

TESTIMONY OF

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for the

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON CRIME, TERRORISM AND HOMELAND SECURITY

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Mr. Chairman and distinguished members of the Subcommittee, I welcome this opportunity to appear before you to discuss crimes against children. Chairman Coble, you are a tireless advocate for child protection and I commend you and your colleagues for your leadership and initiative. The National Center for Missing & Exploited Children (“NCMEC”) joins you in your concern for the safety of the most vulnerable members of our society and thanks you for bringing attention to this serious problem facing America’s communities.

Let me first provide you with some background information about the National Center for Missing & Exploited Children (NCMEC). NCMEC is a not-for-profit corporation, mandated by Congress and working in partnership with the U.S. Department of Justice as the national resource center and clearinghouse on missing and exploited children. NCMEC is a true public-private partnership, funded in part by Congress and in part by the private sector. Our federal funding supports specific operational functions mandated by Congress, including a national 24-hour toll-free hotline; a distribution system for missing-child photos; a system of case management and technical assistance to law enforcement and families; training programs for federal, state and local law enforcement; and our programs designed to help stop the sexual exploitation of children.

These programs include the CyberTipline, the “9-1-1 for the Internet,” which serves as the national clearinghouse for investigative leads and tips regarding crimes against children on the Internet. The Internet has become a primary tool to victimize children today, due to its widespread use and the relative anonymity that it offers child predators. Our CyberTipline 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 U.S. Department of Justice’s Child Exploitation and Obscenity Section and the Internet Crimes Against Children Task Forces, as well as state and local law enforcement. Leads are received in seven categories of crimes:

- ? possession, manufacture and distribution of child pornography;**
- ? online enticement of children for sexual acts;**
- ? child prostitution;**
- ? child-sex tourism;**
- ? child sexual molestation (not in the family);**
- ? unsolicited obscene material sent to a child; and**
- ? misleading domain names.**

This last category was added as a result of enactment of the PROTECT Act in 2003.

These leads are reviewed by NCMEC analysts, who visit the reported sites, examine and evaluate the content, use search tools to try to identify perpetrators, and provide all lead information to the appropriate law enforcement agency. The FBI, ICE and Postal Inspection Service have “real time” access to the leads, and all three agencies assign agents and analysts to work directly out of NCMEC and review the reports. The results: in the 7 years since the CyberTipline began operation, NCMEC has received and processed more than 325,000 leads, resulting in hundreds of arrests and successful prosecutions.

Another one of our programs to prevent child exploitation is our partnership with the Department of Homeland Security’s Bureau of Immigration and Customs Enforcement (“ICE”). This initiative, called “Operation Predator,” is the hallmark of the Department’s efforts to protect children from pornographers, child prostitution rings, Internet predators, alien smugglers, human traffickers and other criminals. NCMEC’s alliance with ICE is designed to facilitate the exchange of information on missing children, as well as investigative and intelligence leads. An ICE Senior Special Agent has been assigned to NCMEC to coordinate leads developed by NCMEC that require ICE law enforcement capabilities. This alliance has proved enormously successful: more than 5,000 individuals have been arrested nationwide. More than 85% of these arrests are of sex offenders who are foreign nationals living in this country and who have been deported. In addition, more than

1,000 arrests based on ICE leads have been made in Australia, Canada, Denmark, Finland, Japan, the Netherlands, New Zealand, Norway, Sweden, Switzerland and the United Kingdom.

However, despite our progress the victimization of children continues and there is evidence that it is increasing. The number of reports of child pornography to the CyberTipline increased 39 percent in 2004. Our records show a significant and steady increase in these reports over the years. This upward trend is very disturbing and shows the seriousness of this issue. But this is not the only evidence.

Recently, we consulted with some of the leading scholars and researchers in the field. There has been much attention to the question of how many children are actual victims of sexual offenders, including retrospective studies of adults. The researchers with whom we spoke agreed that on the most conservative basis there was general agreement 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. 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 are strong empirical data as well. According to the U.S. Department of Justice, 67 percent of reported sexual assault victims are children¹ – 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.² This means that there are many, many more victims of these heinous crimes than the statistics show.

¹ 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.

² *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.

In addition, these children are being victimized at increasingly younger ages. One out of every three victims of sexual assault is under age 12.³ Reports to the CyberTipline include images of brutal sexual assaults of toddlers and infants. These are images that no one here could previously even imagine. But they have become all-too-common in the new world of child pornography and child sexual exploitation. Today, children of all ages are potential victims.

In recent months, millions of Americans have followed with horror the devastating stories of Jessica Lundsford, Sarah Lunde, Jetseta Gage and others. These tragic cases have generated anger and indignation nationwide, and epitomize what has been an increasing area of concern for NCMEC in recent years: the challenge of tracking, registering and managing the nation’s convicted sex offenders effectively. Sex offenders pose an enormous challenge for policy makers. They evoke unparalleled fear among citizens. Their offenses are associated with the greatest risk of psychological harm. Most of their victims are children and youth. As policy makers address the issue of sex offenders, they are confronted with some basic realities:

- 1. Most sex offenders are not in prison, and those that are tend to serve limited sentences;**
- 2. While most sex offenders are in the community, historically their presence was largely unknown to citizens;**
- 3. Sex offenders represent the highest risk of reoffense; and**
- 4. While community supervision and oversight is widely recognized as essential, the system for providing such supervision is overwhelmed.**

Currently, there are nearly 550,000 registered sex offenders in the U.S.⁴ At least 100,000 of these are non-compliant, in most cases literally “missing.” They moved and failed to register their new address with law enforcement, or they provided the

³ *Id.*

⁴ In May 2005 NCMEC contacted the registering agencies for all 50 states and the District of Columbia. The total number of sex offenders reported for all jurisdictions is 549,038.

wrong address or some similar variation. The number of offenders required to register is only going to increase as new cases work their way through the criminal justice system. This problem is not going to go away. These offenders will be in our communities. The question is: what more can we do?

We commend Attorney General Alberto Gonzales for his bold and decisive new initiative in creating a nationwide sex offender database. Public access to this information is vital to preventing sexual crimes against children. We are grateful to the many Members of the United States Congress for their leadership on this issue as well. The dedication of two branches of government to this problem gives us confidence that real progress will be made toward making our communities safer.

In 1994 Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Predators Act. As a result, all 50 states and the District of Columbia have sex offender registries. This was groundbreaking child protection legislation. However, 11 years later there are many problems in the state programs that thwart the original Congressional intent in passing the Act. The federal scheme leaves a great deal of discretion to the states in how they implement their individual registration programs. As a result, there is a significant lack of consistency and uniformity from state to state. There are also serious discrepancies among the states, creating loopholes in the laws that permit sex offenders to cross state lines and remain undetected. We know that registered sex offenders often “forum-shop” in order to achieve anonymity. Some examples of the discrepancies in the state statutes are the following:

? in 8 states the offender *alone* has the burden to notify the authorities in a new state when moving into that state

? in 2 states *neither* the offender nor the state authorities are required to notify the authorities in a new state – in another 3 states this issue is not even addressed

? in only 5 states probation or parole *must* be revoked when an offender fails to comply with registration duties

? in only 8 states an offender's probation or parole *may* be revoked for failure to comply with registration duties

? in 31 states the penalty for failure to comply with registration duties is only a misdemeanor

? in 3 states offenders have more than 10 days to notify the authorities when they change their address

The challenges are basic. We must assume that those who represent the greatest threat are those least likely to be compliant. They are the most likely offenders to attempt to disappear. There are at least 100,000+ non-compliant offenders, people like the killer of Jessica Lundsford, who was not where he was supposed to be.

We need to do a better job as a nation of identifying those who represent the greatest risk, those whose criminal history forfeits any right to be on the streets and close to innocent children. But at a minimum, we must know where all of the convicted sex offenders are and what they are doing.

Yet, the challenge of doing that is daunting and is compounded by the increasing burden on law enforcement to track offenders throughout their period of registration, in many cases for the offender's lifetime. A recent survey by NCMEC of state registering agencies revealed the following problems:

? lack of sufficient funding

? lack of personnel

? lack of law enforcement personnel dedicated solely to sex offender issues

? outdated computer hardware and software

- ? lack of centralized communication systems between jurisdictions for tracking offenders
- ? registrants' verification is by mail and not in person
- ? lack of funding to conduct community notification of sex offenders
- ? lack of technology to easily identify fake addresses
- ? lack of clarity regarding law enforcement authority across jurisdictions, including tribal lands
- ? lack of legal requirement to keep registry information current
- ? lack of a national registry of sex offenders
- ? inability to track homeless registrants
- ? lack of notice by jails of offenders' release

Tracking the location of these offenders is only part of the challenge. Equally important is the issue of notifying the public about the location of these offenders. According to the National Institute of Justice, child abusers have been known to reoffend as late as 20 years following release into the community.⁵ In 1996 Congress amended the Jacob Wetterling Act to include a federal Megan's Law, mandating state community notification programs. This was named after 7-year-old Megan Kanka of New Jersey, who was killed by her neighbor, a convicted sex offender whose presence in her neighborhood was unknown to her parents.

The Megan's Law section of the Wetterling Act requires all states to conduct community notification but does not set out specific forms and methods, other than to require the creation of internet sites containing state sex offender information. States are given broad discretion in creating their own policies. In practice, community notification methods are either

- (1) passive notification, requiring the public to initiate contact with law enforcement, such as publicly-accessible websites; or

⁵ *Child Sexual Molestation: Research Issues*, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, June 1997.

(2) active notification, by which law enforcement officers initiate contact with the public, such as community meetings, posting flyers, or visits to individual residences within a radius of the offender's address.

Because the federal law leaves it up to the states to create their own programs of community notification, current state programs vary widely. In 17 states law enforcement is authorized by statute to conduct *only* passive notification to the public about the presence of sex offenders in their communities – it is up to the public to continually seek out this information on their own initiative in order to protect themselves. Furthermore, many states do not provide information about their entire registry of sex offenders, only a portion of them, usually those designated as posing a high risk of reoffense, which can also vary widely between states. The public has a right to know about all registered sex offenders living in our communities. The amount of protection a child is given shouldn't depend on the state in which that child lives. There is clearly a need for more uniformity among state programs of community notification of sex offenders.

The Jacob Wetterling Act and Megan's Law represented a giant step forward a decade ago. We must preserve that foundation. But America has changed. Today, there are more offenders to register and manage, there are new technologies, and there are more and younger victims. We understand that resources are scarce and that there are many competing demands. However, it is hard to imagine a greater or more pressing priority.

NCMEC urges lawmakers, law enforcement and the public to take a serious look at the dangers threatening our children today, and to move decisively at the federal level and the state level to create a seamless, coordinated, uniform system that works. Now is the time to act.

Thank you.