases aren't as public as an adult one, most jurisdictions will do the right thing and keep the low and moderate kids off)
- 10 Low-Risk = can petition to be off in 10 yrs, moderate equal 25 yrs hi = life

**Juvenile exception:** Allows court to shorten duration of registration for a juvenile offender if supported by findings of fact (IF it requires coming back to court, most poor people will be prejudiced against as this will be unavailable to them)

**Treatment:**

- 1 Allows Court to require chemical treatment of offenders sentenced under the mandatory minimum provisions of SB 547. (Includes SSRI's. Supported.)
- 2 Requires offenders convicted of a sex offense to successfully complete sex offender treatment. (Supported)
- 3 Conditions parole eligibility of sex offenders upon successful completion of treatment. (Supported, though we would have rather low-risk released whenever treatment and probation people deemed appropriate)
- 4 **Authorizes DOC to place offenders not subject to the mandatory sentencing provisions of SB 547 in a residential sex offender treatment program in a setting approved by DOC.** (supported)
- 5 Prohibits treatment for sex offenders sentenced to life imprisonment without possibility of parole. (Another brilliantly dumb Sinerud idea -- opposed by us, and DOC based on security issues high-risk guys cause within facility)
- 6 Requires all sex offenders sentenced pursuant to mandatory minimum provisions of SB 547 to participate in out-patient sex offender therapy if released after serving minimum sentence. (Supported -- though for poor and disabled sex offenders, this is an unfunded mandate. We would support sliding scale for legitimately poor or handicapped sex offenders -- principle of accountability demands some payment in most cases)
- 7 Authorizes DOC to contract with private for-profit or non-profit corp. to establish residential treatment program. (Supported)

**Action:**

I think it will be extremely important for all to **contact your judges and county attorneys regarding these issues BEFORE everyone's reacting to a specific case.**

Find out where they stand. Have respectful discussions. I have a handout that lists many of the intrusive aspects of outpatient sex offender treatment for those who think it's a slap on the wrist. Ask me if you want it.

We must **prepare better to network better with those impacted by these laws next session. At the latest, this needs to begin THIS FALL!**

We need to discuss risk designations in light of registration statutes.

Term limits are stupid! Like telling a successful businessman that he must leave his business every seven years! (It really showed in this session -- no institutional memory, and people that don't know how to discuss an issue -- just do power plays) 5/07

- ***Membership:***

Jeff Scogins and Shad Burrows are both applying for MSOTA Associative Membership.

- ***Standards:***

Committee will continue to work on getting all standards on web-site.

- ***DD Standards:***

No Report

- ***Education:***

No Report

- **Old Business:**

The suit, Hirt v. Department of Labor and Industry and MSOTA, has taken no further action and is not a problem for MSOTA at this time.

Ken Brown reports that he has submitted the grant for the training on doing sexual offender treatment and evaluations with DD offenders. He should know more by June or July regarding the status of the grant.

- **New Business:**

As mentioned earlier, the Probation and Parole Sexual Offender Supervision Specialists attended the meeting and report that they are going to make more of an effort to attend MSOTA meetings and wish to continue to work with MSOTA members. They have developed Standards of Supervision. These standards are listed below.

## **Guidelines of Supervision for Sex Offenders**

The following are minimum standards of supervision for sex offenders:

### **I. Placement on targeted sex offender caseload (If available):**

**\*\*Line officers are strongly encouraged to call the sex offender specialist in their region for advice and or strategies for the supervision of sex offenders that are not assigned to a specialized caseload**

**\*\*If logistically possible, officers are strongly encouraged to regularly attend sex offender groups that their offenders are attending.**

1. Current conviction of a sex offense. (Excludes Failure to Register)
2. Sexually motivated offense.
3. Offender required to do a sex offender treatment program (Excludes Aftercare).
4. All Tier III offenders.

## **II. Level of supervision:**

5. All new cases will be a minimum of supervision level II for at least 6 months.
6. No offender will be less than a supervision level III until completion of treatment (excluding aftercare).

## **III. Treatment Providers:**

7. MSOTA clinical member or an associate member operating under MSOTA approved supervision or equivalent and who is approved by the supervising officer.
8. Treatment providers will be contacted by the PO a minimum of quarterly. (Recommended monthly if possible).
9. Offender may not transfer to another treatment program without approval of the supervising officer.

## **IV. IV. Polygraph:**

10. Polygraph exam annually while on supervision as required by the treatment provider and/or PO at the offender's expense.

## **V. Movement to regular PO from targeted sex offender caseload (if all of the following exist):**

11. Completion of sex offender treatment (excluding aftercare); and/or
12. Currently in Sex Offender Aftercare or Relapse Prevention; and
13. Supervision level 3 or lower. (If caseloads allow, it is recommended that supervision level 3 offenders remain on a targeted caseload.)

## **VI. Transfers:**

1. PO requesting transfer will contact the sex offender specialist or assigned officer in the receiving office prior to obtaining reporting instructions in order to coordinate a successful transfer to the new location.
2. The receiving officer will have sufficient opportunity to verify appropriate residence, employment and treatment prior to the approval of the transfer and the granting of reporting instructions and a travel permit.

## **VII. Recommended Special Conditions for PSI:**

(These are general conditions. Others may be added as necessary).

1. The Defendant will enter and successfully complete sex offender treatment with an MSOTA clinical member or associate member with supervision, or equivalent, who is approved by the State and the supervising officer and at his/her own expense. The Defendant shall abide by all treatment rules and recommendations of his/her treatment provider.
2. The Defendant will not have contact with any individual under the age of eighteen (18), unless accompanied by an approved and appropriately trained, responsible adult who is aware of the Defendant's sexual conviction and approved by his/her supervising officer and sex offender treatment provider.
3. The Defendant shall sign a "No Contact" contract and abide by all conditions of the contract. (See attached).
4. The Defendant's chaperone/supervisor must sign statement of responsibility and be approved by both the supervising officer and treatment provider. (See attached form for recommended use – treatment providers may have a similar form that can be used).
5. The Defendant shall not go to places where children congregate. This includes but is not limited to: schools, playgrounds, parks, malls, movies, fairs, parades, swimming pools, carnivals, arcades, parties, family functions, holiday festivities, or any other place or function where children are present or reasonably expected to be present unless with an approved and appropriately trained, responsible adult who is aware of the Defendant's sexual conviction and approved by his supervising officer and sex offender treatment provider. The Defendant shall obtain permission from his supervising officer prior to going to any of the above places.
6. The Defendant shall not involve himself in any type of employment, service or recreational pursuit that involves the supervision of children. Under no circumstances should the Defendant be in a position of power and authority over children.
7. The Defendant's employment must be approved by his supervising officer and appropriate notification provided to employer.
8. The Defendant's residence, changes and any co-habitants must have prior approval of his supervising officer.
9. Pursuant to MCA §46-18-255(2), if designated a tier level 3 sex offender, and the offense was committed against a minor, the Defendant may not live in the proximity (1500 feet), of a private or public elementary or high school, preschool, licensed daycare center, church or park maintained by a city, town or county.

10. The Defendant will not reside in a residence where there are any children under the age of 18 without the written approval of his therapist and Supervising Officer.
11. The Defendant shall not have access to the Internet without prior permission from his supervising officer and sex offender therapist. If Internet access is allowed, the Offender must allow the DOC to install rating control software and conduct random searches of the hard drive for pornography or other inappropriate material nor shall s/he have on any computer s/he may own, any software that is intended for data elimination, encryption or hiding data.
12. The Defendant will not access or have in their possession or under their control any material that describes or depicts human nudity, the exploitation of children, consensual sex acts, non-consensual sex acts, sexual acts involving force or violence, including but not limited to; computer programs, computer links, photographs, drawings, video tapes, audio tapes, magazines, books, literature, writings, etc. without prior written approval of his/her supervising officer and therapist.
13. The Defendant will not view television shows or motion pictures, which are geared toward his/her sex offending cycle, or as a stimulus to arouse deviant thoughts or fantasies. (i.e., shows based on sexualization of underage girls or boys, etc.)
14. The Defendant shall not access "900" number telephone sex lines and shall have a "900" number block on his/her telephone.
15. The Defendant will not have a cell phone, or such other technology/device, with photo, video, or Internet capabilities allowed. If a cell phone is used, all bills and records will be made available to the supervising officer.
16. The Defendant will not have contact with his victim or their immediate family unless approved by the victim's therapist, offender's therapist and supervising officer.
17. The Defendant shall remain in Aftercare or Relapse Prevention Class for the entirety of his/her supervision unless released at the discretion of the supervising officer and therapist.
18. The Defendant shall reenter treatment at any time if deemed appropriate by the supervising officer and therapist.
19. The Defendant shall submit to annual polygraph testing.
20. The Defendant will not date, live with, or otherwise align himself with any person with children under the age of 18 without the express prior approval of his therapist and supervising officer. If this approval is granted, they shall both be involved with his treatment to the extent that his treatment provider recommends.
21. The Defendant will undergo annual HIV testing for the next five (5) years and make the results of each test available to his supervising officer and the victim(s).

22. The Defendant will register as a Sexual Offender in compliance with Title 44, Chapter 23, Part 5 M.C.A. and give appropriate notice of any address change. The Defendant shall be designated a tier \_\_\_\_\_ (\_\_\_\_\_ risk to re-offend) sex offender based on the Psychosexual Evaluation and other pertinent documentation as per 46-23-509 M.C.A.
23. (Offense date after 7/1/05 & designated Tier 3) Pursuant to MCA §46-18-206, the Defendant shall be required to participate in the program for the continuous satellite-based monitoring established under MCA §46-23-1010.
24. The Defendant will submit to DNA testing as required by Title 44, Chapter 6, Part 1, M.C.A.
25. Pursuant to MCA §46-18-255 (1), reasonable employment or occupational prohibitions and restrictions designed to protect the class or classes of persons containing the likely victims of further offenses by the Defendant shall be imposed.

#### **VIII. Traveling:**

Offenders must be in compliance with following to be considered for out of town/state traveling.

14. Must be in compliance with treatment.
15. Must be current on all restitution and financial obligations to the court and sex offender treatment provider.

If allowed to travel, the following conditions must be met:

1. Offender must notify local law enforcement to register in another state if staying longer than 48 hours.
2. Upon arrival in another county, a tier level III offender will check in with local law enforcement if he's staying over night or longer. Tier level I or II offenders shall check in with law enforcement at the discretion of the supervising officer.
3. Offender's supervising officer will notify the receiving P&P office on all offenders staying over night or longer.
4. Offender's supervising officer will notify the receiving P&P office on all Tier III offender travel permits.

(We recommend a change in the current policy, which requires all travel permits for violent and sexual offenders shall be reviewed with a supervisor prior to being approved or denied)

P&P also reports that there will be a Sexual/Violent Offenders Conference on September 5<sup>th</sup> and 6<sup>th</sup>. This conference will be at the Hampton Inn, 2301 14<sup>th</sup> St SW, Great Falls, MT (406-453-2675). Dawn Spencer is the contact person for registration (444-2497). This conference will feature Mr. Brian Killanck, Mr. Derek VanLuchene, Ali Bovingdon and others from the US Attorneys Office and DOC.

Finally, Mr. Rick Deady, Treatment Contract Program Manager for DOC, reports that they are creating a residential treatment center for sexual offenders. This treatment center could have as many as 200 beds and will assist in relieving the overcrowding at MSP. Anyone interested in contacting Mr. Deady call 444-4902.

- Meeting was adjourned.
- Summer Meeting: BUTTE, MT on FRIDAY JULY 13, 2007 at 11:00 AM. The meeting will be held at the Silver Bow Center, 125 W. Granite, Take I-90 to Montana St. Exit, Turn towards uptown, (the hill), drive to the top of the hill to the last light on Montana St., turn right onto Granite, It is the second building on the left, next to County Courthouse, Meeting in the conference room on main floor
- Fall Meeting: LEWISTOWN, MT on FRIDAY OCTOBER 12, 2007 at 11:00 AM
- Winter Meeting: BOZEMAN, MT on FRIDAY JANUARY 11, 2008 at 11:00 AM
- Spring Meeting: GREAT FALLS, MT on FRIDAY APRIL 11, 2008 at 11:00 AM