

TESTIMONY OF

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for the

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

“The Reauthorization of the Adam Walsh Act”

February 15, 2011

Mr. Chairman and members of the Subcommittee, I welcome this opportunity to appear before you to discuss the sexual exploitation of children and the importance of the Adam Walsh Act. Chairman Sensenbrenner, we are deeply grateful for your long history of advocacy for children and for your leadership on these issues.

As you know, the National Center for Missing & Exploited Children is a not-for-profit corporation, authorized by Congress and working in partnership with the U.S. Department of Justice. NCMEC is a public-private partnership, funded in part by Congress and in part by the private sector. For 26 years NCMEC has operated under Congressional authority to serve as the national resource center and clearinghouse on missing and exploited children. This statutory authorization (see 42 U.S.C. §5773) includes 19 specific operational functions, among which are:

- operating a national 24-hour toll-free hotline, 1-800-THE-LOST® (1-800-843-5678), to intake reports of missing children and receive leads about ongoing cases;
- operating the CyberTipline, the “9-1-1 for the Internet,” that the public and electronic service providers may use to report Internet-related child sexual exploitation;
- providing technical assistance and training to individuals and law enforcement agencies in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children;
- tracking the incidence of attempted child abductions;
- providing forensic technical assistance to law enforcement;
- facilitating the deployment of the National Emergency Child Locator Center during periods of national disasters;
- working with law enforcement and the private sector to reduce the distribution of child pornography over the Internet;
- operating a child victim identification program to assist law enforcement in identifying victims of child pornography;
- developing and disseminating programs and information about Internet safety and the prevention of child abduction and sexual exploitation; and
- providing technical assistance and training to law enforcement in identifying and locating non-compliant sex offenders.

Our longest-running program to help prevent the sexual exploitation of children is the CyberTipline, the national clearinghouse for leads and tips regarding crimes against children on the Internet. It is operated in partnership with the Federal Bureau of Investigation (“FBI”), the Department of Homeland Security’s Bureau of Immigration and Customs Enforcement (“ICE”), the U.S. Postal Inspection Service, the U.S. Secret Service, the Military Criminal Investigative Organizations (“MCIO”), the Internet Crimes Against Children Task Forces (“ICAC”), the U.S. Department of Justice’s Child Exploitation and Obscenity Section, as well as other state and local law enforcement. We receive reports in eight categories of crimes against children:

- possession, manufacture and distribution of child pornography;
- online enticement of children for sexual acts;
- child prostitution;
- sex tourism involving children;
- extrafamilial child sexual molestation;
- unsolicited obscene material sent to a child;
- misleading domain names; and
- misleading words or digital images on the Internet.

These reports are made by both the public and by Electronic Service Providers (“ESPs”), who are required by law to report apparent child pornography to law enforcement via the CyberTipline (18 U.S.C. §2258A). The leads are reviewed by NCMEC analysts, who examine and evaluate the content, add related information that would be useful to law enforcement, use publicly-available search tools to determine the geographic location of the apparent criminal act, and provide all information to the appropriate law enforcement agency for investigation. These reports are triaged continuously to ensure that children in imminent danger get first priority.

The FBI, ICE, Postal Inspection Service and the MCIOs have direct and immediate access to all CyberTipline reports, and assign agents and analysts to work at NCMEC. In the 13 years since the CyberTipline began, NCMEC has received and processed more than 1 million reports. ESPs have reported to the CyberTipline more than 8 million images/videos of apparent child pornography. To date, more than 44 million images and videos have been reviewed by the

analysts in our Child Victim Identification Program (“CVIP”), which assists prosecutors to secure convictions for crimes involving identified child victims and helps law enforcement to locate and rescue child victims who have not yet been identified. Last week alone, CVIP analysts reviewed more than 213,000 images/videos.

NCMEC’s Congressional authorization specifically tasks us with providing training and technical assistance to law enforcement agencies in identifying and locating non-compliant sex offenders. NCMEC created our Sex Offender Tracking Team in 2006; some analysts work out of NCMEC headquarters and others, per the request of the U.S. Marshals Service, are detailed to work at the Marshals’ National Sex Offender Targeting Center. Upon request from federal, state and local law enforcement agencies, we run searches of non-compliant sex offenders against public-records databases donated to us by private companies for the assistance of law enforcement. We also conduct internal searches for potential links between non-compliant sex offenders and NCMEC cases of child abduction, online exploitation and attempted abductions. We forward all information to law enforcement, who uses it to locate these fugitive offenders. Most of the law enforcement agencies who request assistance from NCMEC have exhausted all of their resources trying to locate these offenders. To date, we have provided more than 6,000 analytical leads packages to law enforcement upon request. More than 1,200 fugitive sex offenders have been located following NCMEC’s assistance.

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In recent years, millions of Americans have followed the devastating stories of Jessica Lunsford, Chelsea King, Amber Dubois, and Jaycee Dugard. These tragic cases highlight an area of great concern: how to effectively track, register and manage convicted sex offenders in our communities. Most of their victims are children and youth. And, according to the National Institute of Justice, child abusers have been known to reoffend as late as 20 years following release into the community.¹

¹ *Child Sexual Molestation: Research Issues*, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, June 1997.

There has been much attention given to the question of how many children are victimized by sexual offenders. Experts estimate that at least 1 in 5 girls and 1 in 10 boys will be sexually victimized in some way before they reach adulthood, and just 1 in 3 will tell anybody about it.² Clearly, those numbers represent a broad spectrum of victimizations from very minor to very severe. Nonetheless, the numbers are powerful testimony to the fact that children are at risk and that we must do more.

There is strong empirical data as well. According to the U.S. Department of Justice, 67 percent of reported sexual assault victims are children³ – more than two-thirds. And these are only the ones that law enforcement knows about. Most crimes against children are not reported to the police.⁴ This means that there are many, many more victims of these heinous crimes than the statistics show.

As policy makers address the issue of sex offenders, they are confronted with some basic realities:

- most sex offenders are not in prison; those who are tend to serve limited sentences;
- sex offenders represent the highest risk of reoffense; and
- while community supervision and oversight is widely recognized as essential, the system for providing such supervision is overwhelmed.

All states require sex offenders to register; California enacted the first such law in 1947. As of our latest state survey, there are 728,435 sex offenders currently required by law to register their address and other information with law enforcement and update this information as it changes. However, the mobility of offenders and inconsistencies among state registration laws have resulted in as many as 100,000 “missing” sex offenders. Law enforcement does not know where

² David Finkelhor, *Current Information on the Scope and Nature of Child Sexual Abuse.* *The Future of Children: Sexual Abuse of Children*, 1994, Volume 4.

³ Snyder, Howard N., *Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident, and Offender Characteristics*, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, July 2000, page 2.

⁴ *1999 National Report Series: Children as Victims*, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, May 2000, Page 7.

these missing sex offenders are, yet they are living in our communities. The number of offenders required to register will continue to increase as new cases go through the criminal justice system.

State and local law enforcement agencies are struggling with these challenges. Yet, they benefit from strong federal cooperation in their efforts. The U.S. Marshals Service provides an invaluable service in tracking down fugitive sex offenders. In addition, when the U.S. Marshals or a state law enforcement agency alerts INTERPOL Washington, the U.S. National Central Bureau, that a registered sex offender is planning to travel abroad, INTERPOL notifies the relevant foreign law enforcement agency. When INTERPOL is notified that the sex offender leaves the foreign country, it will inform the relevant U.S. law enforcement agency.

In 1994 Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Predators Act, mandating every state to implement a sex offender registration program. However, by 2006, even though all 50 states, the District of Columbia, and some U.S. territories and Indian tribes had created sex offender registries, there was still a striking lack of consistency and uniformity. In response, Congress passed the Adam Walsh Child Protection and Safety Act in July of 2006 in an effort to enhance and tighten the sex offender registration system. Title I of the Adam Walsh Act is the Sex Offender Registration and Notification Act (SORNA).

By correcting the serious discrepancies among jurisdictions, SORNA will prevent sex offenders from “forum-shopping” in order to remain anonymous. The offenders who take advantage of these loopholes are attempting to evade their registration duties – which could present a threat to the safety of our communities. However, despite Congress’ intent, the goals of the Adam Walsh Act/SORNA remain unmet today.

The Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) Office is authorized to determine whether a jurisdiction has substantially implemented SORNA. The SORNA provisions apply to all 50 states, the District of Columbia, 5 U.S. Territories, and 192 Indian tribes. According to the SMART Office website, 4 states, 2 Indian tribes, and 1 territory have achieved substantial compliance with SORNA: Delaware, Florida, Ohio, South Dakota, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes

and Bands of the Yakama Nation, and the Territory of Guam. The remaining jurisdictions are still working to achieve compliance with SORNA.⁵

Implementation of SORNA has been challenging for the jurisdictions. It has required them to make fundamental changes to their existing sex offender registration systems. These changes are dependent upon resources and commitment from both the executive and legislative branches of state governments. These efforts were delayed because the Guidelines on SORNA Implementation were not issued until 2 years after the law was enacted – leaving them without clear direction on where to begin until mid-2008.

We are pleased with the efforts of all the jurisdictions to work toward implementation. The work that has been done in the states is readily apparent. According to the National Conference of State Legislatures:

- 41 states enacted SORNA-related legislation in 2009;
- 28 states enacted SORNA-related legislation in 2010; and
- 23 non-compliant states are currently working on legislation that will bring them closer to achieving substantial compliance of SORNA.

Despite these efforts, we understand that states continue to face challenges to implementing SORNA. In April 2009 SEARCH, the National Consortium for Justice Information and Statistics, conducted a survey of states in order to determine what barriers were preventing states from implementing SORNA. Forty-seven (47) states responded to the survey. The obstacle most commonly cited by the responding states was SORNA's juvenile registration and reporting requirements, reported by 23 states. The second most common hurdle for states was the retroactive application of SORNA, reported by 20 states. Seven (7) states reported the tier-based system as a factor and 7 states cited cost as a barrier to implementation.⁶

In January of this year the Attorney General published Supplemental Guidelines that addressed the concerns about juvenile registration and retroactive application. We are optimistic that these

⁵ <http://www.ojp.gov/smart/newsroom.htm>

⁶ SEARCH Survey on State Compliance with the Sex Offender Registration and Notification Act (SORNA). (April, 2009). Retrieved from www.search.org/files/pdf/SORNA-StateComplianceSurvey2009.pdf.

changes will enable many more jurisdictions to come into compliance with SORNA. In addition, these changes demonstrate the Attorney General's commitment to helping states achieve substantial compliance. Congress has appropriated funds for grants to states that are critical to their compliance efforts, as well as key funding to the U.S. Marshals for their Adam Walsh Act responsibilities. We hope that Congress will remain committed to funding these efforts.

Congress passed the Adam Walsh Act to tighten our sex offender registration system and better track registered sex offenders in order to protect our children. States are required to make significant changes in order to come into compliance with SORNA. We want to recognize the enormous progress that has been made in a relatively short time. There is still work to be done. However, we are encouraged by all the jurisdictions' efforts and the SMART Office's continued commitment to help them achieve compliance.

The goal of building a better, more unified sex offender registration system is well within reach.

Thank you.