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PROTECTING OUR NATION'S CHILDREN FROM SEXUAL PREDATORS AND VIOLENT CRIMINALS: WHAT NEEDS TO BE DONE?

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

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PROTECTING OUR NATION'S CHILDREN FROM SEXUAL PREDATORS AND VIOLENT CRIMINALS: WHAT NEEDS TO BE DONE?

THURSDAY, JUNE 9, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 4:05 p.m., in Room 2141, Rayburn House Office Building, the Honorable Mark Green presiding.

Mr. GREEN. [Presiding.] Good afternoon. I want to welcome everyone to the third in a series of important hearings held by this Subcommittee addressing the problem of sexual predators and violent criminals who attack our Nation's children.

The first two hearings this week have shown once again the devastating tragedy of crimes against children. We've heard testimony—and I expect to hear more at this hearing—that paints a grim picture. The threat to our children is real, and it is growing. And it is time for us to act.

No longer can we simply urge and rely on others to do what needs to be done. Congress must take steps to provide greater safety for our most vulnerable, our children. When considering what needs to be done, we must be mindful that Congress has to provide needed resources to the States. We must ensure that Federal actors have the ability to provide necessary protections and assistance to the States.

Some might say that we need to treat sex offenders and to rehabilitate them; that we must address the problem by throwing money at sex offenders to break their silence and perverse behavior, to stop them from attacking again and again, from molesting again and again.

My view is quite the opposite. One victim, one child harmed, one child raped, one child molested, is one crime too many. I'm not willing to cross my fingers and hope the problem does not occur again and again. To me, a sex offender who commits one of these heinous offenses has forfeited the right to live with the freedoms enjoyed by law-abiding citizens. The sex offender has forfeited the right to move without compliance with registration requirements; whether it be for a job, for school, or simply to live.

If the sex offender violates the terms of supervision, the terms of probation and parole, or registration requirements, the sex of-

fender must be swiftly and effectively locked up, so that he cannot touch one more innocent child.

The fact is that right now in our country there are at least 100,000 sex offenders roaming our communities—communities where law-abiding citizens are raising their families without any knowledge of the risk that these offenders pose to their children.

So as I see the problem, Congress must act now, must act quickly, and must act with a comprehensive plan aimed at accomplishing the following:

First, redoubling our efforts to register each and every sex offender in this country;

Second, adopting new and stiff criminal penalties against sex offenders who fail to comply with registry laws, probation requirements, or other laws;

Third, providing States with the infrastructure necessary to use new technology, such as the Internet, tracking devices, and other mechanisms, to protect our communities from these predators;

Fourth, giving States resources needed to apprehend sex offenders or those that cross State lines to work, live, or go to school;

Fifth, ensuring that State registries cover all classes of sexual offenders who pose a serious risk of harm to children, including juvenile predators who are not covered by the existing Jacob Wetterling Law;

Sixth, promoting proactive notification systems for States to use to inform law enforcement, schools, public housing agencies, and others when sex offenders move into their communities to live, work, or attend school;

Seventh, ensuring that the Justice Department and other Federal agencies support the States and provide technical assistance for national efforts to assist the States and the public;

Eighth, providing law enforcement with the tools, DNA collection, and testing resources needed to identify and prosecute sex offenders who have escaped prosecution but now may be caught with powerful forensic evidence;

And ninth, provide new civil procedures to incapacitate Federal sex offenders who suffer from mental abnormalities and pose a serious risk of harm to our communities.

I, along with many others, will aggressively seek to enact legislation following such broad principles. We do so because we remember the suffering caused by crimes committed against Jessica Lunsford, Jetseta Gage, Sarah Lunde, and from my home State of Wisconsin, Amie Zyla, who courageously agreed to testify here today.

I'm anxious to hear from our distinguished panel of witnesses. And I now yield time to the Ranking Minority Member of this Subcommittee, the gentleman from Virginia, Mr. Bobby Scott.

Mr. SCOTT. Thank you, Mr. Chairman. I thank you for holding this hearing on what we can do to protect children from sexual predators and other violent criminals. It's good actually to hold the hearing. Usually, we pass the bills and then hold the hearing. In this case, we're actually considering the bills. At such a time, we can actually consider the research to make sure we're doing the right thing.

Child deaths as a result of sexual abuse or other violence is so tragic as to shock the conscience, and our reaction will be to strike back with all the punitive weight of government. As policymakers, it's also incumbent upon us not to simply strike back after the events have happened, but to see what we can do to reduce the incidence to begin with.

We know that the vast majority of abusers are either relatives, friends or individuals known to the child and family—90 to 95 percent, according to "Be a Child's Hero Network." Most of the cases of abuse are never reported to authorities or ever dealt with in an official manner.

Furthermore, we know that some child offenders are predatory, and repeat their crimes. The vast majority do not, after conviction, create other similar crimes. Studies by the Department of Justice indicate that less than 5 percent after conviction are found guilty of other sexual crimes against children.

So any repeat offense against children is horrible, but we have to consider what we can do in the most cost-effective way, most cost-effective strategies, to reduce the chance that it might happen again.

Mr. Chairman, most of the bills we're going to consider are the public notification bills. I want to make it clear that having police and supervision authorities aware of all location and identification information about child offenders is not subject to debate. They need to know this information and have this information available.

The question before us is whether or not this information ought to be available on the Internet, and whether that's productive or counterproductive in reducing the incidence of child sexual abuse.

We have limited amounts of money, and we ought to make sure that that money is used as strategically as possible to reduce the incidence of child sexual abuse. Some of these bills cost a lot of money to implement, and we have to consider whether or not it could have been used more effectively other ways to reduce child sexual abuse.

So Mr. Chairman, I look forward to the testimony of our witnesses on what we can do to actually address the problem. And I thank you for convening the hearing.

Mr. GREEN. I thank the Ranking Member for his opening statement.

Witnesses, it is the practice of the Subcommittee to swear in all witnesses appearing before it. If you would, please stand and raise your right hand.

[Witnesses sworn.]

Mr. GREEN. Let the record show that each of the witnesses answered in the affirmative.

Please be seated.

We have four distinguished witnesses with us today. Our first witness is Ms. Tracy Henke, Acting Assistant Attorney General and Deputy Associate Attorney General for the Office of Justice Programs for the Department of Justice. In this role, Ms. Henke is responsible for the overall management and oversight of the Office of Justice Programs, guides the development of policy and priorities, and promotes coordination among OJP bureaus and support offices.

Additionally, she serves as the national Amber Alert coordinator, responsible for encouraging coordination of regional, State, and local efforts to establish Amber Alert plans to aid in recovering abducted children. Ms. Henke is a graduate of the University of Missouri, Columbia.

Our second witness is well known to most of us here, Mr. Ernie Allen, President and CEO of the National Center for Missing and Exploited Children, which has helped to recover more than 92,000 children, at a 96 percent recovery rate. Mr. Allen has spearheaded efforts to launch a new international center and build a global network to track missing children in 16 nations.

Previously, he held several positions in public service, including chief administrative officer of Jefferson County, director of public health and safety, and director of the Louisville-Jefferson County Crime Commission. He is a graduate of the University of Louisville.

Our third witness is Amie Zyla. Amie is a junior at Sussex Hamilton High School in Waukesha, Wisconsin. She hopes to one day become a hairdresser and own her own salon. She is here today to recount her personal story of abuse at the hand of a convicted sex offender. We look forward to Amie's testimony of this horrific experience.

Our final witness today is Dr. Fred Berlin, Associate Professor in the Department of Psychiatry at the Johns Hopkins University School of Medicine. Dr. Berlin is the founder of the National Institute for the Study, Prevention, and Treatment of Sexual Trauma, where he currently serves as the director.

He is the author of numerous publications, including "The Impact of Surgical Castration on Sexual Recidivism," "Risk Among Civilly Committed Sexual Offenders," and "Sex Offender Treatment and Legislation." Dr. Berlin was named Distinguished Fellow in 2003 by the American Psychiatric Association. He earned a bachelor's degree from the University of Pittsburgh, and his M.D. and PhD. from Dalhousie University in Halifax, Canada.

I welcome all the witnesses. And now, Ms. Henke, welcome. We look forward to your testimony.

TESTIMONY OF TRACY HENKE, DEPUTY ASSOCIATE ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE

Ms. HENKE. Thank you, Mr. Chairman, Mr. Scott. I am Tracy Henke, and I'm the Deputy Associate Attorney General for the United States Department of Justice, as well as the current Acting Assistant Attorney General for the Office of Justice Programs.

I want to thank you all for having this hearing. I'm pleased to be here on behalf of the Department of Justice to discuss the steps we are taking on this issue. Specifically, I want to explain the implementation of the new National Sex Offender Public Registry.

As you might know, the Attorney General directed the Office of Justice Programs to expedite the design and delivery of a National Public Registry website, which he announced on May 20th. The public registry will use Internet technologies and the Department of Justice's Global Justice Extensible Markup Language—or what we like to call XML—to find and display information from a State's existing online public sex offender registry. The search will deliver

results based on a name, zip code, geographical area, or other query.

While citizens can already search existing public State offender registries, that search must be conducted on a State by State basis; a cumbersome and time-consuming process. Limited for-profit sites also offer information from various States by data mining their public registries, often without the States' knowledge. However, no government system currently exists to link these public registries.

In contrast, the National Public Registry creates a single focal point for citizens to search public sex offender information nationwide, providing timely and accurate information to the public. It is a partnership effort between the Department of Justice and the States to offer secure, reliable, and free-of-charge public sex offender information to citizens nationwide.

The National Sex Offender Public Registry will not collect or retain control over any State data, and there will be no cost to the State or territory to link to the national search site. States and territories need not change or alter the design or functionality of their existing sex offender registries in order to participate.

It is important to note that by allowing States to maintain control over their own data they can remain consistent with their own State laws regarding release of offender information. In addition, because data is maintained under State control, it can be more closely monitored and validated between the States and the local law enforcement agencies providing the information.

I stress that the public registry can be implemented quickly. The Attorney General has challenged us to have at least 20 States participating and a site available for public searches in just 60 days from May 20th, with additional States linked in the following months.

The Office of Justice Programs Bureau of Justice Assistance has already developed a working prototype with Maryland, New Jersey, Ohio, and Pennsylvania. Since the Attorney General announced this initiative nearly 3 weeks ago, States have been calling to find out how they can be in the first 20 participating.

The key advantages of this registry are that it promotes public safety by using already existing public State and territory sex offender data. It is cost-free to both the States and the citizens. And it requires no special certification or training, and provides an additional resource for effective sex offender management.

In addition to the implementation of the public registry, the Bureau of Justice Statistics provides NCHIP funds to States that can be used to improve their own sex offender registries. Since 1998, States have used over $37 million in Federal funding for this purpose.

The Bureau of Justice Assistance manages the Comprehensive Approaches to Sex Offender Management Program, which provides funding to help jurisdictions implement sound approaches to managing sex offenders in the community, while keeping citizens safe. In fiscal year 2004, jurisdictions in 12 States received a total of more than $2.8 million for these projects. An additional $2.3 million should be awarded this fiscal year.

While these OJP programs are useful, and the National Public Sex Offender Registry is an immediate contribution in helping pro-

tect our Nation's children, we recognize that citizens need more than just a search site to help protect their children from sex offenders. We are committed to a comprehensive effort that includes providing a wide range of training and technical assistance and technology to help States and communities address this complex crime problem.

We will also continue to take an active role in the Federal Agency Task Force on Missing and Exploited Children, which promotes a coordinated Federal response to these issues.

We pledge to work with the Congress to address the issue of how best to protect the public from dangerous sex offenders, including through the public availability of sex offender registration information.

As the Attorney General has said in announcing the registry, "We must fight violent crimes, especially crimes that steal the future from our children. Names like Jessica Lunsford and Megan Kanka highlight the importance of this new technology. Their smiles, wiped away forever by sex offenders, are a constant reminder that we must keep parents and communities informed and engaged."

I'm pleased to answer any questions you might have.

[The prepared statement of Ms. Henke follows:]

PREPARED STATEMENT OF TRACY A. HENKE

Department of Justice

STATEMENT

OF

TRACY A. HENKE
DEPUTY ASSOCIATE ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM AND HOMELAND SECURITY
JUDICIARY COMMITTEE
HOUSE OF REPRESENTATIVES

CONCERNING

OVERSIGHT HEARING ON PROTECTING OUR NATION'S CHILDREN FROM SEXUAL PREDATORS AND VIOLENT CRIMINALS: WHAT NEEDS TO BE DONE?

PRESENTED ON

JUNE 9, 2005

STATEMENT OF
TRACY A. HENKE
DEPUTY ASSOCIATE ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
BEFORE THE
SUBCOMMITTEE ON CRIME, TERRORISM AND HOMELAND SECURITY
JUDICIARY COMMITTEE
HOUSE OF REPRESENTATIVES

JUNE 9, 2005

Mr. Chairman, Mr. Scott, and Members of the Subcommittee: I am Tracy A. Henke, Deputy Associate Attorney General for the U.S. Department of Justice. The Subcommittee is to be commended for holding this hearing to address the serious issue of how best to protect children from sexual predators.

There are over 500,000 registered sex offenders nationwide. Statistics have shown that the recidivism rate for these offenders is extremely high. That fact was a force behind the enactment of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, passed as part of the Violent Crime Control and Law Enforcement Act of 1994, which first required state registration of sexually violent offenders. Several amendments have been added to Wetterling – one being Megan's Law, which requires states to provide notification to the community of a sex offender's presence, enacted in 1996. The Pam Lychner Sexual Offender Tracking and Identification Act of 1996 requires lifetime registration for recidivists and offenders who commit certain aggravated offenses. A 1998 amendment includes heightened registration requirements for sexually violent offenders, registration of federal and military offenders, registration of nonresident workers and students, and state participation in the National Sex Offender Registry (NSOR), which is operated by the Federal Bureau of Investigation and available for use by law enforcement. The Campus

Sex Crimes Prevention Act passed in 2000 also amends the Wetterling Act, requiring offenders to report information regarding any enrollment or employment at an institution of higher education, and to provide this information to a law enforcement agency whose jurisdiction includes that institution.

I am pleased to be here today on behalf of the Attorney General and the Department to discuss the steps we are taking to address continued and new concerns about new crimes being committed by known sex offenders. Specifically, I want to explain the implementation of the new National Sex Offender Public Registry (NSOPR), which provides such a mechanism. In addition, I will describe the work of the Office of Justice Programs (OJP) in the area of sex offender management.

As you know, the Attorney General recently directed OJP's Bureau of Justice Assistance (BJA) to expedite the design and delivery of a national public registry Web site, which he announced on May 20. NSOPR will use Internet technologies and the Department of Justice's Global Justice eXtensible Markup Language (XML) to find and display information from a state's existing online public sex offender registry. The link allows data from different hardware and software systems to be recognized and shown through the national search site. The search will deliver results based on a name, zip code, geographical area, or other query. For example, if a parent in Greensboro, North Carolina, wants to learn if a sex offender is living in their community, the parent can go to the NSOPR Web site, enter the city or zip code, and the resulting data search will yield a list of any registered offenders within that area. If the parent has reason to be suspicious of a new neighbor's behavior and knows the person's name, the parent can initiate a search by name and receive a list of all registered offenders with that name and the locations in which they are registered.

While citizens can already search existing public state offender registries, that search must be conducted state by state, a cumbersome and time-consuming process. Limited for-profit sites also offer information from various states by data mining their public registries—often without the states' knowledge. However, no government system currently exists to link these public registries. In contrast, the NSOPR creates a single focal point for citizens to search public sex offender information nationwide, providing timely and accurate information to the public. It is a partnership effort between the Department of Justice and the states to offer secure, reliable, and free-of-charge public sex offender information to citizens nationwide.

The NSOPR provides a cost-effective tool to respond immediately to public safety concerns, which have been heightened in the past few months. It builds on the substantial work already accomplished by the states without going through the lengthy process of creating a new national data base. We estimate that the NSOPR will cost approximately $1 million to design and deliver compared to creating a national database that could cost more than $10 million – and far more time – to implement.

The NSOPR will not collect or retain any control over state data, and there will be no cost to the state or territory to link to the national search site. States and territories need not change or alter the design or functionality of their existing sex offender registries in order to participate in the national site. It is important to note that by allowing states to maintain control of their data, they can remain consistent with their own state laws regarding release of offender information. In addition, because data is maintained under state control, it can be more closely monitored and validated between the state and the local law enforcement agencies providing the data.

The initiative also addresses the issues of varying state definitions of "sexual offender," and state disclaimers and privacy concerns. Because the search results will not be filtered from what each state provides on its own site, users will have access to the state's sex offender criteria as defined by that state. Any state disclaimer regarding the information will also appear before the record is displayed to the user.

I stress that the NSOPR can be implemented immediately. Our first goal is to have at least 20 states participating and the site available for public searches in just 60 days from May 20, with additional states linked in the following months. The Bureau of Justice Assistance has already developed a working NSOPR prototype with Maryland, New Jersey, Ohio, and Pennsylvania, and there is great interest nationwide in the project. Since the Attorney General announced this initiative nearly three weeks ago, states have been calling to find out how they can be one of the "first 20 states" participating in the NSOPR.

We are asking every governor to work with the Department to link their state into the system. Beyond the initial advantage of linking individual state data bases nationwide, the NSOPR will add to database functionality through its mapping tools. DOJ will also work with states to ensure that they have adequate information technology capabilities to implement this enhanced technology.

The key advantages of the NSOPR are that it promotes public safety by using already existing public state and territory sex offender data; it is cost-free to both states and citizens; it requires no special certification or training; and it provides law enforcement with an additional resource for effective sex offender management.

In addition to the implementation of NSOPR, OJP provides additional programming related to sex offender management, which is a complex crime issue requiring a wide range of resources including access to public registries, training, and technical assistance.

The Bureau of Justice Statistics (BJS) provides funds to states that can be used to improve their sex offender registries. In the Justice Department's Fiscal Year 1998 appropriation, Congress set aside $25 million for a National Sex Offender Registry Assistance Program (NSOR-AP). This program was administered by BJS as a component of the National Criminal History Improvement Program (NCHIP). Beginning in Fiscal Year 1999, NSOR-AP was folded into the overall NCHIP program, meaning that states could use their NCHIP funds to improve their state sex offender registries. Since 1998, states have used over $37 million in NSOR-AP and NCHIP funds for this purpose.

BJA manages the Comprehensive Approaches to Sex Offender Management (CASOM) Program, which provides funding to help jurisdictions implement sound approaches to managing sex offenders in the community while keeping citizens safe. In Fiscal Year 2004, jurisdictions in 12 states received a total of more than $2.8 million for these projects. An additional $2.3 million is available for this purpose in FY 2005. We also will continue to work with states to develop comprehensive approaches to addressing this complex issue. We will complement existing training and technical assistance efforts by offering assistance to states and local jurisdictions that are interested in utilizing technology to more effectively monitor and track sex offenders.

While these OJP programs are useful, and the NSOPR is an immediate contribution in helping protect our nation's children, we recognize that citizens need more than just a search site to help protect their children from sex offenders. We are committed to a comprehensive

effort that includes providing a wide range of training, technical assistance, and technology to help states and communities address this complex crime problem. We will also continue to take an active role in the Federal Agency Task Force on Missing and Exploited Children, which promotes a coordinated federal response to these issues. We pledge to work with the Congress to address the issue of how best to protect the public from dangerous sex offenders, including through the public availability of sex offender registration information.

As the Attorney General said in announcing the NSOPR initiative, "We must fight violent crimes – especially crimes that steal the future from our children…Names like Jessica Lunsford and Megan Kanka highlight the importance of this new technology. Their smiles – wiped away forever by sex offenders – are a constant reminder that we must keep parents and communities informed and engaged."

Thank you for the opportunity to describe the Department of Justice's newest tool in the fight against violent crime. The NSOPR's real-time access to public registry information offers parents, grandparents, and concerned citizens the ability to protect children by identifying sex offenders nationwide through a single search from their home computer – or even from a local library with Internet access. I think you will agree that there is powerful value in the right information being available at the right time to prevent many crimes from ever taking place.

I will be pleased to answer any questions you may have.

Mr. GREEN. Thank you; appreciate the testimony.
Mr. Allen.

TESTIMONY OF ERNIE ALLEN, PRESIDENT & CEO, NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

Mr. ALLEN. Mr. Chairman, Members of the Committee, we are honored to be included in the hearing today. And thank you for your long-time leadership on this issue.

Sex offenders pose an enormous challenge. Most of their victims are children. Most of those children are not members of their own family. Most of these offenders are not in prison. And those that are, tend to serve limited sentences.

While most sex offenders are in the community, historically their presence has largely been unknown to the citizens of that community. Sex offenders represent the highest risk of re-offense. And while community supervision and oversight is essential, the system for providing such supervision is overwhelmed.

There's strong empirical data that address this issue. According to the Department of Justice, 67 percent of reported sexual assault victims in this country are children; one out of three under the age of 12.

In 1997, the Congress mandated the National Center to create a CyberTipline, a national resource for reporting child sexual exploitation. Since 1998, we've handled more than 325,000 reports, resulting in hundreds of arrests and prosecutions; 112,000 reports last year alone.

In 1994, Congress passed the "Jacob Wetterling Crimes Against Children and Sexually Violent Predators Act." As a result, today all 50 States and the District of Columbia have sex offender registries. This was groundbreaking child protection legislation. However, 11 years later, there are problems in the State programs that we believe thwart the original congressional intent.

Mr. Chairman, you mentioned it in your opening remarks. Today, there are 550,000 registered sex offenders in the United States, but at least 100,000 of those offenders are non-compliant—literally, missing.

A great deal of discretion is left to the States—appropriately—in how they implement their registration programs. But the result is that there is a significant lack of consistency and uniformity from State to State. There are loopholes 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.

Let me just cite a few examples of the discrepancies we believe exist. In eight States, the burden to notify authorities in the new State to which the offender is moving is solely attached to that offender. So only he has the obligation to tell the State to which he's moving. In two States, neither the offender nor the State authorities are required to notify authorities in the new State. In another three States, this issue is not even addressed in the law.

There are only five States in which probation and parole must be revoked when an offender fails to comply with registration responsibilities. There are only eight States in which an offender's

probation or parole may be revoked for failure to comply with registration.

In 31 States, the penalty for failure to register is just a misdemeanor. In three States, offenders have more than 10 days to notify authorities when they change their address.

We suspect that those who represent the greatest threat to children are also the least likely to be compliant. There are at least 100,000 non-compliant offenders; people like the killer of Jessica Lunsford, who was not where he was supposed to be and whose presence was unknown to police or Jessica's family, even though he lived 150 yards down the street from her and had worked construction at her elementary school.

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

Yet the challenge to do that is daunting. We recently surveyed the State registration agencies, and heard almost universally about a lack of funding, a lack of personnel, outdated technology, lack of centralized communication systems. In many instances, registration verification is by mail, and not in person.

Tracking the location of these offenders is only part of the challenge. Equally important is community notification. In 1996, Congress amended the Jacob Wetterling Act to include a Federal Megan's Law, mandating State community notification programs. States are given broad discretion, but in practice, that notification is either passive, requiring the public to initiate contact to get information, or active, by which law enforcement officers initiate contact themselves through community meetings or posting fliers or visits to residences within a radius of the offender's address. Today, in 17 States that notification is passive only. Thus, it's up to the public to continually seek out this information on their own initiative.

We commend the Attorney General for his recent initiative in creating a nationwide sex offender database. Public access to this information is vital to preventing sexual crimes against children.

Mr. Chairman, in conclusion, the Wetterling Act and Megan's Law represented a giant step forward a decade ago. We believe that Congress needs to preserve that foundation. But America has changed. Today, there are more offenders; 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's hard to imagine a greater or more pressing priority. Thank you.

[The prepared statement of Mr. Allen follows:]

PREPARED STATEMENT OF ERNIE ALLEN

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 children [1]—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.

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 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

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[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.

[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.

- 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 re-offend 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
(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 en-

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

forcement 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 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.

Mr. GREEN. Thank you, Mr. Allen.

And now, Amie, welcome. We look forward to hearing from you.

TESTIMONY OF AMIE ZYLA, STUDENT, WAUKESHA, WISCONSIN

Ms. ZYLA. Thank you. My name is Amie Lee Zyla. I'm here to tell you my story, and ask you to change the law to prevent any future victims. I relived my nightmare because the law gave my abuser, Josh Wade, a free ticket to continue abusing children, and as a result so many more kids and their families have been hurt.

Nine years ago, I was sexually assaulted at the age of eight. My abuser hurt me in my own home, where he had gained a level of trust—and then so brutally violated it. He stole my self-esteem, and made me feel so afraid—so afraid that I almost did not go to my parents, because I thought he would hurt me again. After I was able to fend him off, I then had to watch him assault my little friend, and endure a threat to my life, until he was put away.

While it was a very difficult time, I came forward when it happened, to stop him from hurting anyone else ever again. I also expected to never have to deal with my abuser again.

Then, one day about 9 years later, Josh Wade walked back into our lives. I saw him on TV, and was stunned to see that he was not only out in the community again, but that he had done it again.

When I first saw him, I was so disappointed. I was scared, and couldn't believe he was out. All those old feelings returned, and I was so sad for all the new victims. I couldn't believe there were so many new victims. How and why were there so many more victims? Why wasn't he caught earlier? And how did the system break down?

The more I thought about it, the more upset I became. I was so mad that what happened to me seemed like it didn't matter. It just didn't count. I didn't count, and the new victims didn't count.

It was wrong that my parents and I did not know he was out. He hurt me, he hurt my friend, and threatened my life. On top of that, no one could tell the community what he was capable of, because his rights were considered more important than my safety. My right to safety came second, in fact, to the fact that he hurt me

when he was a juvenile—a fact that didn't seem to stop him from hurting anyone else; but it did allow so many more other children to be assaulted.

Isn't it so very obvious this has to change? I decided my anger, and that of my family, needed to be expressed in a positive way. We decided to contact our government officials and change the law to protect our communities. No matter how old an offender is, Josh Wade proves that sexual predators will continue seeking out new victims, and hurt more people.

In Wisconsin, the community and government agreed with us, and enacted Amie's Law. But that is not enough. We cannot sit back and allow kids to continue to be hurt. The simple truth is that juvenile sex offenders turn into adult predators. Kids all over the country need the same kind of protection as in Wisconsin.

I pray that by coming forward again sexual abuse victims who can hear the sound of my voice understand that it is not their fault; that they must come forward and find healing and purpose.

Stand up to your abusers, and help law enforcement stop them from hurting anyone else. Abuse does not have to affect your whole life. If I can overcome the hurt and trauma, then so can you.

That began to make my attacker pay for his actions. Unfortunately, that was not the end of my journey. I had to come back and work to change the law to prevent juvenile offenders from getting the chance to harm other victims.

At this very moment, somewhere in this country a child's heart is being stolen. He or she is young, afraid, confused, and feeling dirty. That child is being terrorized by the most horrible kind of criminal. It happens every day, and it still hurts me deeply to hear another kid is experiencing that same kind of pain I did at 8 years old.

I want to challenge you to look deep down inside. Isn't it time to put our kids' safety before the rights of the sexual offender, adult or juvenile? When is enough going to be enough? Must we have even one more Jessica Lunsford, or one more Sarah Lunde, or even one more kid like me who must keep reliving the nightmare?

We need a national sex offender registry that includes juvenile sex offenders. Mr. Green has introduced a bill that will do just that; a bill that will ensure all offenders, regardless of their age, will be on the registry, and not able to work with children or hurt anyone else. I ask you to support Mr. Green's bill and the many other proposals you have heard about today. I ask you to help protect kids—kids like me. Thank you for your time.

[The prepared statement of Ms. Zyla follows:]

PREPARED STATEMENT OF AMIE LEE ZYLA

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Thank you for you time.

Mr. GREEN. Thank you, Amie. Very well done. Nice job.

Dr. Berlin.

TESTIMONY OF FRED BERLIN, M.D., ASSOCIATE PROFESSOR, JOHNS HOPKINS UNIVERSITY

Dr. BERLIN. Thanks for inviting me. I appreciate that very much. Let me make it clear that I'm not here to support or oppose any particular legislation today; but I hope to provide some information that may be of some help.

I want to make it clear that I do support fully the registration of sex offenders. That means having lists available to proper legal

authorities, names that can be distributed to people that need to know, and so on. But I do want to talk about concerns about two things. One is community notification; and the second, I want to make a couple of comments about the role of punishment.

First of all, with respect to community notification, I want to make it clear that the verdict is not yet in on whether or not that is proving to be successful. The State that's probably had it in effect for the longest is Washington State. I did a follow-up study, looking at what had happened in that State. There was no evidence that it reduced criminal recidivism.

Secondly, speaking out of my own personal clinical experience and research background, it is a sad fact that there are persons out there who want to offend. And if they are on a registry and listed in a community as being present, if they're listed in community "A" as being present, those people are simply going to go to community "B," where they're a lot less known, and still commit an offense.

On the other hand, there are a lot of offenders out there who are trying to succeed. I can tell you that out of personal experience. We, for example, published a large study on over 600 men in treatment. Over 400 had a history of pedophilic behavior. The recidivism rate was less than 8 percent.

The reason I believe that many of those men succeeded in treatment is they were able to get a fresh start. They could get jobs. They weren't feeling disenfranchised, angry at the community. They succeeded, I believe, in part because they were able to do those things. It begs the question whether, if we drive these people underground, are we actually making the community safer? Again, I think it's something we simply have to take a look at.

In terms of sex offender recidivism, just a couple of points that I think are important. The U.S. Department of Justice, through the Office of Justice Programs, took a look at sex offender recidivism. Surprised me. I worked in this area for many years. As a group, sex offenders have a lower rate—lower rate—of recidivism than people who commit other kinds of serious criminal acts.

Asking about the recidivism rate of sex offenders is like asking about the recidivism rate of drunk drivers. In other words, there is no one right answer. There's a tremendous spectrum.

At one end of the spectrum are people who really are going to continue to get back in trouble; at the other end, those who won't; and then there's the entire group in between. If you get an overzealous therapist here who says that most, if not all, sex offenders will not recidivate, that's an extreme statement that is not in keeping with the facts. Similarly, if you get someone who comes in, who says, "Once an offender, always an offender"—and you will hear that—that's also an extreme statement. It's simply not in keeping with the facts.

In looking at community notification, we also have to ask whether it could be harmful. Keep in mind, when we identify the offender, we identify his address. Much of offending has to do with things, unfortunately, that go on within the family. There is the risk of inadvertently identifying victims. There is now concern that some victims of incest may be deterred from coming forward.

I can give you a brief anecdote of a child that I was aware of, where the teacher, meaning well, read out a sex offender registry

in school. The peers of this child looked over at him and said, "Hey, isn't that your dad? And by the way, were you his victim?" It's not clear how that was helping to make the community safer. And these are not anecdotes that are simply isolated examples. The verdict is not yet in.

In terms of the role of punishment, pedophilia is a condition, to give an example, in which persons are sexually attracted to young children. If the only thing we do is punish these individuals, there's nothing about being in prison that can either erase those attractions or enhance their capacity to successfully resist acting upon them.

We need both the Attorney General and the Surgeon General involved in this, if we're going to adequately protect community safety. Let me make it clear, I very firmly support the criminal justice stance. But what is often given very meager attention in all of these discussions is the public health side of this.

In terms of harsh mandatory punishments, again, people can do that if they want to. But much of what goes on is within the families. Many victims, in spite of the victimization, are struggling to put their family back together. They are hoping that the person who's done wrong can have a chance to succeed. There are numerous instances of families doing well after these kinds of tragedies have occurred.

Are we going to get to the position where we were when we first started the war on drugs, where having an ounce of marijuana led to mandatory sentences of an extreme length? Many victims don't want their victimizer to go away for a long period of time. That's simply a fact.

To finish up, if I may—and I may be using my time, so very quickly—four points that I think need to be made, that are often missing in these discussions:

Number one, what I'll call "truth in language." We used to talk about truth in sentencing. The word "violent," in terms of its everyday meaning, is clearly not what is being used in many of the legislative bills that are out there. Attempted touching can mean "violent." The word "predator" often does not have its everyday meaning. Someone who's exposed himself to a child who's 13 can be labeled a predator in many of these statutes. Somebody who's been involved statutorily—a 17-year-old who was involved with a 14-year-old—can be labeled a predator. Let's have truth in language, so we know what we're really dealing with.

We don't have much discussion about what can help these people succeed. Most of them, like it or not, are in the community. We try to help bank robbers; we try to help murderers, even. It's in all of our best interests to help these people succeed.

There should be some discussion of public policy based on the exception rather than the rule. We've heard a lot about Jessica Lunsford. It is horrible. But kidnapping, sexual assault, and murder is a fraction of a percent of the big problem. Do we want to base public policy on the exception rather than the rule? Is that likely to be the most effective public policy?

Finally—and I thank you; I may have gone over. I'm close to going over—the last point I want to make is that in almost all legislation that we get involved with, and that you folks get involved

with, there is a system of checks and balances. And that often, in my judgment, leads us to a consensus, which often has as the result effective legislation.

As you all know, there's not really much of a balance of advocacy when we come to these issues. We can ask two kinds of questions. We can ask, "How can society be made safe?" All of us want an answer to that question. And the point I would make here today is, if we're asking how to make society safe, let's make sure that what we're proposing has evidence that it's really going to do that. That's the first point.

A second question we can ask is not exactly the same question. That is, "How, in the context of being safe, can we also be just and fair?" Now, when we're in this area, there are people who are going to say, "Why the heck should we be just and fair?" Well, I'll give you the answer to that. What makes this country—or one of the things that makes this country so great is, not only are we interested in being safe, but we are also interested in being just and fair. That's what this country is all about.

We need to do something for people like Amie. There isn't a decent human being who doesn't want to do that. But we owe it to her to get it right. And I hope some of the conversation that I presented to you today will stimulate some thought and help in this effort to get it right. We all want to do good things for those who are victimized. Thank you.

[The prepared statement of Dr. Berlin follows:]

PREPARED STATEMENT OF FRED S. BERLIN

My name is Fred Berlin, and I am an Associate Professor of Psychiatry at The Johns Hopkins University School of Medicine. For your convenience, I am enclosing a brief professional biography as well as a copy of my full Academic Vitae. My area of specialization within Psychiatry is sexual disorders, a spectrum of conditions which includes within it pedophilia. Therefore, I am also enclosing the draft of a recent paper, soon to be published, regarding that topic. I have become involved in this work, in part, out of the belief that doing so contributes to the effort to protect the public by decreasing victimization.

The primary focus of my current concerns will relate to two issues: (1) the usefulness of community notification as a means of enhancing public safety, and (2) the likelihood that enhanced punishments will better protect the public from sexually disordered sexual offenders.

I have no problem with the notion that sexual offenders should register, thereby making information about them available to legitimate criminal justice authorities. However, it appears that at this point in our history, lists of registered offenders can quickly be accessed through the Internet, thereby, in many instances, making such registration synonymous with community notification.

A number of horrible cases involving kidnapping, sexual assault, and murder have recently been highly publicized, even though such cases represent a fraction of one percent of the big picture when it comes to the issue of criminal sexual offenses. Instead, the overwhelming majority of sexual offenses are initiated by a family member, a close friend, or an acquaintance whose prior background is, in many instances, well known to both the victim, as well as to his, or her, family.

It is important to appreciate that when community notification occurs, in those cases involving incest, the identity of the victim, or victims, may at the same time be revealed, even if he or she is not mentioned specifically by name. I am aware of a recent incident in which a teacher was reading out in class for educational purposes the names of registered sexual offenders. That led one child to ask a classmate whether it was his father on that list, and whether in fact it had been he who had been a victim. As can be imagined, that child felt traumatized by the experience.

There is currently emerging anecdotal evidence suggesting that incest victims, and their families, may become less willing to come forward because of the multitude of problems associated with their home becoming a listed address on a reg-

istry of sexual offenders. The only systematic study conducted so far regarding the effectiveness of community notification has been done in Washington State. It failed to find any reduction in sexual offender recidivism as a consequence of such notification.

Sex offenders who are trying to reside safely in the community, and there are many of them, can clearly be hurt by community notification statutes. I was the senior author of a published study on over 400 men with pedophilia treated in the community, which documented a 5-year sexual recidivism rate of less than 8%. For those men who had been fully compliant with treatment, the recidivism rate dropped to less than 3%. In my judgment, many of these men had succeeded in treatment because they were able to get a fresh start; they could obtain gainful employment; the property value of their residences remained uncompromised; and they were not feeling disenfranchised and publicly stigmatized.

On the other hand, persons who want to commit a sexual offense, who have been identified in community "A" can simply go to community "B," where they are likely less well known, and do so there. That doesn't solve the problem. It simply moves it to another location. In my judgment, it is only those who are trying hard to live safely in the community whose efforts, in many instances, may be compromised by such legislation. That does little to make the community safer. If there is to be community notification, much more information about level of risk to the community must be given, along with the information about what citizens should and should not be doing with that information. In my judgment, all of this needs to be carefully considered before enacting any further legislation.

Recently, a fully voluntary patient in our treatment program, who was residing in a structured group home, under close supervision, was forced to leave that home, after an individual who had seen his name (and picture) on a list of registered sexual offenders threatened both he and the home in question. It is difficult to see how such an act did anything to make the community safer. Yet, acts of that nature have reportedly occurred with some regularity.

Much of the recent legislation involving sexual offenders has been based upon the assumption that they are at an inordinately high risk of re-offending. Data gathered by the United States Department of Justice has documented that, as a group, sex offenders have a lower rate of criminal recidivism than persons who commit other sorts of serious criminal acts. Asking about the recidivism rate of sex offenders is analogous to asking about the recidivism rate of drunk drivers. There is no one answer to that question. The overzealous therapist who argues that the recidivism rate of all sex offenders is invariably low is presenting an extreme point of view that is not in keeping with the facts. On the other hand, the individual who argues "once an offender, always an offender" is similarly presenting an extreme viewpoint. Significant numbers of sexual offenders can, and do, go on to become productive and safe members of society.

With respect to the issue of solving the problem of sexual offenders by means of more stern punishments, I would want to point out the following. If a man goes to prison sexually attracted to children, incarceration alone can neither erase his pedophilic cravings, nor can it enhance his capacity to resist succumbing to such desires. Furthermore, sooner or later, like it or not, even in the face of current proposed legislation, most sex offenders will be in the community. As with drug addiction and alcoholism, pedophilia, and a number of other sexual disorders, are both a criminal justice matter and a public health problem. In that sense, both the Attorney General and the Surgeon General must be involved. Psychiatric disorders, such as pedophilia, can neither be legislated nor punished away.

All of us are victim advocates, and public safety must come first. However, within the context of doing everything within our power to ensure the common good, ours is a nation that still tries to remain both fair and just. In most instances, when new legislation is proposed, there is a system of checks and balances involving competing advocacy groups. That frequently leads to an outcome involving balance and consensus. For obvious reasons, such checks and balances are often missing when discussing legislation involving sexual offenders.

No one would propose legislation to deal with the problem of alcoholism based primarily upon looking at the recalcitrant alcoholic who continues to drive drunk. To do so would be to propose legislation based upon the exception rather than the rule. On the other hand, even though only a fraction of 1% of sexual offenses involve kidnapping, sexual assault and murder, much of the recent legislation in this area has been based upon the exception rather than the rule. That begs the question as to whether this represents effective and optimal public policy. In addition, when it comes to issues of punishment, there needs to be proportionality. That is, the punishment should be proportional to the crime committed by a specific individual, rather than a mandate driven by the much more serious criminal acts of someone

else. Many families in which incest has occurred still struggle to remain intact, and they do not want their loved one, in spite of his offense, to serve a sentence of 25 years to life. In my judgment, such legislation may, in some instances at least, simply drive the problem underground, hurting families, and leading some victims to be reluctant to report offenses.

In my judgment, the most crucial question to ask regarding any newly proposed legislation in this area is whether there is any evidence that it is likely to make the community safer. In many instances, for the reasons noted above, the answer to that questions when looked at objectively would appear to be no.

Finally, although community safety must absolutely come first, it is still appropriate to appreciate the inherent humanity of many of those who have acted improperly. That is of particular importance in these instances because, as noted, the ordinary checks and balances affecting most legislation are often absent in these cases.

Someone once said that the moral fiber of a nation can often be gauged by how it treats those citizens whom it could easily cast aside. In my judgement, current legislation in this area calls upon each of us, as concerned Americans, to face up to that challenge.

Mr. GREEN. I thank you for your testimony, and all the panelists. I was following you, Dr. Berlin, in most of your testimony; although toward the end you said a few things that I just wanted to touch upon, that I think were perhaps unfortunate.

You seemed to compare—you made reference to one ounce of marijuana. You're not seriously suggesting that pedophilia is the equivalent of possession of one ounce of marijuana——

Dr. BERLIN. What I'm suggesting——

Mr. GREEN.—in terms of the great scheme of moral behavior?

Dr. BERLIN. I'm sorry, I didn't mean to interrupt you. I apologize.

What I'm suggesting is, just as we know when it comes to drug addiction there is a spectrum—there's a big difference between the drug dealer and the kid who is experimenting and has a little bit of marijuana, and we don't want to have comparable punishments. When we first started the war on crime, there were a number of jurisdictions in which the user who was experimenting had these horrific sentences.

The point I'm making is that, when it comes to sex offenders, there's this same spectrum. We believe in proportionality. The punishment should suit the crime, should fit the crime.

I am concerned. And again, I'm not trying to take sides on specific bills, but I'm concerned, as a citizen now, that I would not necessarily want to be part of supporting a system in which individuals are punished not in proportion to their own crime, but where the punishments are driven by the crimes of others who've done things that are far more serious.

Mr. GREEN. But again, in that analogy, you're not suggesting that someone who experiments with marijuana in his or her room is the equivalent of someone who victimizes a young child?

Dr. BERLIN. Absolutely not.

Mr. GREEN. Okay. I just wanted to make sure, as you made your references here.

You have in your testimony, I thought, a good point; hopefully, one that we're addressing. You said the persons who want to commit a sexual offense, who have been identified in community "A," can simply go to community "B," where they are less likely well-known. Well, isn't one of the answers to that to make sure that in community "B" they can get that same information; so that you don't have the problem of the only knowledge of a person's offenses is a restricted area where that person first emerged?

Dr. BERLIN. The problem is, I don't see how to make that work. And again, if I can be persuaded that this makes the community safer, we need to do it. But the person who is wanting to commit an offense, and driving off to community "B," isn't going over there to identify himself. He's getting out of an area where people know him.

None of us can be aware of the identities of offenders in every jurisdiction. So in real life, he's going to go someplace where the odds are, in spite of the notification——

Mr. GREEN. Well, wouldn't one of the answers to that be—in fairness to you, you obviously weren't here for the previous hearing, when a number of bills were brought forward that would talk about this national database that would be accessible online; so that in fact we wouldn't have to rely upon solely the offender to go and make himself known. I mean, wouldn't that provide greater safety for that community?

Dr. BERLIN. Well, again—and I'm not trying to be argumentative—if this is an offender who wants to offend, and he's known in his own community where nobody is going to tolerate him hanging around areas where there are children, he gets in his car, he drives to another community. People don't know who he is. There's no red flag going up. It's just not clear to me how that's going to work.

Mr. GREEN. Of course, one of the answers would be—in the bills we've taken up—would be to keep that person behind bars. If a person is going to be likely to re-offend, as you've just set out, we actually can prevent that crime. That person behind bars is not likely to offend.

Dr. BERLIN. Well, look, we've got to deal with reality. Sooner or later, like it or not, even with new legislation, the fact is there are hundreds of thousands of offenders out on the streets. If there are some we can keep behind bars, and it's legitimate to do so, fine. But that's not what we're talking about here.

Mr. GREEN. I think it is, actually.

Dr. BERLIN. Community notification about people behind bars? As long as they're behind bars, what do we need community notification for?

Mr. GREEN. We are talking about a series of bills, including mandatory minimums, which will keep persons like that behind bars for a longer period of time, and give families the tools, the knowledge-based tools about who is in their midst.

And I think in the case of Amie's Law, we're also talking about making sure that these individuals don't get into positions of authority, where they have contact and can prey upon young people. You know, I think that's the difference that we're talking about here.

Obviously, when we're talking about national statistics it's almost impossible to say with firm proof what will bring crime rates down. There is a lag time, obviously, cause and effect. But obviously, I think you would agree, if a person is behind bars, they can't recommit.

And if a family knows that the person who has moved in next door, who is applying for that job at a non-profit or at a camp, is someone who has committed a serious sex crime against kids in the

past, doesn't that give us pretty good tools for preventing the re-offense? I mean, wouldn't that logically have a positive effect in bringing down, at least in that community, the possibility that person is going to re-offend?

Dr. BERLIN. Well, certainly, I think it probably does in that community. But we're here, you know, in terms of policy planning, not simply to move the problem, but to solve the problem. That's what I think we really need to come up with.

Mr. GREEN. I think that we are talking about both. I think we're talking about trying to give tools to parents, to give them the tools to protect their kids.

Dr. BERLIN. The other thing, if I may, and I don't want to take up——

Mr. GREEN. Sure.

Dr. BERLIN. As I said, if I can be persuaded this works, I would want to be for it. I'm simply suggesting——

Mr. GREEN. We'll work on that.

Dr. BERLIN. Right. But I wanted to make the point that if there is to be notification, then I think you need to both present people with enough information to get a true sense of what the risk may not be, and some guidance about what they should do with that information, so they can deal with it in a positive fashion.

Mr. GREEN. And actually, I will say that one of the Members in the previous hearing brought that up and actually made some suggestions. So that is something, I think, that we'll certainly be looking at.

Mr. Scott.

Mr. SCOTT. Thank you. Dr. Berlin, let me follow up on that. If you've got these registries and they work well for the neighborhood, and someone moves—drives across town or across 50, 75 miles, to commit crimes, the parents might know that there is a problem, who are the people in the area, but they wouldn't know who's coming into the area because they've driven from their own neighborhood. Is that the point you were making?

Dr. BERLIN. Yes, that was one of the points I was making.

Mr. SCOTT. Ms. Henke, you indicated in your written testimony that statistics have shown that recidivism rates for these offenders is extremely high? That was in your written testimony?

Ms. HENKE. Yes, sir.

Mr. SCOTT. Were you referring to the 1994 study that's on the Department of Justice website?

Ms. HENKE. That's part of it, as well as other information from the National Center and other organizations.

Mr. SCOTT. Does the Department of Justice website say, "Compared to non-sex offenders released from State prison, sex offenders had a lower overall rearrest rate, when the rearrests of any type of crime, not just sex crimes, were counted. The study found that 43 percent of released sex offenders were rearrested. The overall rearrest rate for those released for non-sex offenders was higher; 68 percent"?

Ms. HENKE. Yes, it does.

Mr. SCOTT. Does it say that, "Of the released sex offenders, 3.5 percent were reconvicted of a sex crime within the 3-year follow-up period?"

Ms. HENKE. Yes, it does.

Mr. SCOTT. Dr. Berlin, can you describe the Washington study that you referred to?

Dr. BERLIN. Well, it's been a while since I've read it, so I want to be careful. But it is available; it's been published.

They found two things. They found that after a crime had been committed, there was a more rapid identification of the offender. Now, I think registration itself will accomplish that, and I certainly support registration. So they did find that it helped law enforcement apprehend after the fact.

What I think we all also want very desperately to do is to intercede before the fact. And what the study did not find is that, in comparing arrests before that had been—the community notification went into effect, and afterwards, that there had been a reduction in recidivism of sex offenders.

Now, there needs to be more research. You make a good point. It's early on. I just want people to think about these things, because sometimes I worry there's a rush to judgment here. And I think this is so important. We want to try to get as objective a sense of the facts as we possibly can; at least, in my judgment.

Mr. SCOTT. Of all child abuse cases, do you have any information as to how many of the children victims of child abuse were victimized by convicted—those who had previously been convicted of a child sexual offense?

Dr. BERLIN. I don't know that. What I do know is that many victimizers are former victims. So that one of the other things we need to do is target those, particularly boys who've been victimized; try to provide them with services earlier on. That may be something that will also help to prevent victimization. But I don't know the answer to your original question.

Mr. SCOTT. Would you think it would be very small, the portion of children who have been victimized—of all of them, the portion who have been victimized by those caught and convicted and on a registry?

Dr. BERLIN. Well, again, I don't want to go beyond my expertise. I don't know. What I do know is that, if you've committed a serious sex offender more than once, as things exist today, you're likely not going to be out there in the community. I'm not opposing that.

What we're talking about is people who aren't in that position. You know, nobody needs to figure out what to do about the guy that killed Jessica Lunsford. We all know what to do about that. The issue is the guy who's involved incestuously with his daughter. Are we going to treat him in exactly the same way?

Mr. SCOTT. Now, you mentioned some things that you can do to actually reduce the incidence of child sexual abuse. Do you have other initiatives that we ought to be looking at?

Dr. BERLIN. Well, we ought to look at everything. I mean, I think parole and probation—the Justice Department set up an entity called CSOM, Center for Sex Offender Management. They're working on helping parole and probation officers know how to do a better job in monitoring these people. Supporting that, I think, is extremely important.

Many of these parole and probation people are stretched very thin. I think we want to be able to have them have smaller caseloads.

We work collaboratively in our program with parole and probation. For example, Federal probation often actually goes out and surveils people. But they need more help to be able to do that. You know, frankly, if somebody came to me and said, "There's a person in your community, he's dangerous," I'd kind of throw up my hands and say, you know, "I'm not sure what I should do about it. Is somebody out there watching him?"

I think we can do more to be sure—if we think he's that dangerous, and we can't get him off the streets, to make certain someone's out there watching him. That's why I say we shouldn't look at this in a vacuum. How can we best spend our money, use our resources, for the common good?

Mr. SCOTT. And Ms. Henke, as I understand it, there are about 500,000 people who are supposed to be registered, and 100,000 we don't know about?

Ms. HENKE. That's correct.

Mr. SCOTT. Who is going to pay for the follow-up to make sure people are in compliance?

Ms. HENKE. Well, one of the things, that does fall on State and local entities, predominantly, as well as the registered sex offender. You have communities, counties, States across the country, that are putting in place some interesting—I'll call them pilot programs, on trying to track down offenders who are not living at their registered address.

For instance, there is a county in Florida who literally has put those pictures of those offenders up throughout the community and through other places, saying, "Have you seen this individual?" Because they've gone to those homes; they're not living where they're registered. So activities like that are going on.

Also, through our Center for Sex Offender Management, as was mentioned, we are providing training and technical assistance to State and local authorities on ways to better track offenders.

Mr. SCOTT. But—just a quick follow-up—but in the various pieces of legislation, that will still be the State and local problem, not the Department of Justice?

Ms. HENKE. Most of these crimes are—yes, sir, it would be.

Mr. GREEN. Ms. Sheila Jackson Lee.

Ms. JACKSON LEE. Thank you very much. Let me again thank the Chairman and the Ranking Member for holding what I think is an enormously important hearing. And I'll restate my position that I made earlier today, that we need a national comprehensive statement that parallels, Mr. Allen, with what you all have been doing for a number of years.

Amie, I want to thank you. I have an enormous debt of gratitude to extend to you for your courage, for your strength of character, and for your can-do attitude. And I'm going to tell you, you're going to beat this. And as you do this, you're going to help educate and encourage and embrace children and young people around the Nation and the world. We applaud you for what you have done.

And I want you to know, as I listen to Dr. Berlin, let me say this. We can do both. We can find a balance that recognizes where there

is an opportunity for rehabilitation, for the lowering of recidivism, for the protection of privacy rights. If we've been able to go into space, and if we are headed to Mars over the next couple of months and years, I can't imagine that we as a country cannot provide that balance.

I would refer you to a section in H.R. 244, which is legislation that I wrote, that provides for incentives to States as they work toward programs dealing with recidivism. Which may mean a myriad of things. It may mean treatment, it may mean other kinds of deterrence factors that would encourage.

I would appreciate you just commenting on the aspect of States not only looking for some of the criminal penalties, but also addressing these questions, whether it's through the mental health system or not; but to really go head-on on the question of recidivism.

I happen to think, let me just say very clearly, one violent predator, one child sexual predator, is one too many for me. I mean, plain and simple. I can't even tolerate the existence of one. I do hope people can rehabilitate their lives. But I would think that Amie, who sits next to you, would agree that one is one too many.

So I'd appreciate your comment on the idea of a State looking to enhance programs dealing with recidivism.

Dr. BERLIN. Well, if I may—and if it's off-topic, you can correct me—but I think society in general needs to try to figure out how we conceptualize these problems. To give you an example, several States, as you know, now have civil commitment of sex offenders.

What happens is, in practice, that a number of these men come into prison initially. They say they're sick, they need help, they need treatment. The attitude is, "You're just trying to beat the rap. Let's get you off to prison where you belong. We'll punish you." They spend 20 years in prison with virtually no help, no effort to rehabilitate them. Then, they're ready to leave. Suddenly, the rules change: "We realize what's going on here is you're sick, you need treatment. We're going to go and put you someplace where you can get that help."

Are these people ill, or are they bad? I think there are some people out there that are simply bad, and I have no problem saying that, but I think there's others——

Ms. JACKSON LEE. If I may, because my time is short, I would assume, then, that you would look favorably at an approach where States have to look at programs, however they deal—may approach the mental health, the treatment beforehand, the treatment after—but that they approach it from the perspective, "What can we do to avoid the recidivism?"

Which is, I think, Amie's point; which is the predator that she experienced came back even as a juvenile, and continued to act out in this horrible, negative way.

Dr. BERLIN. Absolutely. We should expect prisons to rehabilitate. Right now, we hold them accountable, "Don't escape, don't have a riot," and so on. They should rehabilitate. People that have come out should have a transition. Someone should be following them. If we see they're headed for trouble, we should have a way of pulling them back in.

Ms. JACKSON LEE. So you would be supportive of States giving incentives that devise programs dealing with recidivism?

Dr. BERLIN. Absolutely. Start right up-front when somebody's arrested, particularly if they're going to come back out, and do it from "A" to "Z."

Ms. JACKSON LEE. I appreciate it. Mr. Allen, let me first of all thank you for your work, and ask you on this question of—and I hope Ms. Henke can answer, as well. I've looked at and heard your testimony that the Department of Justice, General Gonzales, is looking at refining your registry list and working with States.

Do you think, as we've looked at the number of legislative initiatives—and I'd appreciate if you'd comment on something that is a little separate and apart, which is the idea of a DNA database on convicted sex offenders; which is a little different from the registry. But do we need legislative intervention? We've had it, where you've advocated for it before, and it's worked.

Again, does that tie into the National Government making a Federal statement, a national statement, when you intervene legislatively? Whether it be on the registry, or whether it be in particular on the DNA registration on convicted predators?

Mr. ALLEN. Well, Congresswoman, first, as it relates to the registry, we think Congress made a strong, loud national statement in 1994 with the passage of the Wetterling Act and with the Federal Megan's Law.

We think this is an issue where there is huge opportunity for greater Federal leadership. We believe in federalism. We know the States have a role, but we think the Congress can play a key role in filling some of these gaps and addressing some of these problems. And we think that's a process that the Committee is looking at and we certainly support.

Secondly, as it relates to DNA, as you know, we are strong advocates of a national DNA database. In fact, efforts—you know, there is a process in place that goes beyond sex offenders. The big challenge there has been compatibility between State databases and the FBI's CODIS database. We think that's a problem that needs to be fixed.

Congress, I think last year, took steps to set up four regional centers. The University of North Texas, in fact, is the first such center which is basically handling State DNA samples and translating them or adapting them into the CODIS system. The big challenge is the FBI standards are higher than many of the states'. Much of that may be because of resources.

But DNA is important not only to convict people, but to exonerate those who have been accused unfairly. So we support it very much.

Ms. JACKSON LEE. Thank you. I'm not sure if we have an additional round. Would you indulge me, and let Ms. Henke answer the question that I raised, and Amie?

Mr. GREEN. By all means.

Ms. JACKSON LEE. I assume, Mr. Allen, you're talking about this very important system.

Ms. Henke, I'm just wondering, are you here explaining, or is there any opposition now with the Department of Justice that we do as Mr. Allen has asked us to do and Amie has noted, to enhance

what we have; even though it looks administratively that the Department of Justice is consistent with our national statement? Can we enhance what we're doing legislatively; and in particular, a DNA bank that is directly related to convicted sexual predators?

Ms. HENKE. As you know, the Department, and the Administration overall, understands and is looking forward to continuing to work with Congress on the different bills and legislation that has been introduced.

When it comes to DNA, the President has stated clearly he understands the importance of DNA in convicting offenders, as well as, as correctly pointed out by Mr. Allen, identifying the innocent as well, making certain that those individuals are served and protected as well. That is why he has committed over a billion dollars right now to reduce the backlog that exists in crime labs across the country, through the Office of Justice Programs. We're the ones who oversee those resources.

The Attorney General stated clearly, when he announced the public registry, the need for that information. The idea that information—to use almost a cliche, information is power. Information can serve as a preventative mechanism for communities, for parents, for grandparents. That is why he challenged us to use the technology that we have to establish this national registry.

We think this national registry will also serve as a tool for States to look at what each other is doing, and for them to say, "You know what? We can improve upon what we are doing in our own State." This provides them that opportunity to look at how their registries work, and how they don't work; what information is available, what information is not.

As you know, State law is just that, and it's different in every single State. And so this registry we believe not only will provide information to the public, but will also help us work with the States in potentially addressing some of the issues administratively, and potentially get that done quicker.

The Attorney General is committed to working with the Congress on this issue and on a variety of bills because, as he has pointed out—and in reference to Mr. Scott's statistics and in reference to your statement earlier—yes, it might appear that the recidivism rate is not high, when you're talking about the statistics, when you look at it in just that way. However, when you look at the fact that the recidivism rate was 5.3 percent overall, that was 514 additional sex offenses that occurred in those 3 years—515. And the majority of those against children under the age of 13. So the Department of Justice is committed to working with you.

Ms. JACKSON LEE. And I hear you saying that you're certainly not suggesting that we cannot work together on enhancing what we have through legislative initiatives, and that the Department of Justice will work with us?

Ms. HENKE. Yes, we will.

Ms. JACKSON LEE. Chairman, if I may finish by raising this point with Amie, I think that Amie has exhibited the importance of both outreach and education.

Mr. GREEN. Right.

Ms. JACKSON LEE. And as well, courage, as I said. It might be worthy—and I'm not sure if any of our legislative initiatives has

the idea of a massive—and I know Missing and Exploited Children's Center has done so—public campaign that would utilize those who would be willing to be utilized, on just speaking directly to children on some of the do's and don'ts.

But Amie, let me say to you that you're here before us today, and I simply asked the question whether you would welcome the opportunity, in your own time, to teach other children or to make sure that they knew about some of the things that they should not do. And also, that would give us some ability to learn from you as well. Would you work with us?

Ms. ZYLA. Uh-huh.

Mr. GREEN. In fact, if I can interject, I think that's what she's done back in Wisconsin. And obviously, her presence here—Amie, as you can tell, we're all very impressed with your courage, with your story. And we're going to make sure that we put it to good use. So I want to thank you.

Ms. JACKSON LEE. Thank you, Amie, very much.

Mr. GREEN. I want to thank all the witnesses for coming today. We appreciate it very much. We've had several hearings on the subject of crimes against children, and we will produce good legislation and results. I want to thank all of you. Keep up the great work.

In order to ensure a full record and adequate consideration of this important issue, the record on this hearing will be left open for additional submissions for 7 days. Also, any written questions that a Member wants to submit should be submitted within that same 7-day period.

This concludes the oversight hearing on "Protecting Our Nation's Children From Sexual Predators and Violent Criminals: What Needs To Be Done?" Thanks to everyone here for their cooperation. The Subcommittee now stands adjourned.

[Whereupon, at 5:05 p.m., the ubcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF CONGRESSMAN ROBERT C. "BOBBY" SCOTT

Thank you, Mr. Chairman, for holding this hearing on what's needed to protect children from sexual predators and other violent criminals. It is interested that we held the hearing on the legislation that has already been drafted to purport to that, but since it has not been enacted, it is clear that we are still open to hear what are the best approaches, and can adjust the legislation, or craft new legislation, to reflect the advice we receive. Unfortunately, our tendency as policy makers is to respond to what's in the media with what sounds good politically without ever considering what research, evidence and mature reflection might suggest.

Child deaths as a result of sexual abuse or other violence is so tragic as to shock the conscious. The visceral reaction we all have is to simply strike back with all the punitive weight of the government. As policy makers, it is incumbent upon us to not simply do what our emotions or politics command, but to do something that will actually reduce the incidences of these crimes. We know that many more children die as a result of child abuse than is reflected by the tragic cases of child sexual abuse and murder that have been in the news, and we know that the vast majority of child abusers, including child sex offenders, were abused themselves as children. We also know that the vast majority of abusers are relatives and other individuals well known to the child and family, 90 - 95% according to BACHNET (Be a Child's Hero Network), and that most cases of abuse are never reported to authorities or ever dealt with in an official manner. Further we know that while some child sex offenders are predatory and repeat their crimes many times, the vast majority do not recidivate. Extensive studies by DOJ and other entities indicate that less than 5% repeat their offenses. Any repeat sex offense against a child is horrible, but wehave to consider whether the cost benefit of treating 100% of known offenders the same is cost effective aainst the other vast needs for preventing abuse of children.

It would be nice to think that we can legislate away the possibility of such horrific crimes, but it is not realistic to believe we can and we should certainly seek to avoid enacting legislation that expends scarce resources in a manner that is not cost effective or that exacerbates the problem. While it is clear that having police and supervision authorities aware of all location and identification information about child sex offenders, it is not clear that making that information indiscriminately available to the public, with no guidance or restriction on what they can do with, or in response to, such information, is helpful to children. There have been incidences of vigilante and other activities which have driven offenders underground. And, again, the vast majority of offenders are family members or associates known to the victim; so we don't want to make the victims reluctant to come forward because their home and family will be exposed by a registry.

Moreover, some of the bills that have been proposed have elaborate procedures and requirements of that will cost a lot of money to implement. We should assure there is a cost benefit analysis of what would be the most productive use of such money rather than simply impose the requirements without references to effectiveness or cost/benefit.

So, Mr. Chairman I look forward to the testimony of our witnesses for insight on the question of what approaches are most promising in helping to reduce the scourge of sexual and other abuse of children. With the vast majority of child sexual and other abuse cases going unreported, the notion that we can address the issue by punishment and law enforcement approaches alone sounds hollow. Thank you, Mr. Chairman.

LETTERS SUBMITTED BY THE HONORABLE MARK GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN AND MEMBER OF THE SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY ON BEHALF OF ALLISON GULLICK, MARC KLAAS, AND ERIC AND MICHELLE WILKINSON

MARK GREEN
8TH DISTRICT, WISCONSIN

ASSISTANT MAJORITY WHIP

COMMITTEE ON THE JUDICIARY

COMMITTEE ON
INTERNATIONAL RELATIONS

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

June 16, 2005

Mr. Chairman, I would like to submit the attached letters for the record for the hearing that was held June 9, 2005 entitled, **"Protecting our Nation's Children from Sexual Predators and Violent Criminals: What Needs to Be Done?"**

Rep. Mark Green, WI-08

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I am a sixteen year old high school sophomore and a recent victim of sexual assault. Every day I become traumatized all over again because the registered juvenile sex offender that assaulted me returned to my high school.

Last year he was found guilty of four felonies and required to register as a juvenile sex offender. Unfortunately, under the current Wisconsin state laws, this registered sex offender's record will be expunged at the age of eighteen. This means no one will ever find out about his deviant behavior when he becomes an adult. And he will be free to become a mentor, counselor, child care provider or even your child's teacher.

I was granted a no contact order that is not enforceable since his record is not to be shared with the public. The sad part of my situation is that no one knows about his sexual deviance because unlike other states near us, the Wisconsin laws currently protect the juvenile sex offender. He is free to do what ever he wants to harass me at school because the only people to know about his record are the principal and some school officials. They can't be with me every minute of the school day so I constantly feel threatened.

So who is being protected from juvenile sex offenders? Certainly not the students that come in contact with him every day who know nothing about his inappropriate behavior. Nor is the general public because information about him can not be released.

Convicted juvenile sex offenders should be treated differently than non-sexual juvenile criminals. For the greater good of society, I encourage you to pass a bill that puts into law safe guards to protect students and the community from all juvenile sex offenders by unsealing their records. Thank you for allowing me to speak to you today.

(Enclosed is an article written by me for my Journalism class at my high school)

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June 16, 2005

Members of the United States House of Representatives
109th Congress (2005-2006)
Washington, DC 20515

RE: The *Prevention and Deterrence of Crimes Against Children Act of 2005*

Dear Members of Congress:

As current events continue to illustrate, children are our most vulnerable citizens and continue to be victimized at alarming rates. It is increasingly apparent that laws designed to protect children from known predators are woefully inadequate. Whenever given opportunity pedophiles, psychopaths and other social miscreants will commit crimes against children with impunity, without conscience and with a total disregard for the consequences of their actions. This is why the KlaasKids Foundation supports and endorses Congressman Mark Green's *Crimes Against Children Act of 2005.*

One has only to look at the ever-increasing number of registered sex offenders who populate our streets or the pitifully inadequate prison sentences served by child sex offenders to understand that children are more vulnerable to sexual exploitation today than when my daughter Polly was kidnapped, raped and murdered in 1993.

Congressman Green's effort to ensure habeus corpus reform for child killers must also be applauded. The current ponderous process is inadequate and unfair, allowing these individuals more time in the court system than many of their victims had on earth. Under this act federal review of a defendant's appeal must be completed within less than two years, which is certainly much more consideration than was given to their victims.

The Prevention and Deterrence of Crimes Against Children Act of 2005 can deliver the message that America will no longer tolerate those who would terrorize innocent citizens through the exploitation and victimization of our children. We must never forget that those who would harm children are tantamount to domestic terroristsAlthough America's focus is currently on foreign terrorists, it is the domestic variety that truly threatens our safety. We should never forget that homeland security begins at home.

As the father of a child kidnapped and murdered by a recidivist violent offender I understand the need to do what ever is necessary to protect America's children from violent victimization. That is why I implore your to vote aye on *The Prevention and Deterrence of Crimes Against Children Act of 2005.*

Sincerely,

Marc Klaas

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June 6, 2005

Dear Members of the U.S. Judiciary Committee on Crime:

We are writing to express our interest in the "Protecting Our Nation's Children from Sexual Predators and Violent Criminals: What Needs to Be Done? " Bill, which is on the docket for discussion June 7-9, 2005. We are disappointed that we are unable to be there for this important discussion. We would like to address you personally on this important topic; however, we appreciate the committee allowing this letter to be read in.

We are an ordinary family with three daughters, ages 9, 5, and 3. Eric is a research specialist at the University of Wisconsin, and Michelle is a speech-language pathologist. We live in a typical suburban community outside of Madison, Wisconsin. We have found ourselves in an extraordinary position because of a juvenile sex offender. It is perhaps so extraordinary, because we fit one of the most common profiles of sex abuse. We would like you to know exactly how a typical sex offender can affect a child, and a family. We feel that it important for you to know the victim costs as you ponder what should be done with sex offenders.

Our story begins last summer (2004) when we hired our 13-year-old neighbor boy to babysit our three daughters (then ages 9, 4, and 2). He and his family were well known to us and our families were becoming friends. Their daughter and our 9-year-old were best friends. At the beginning of August, our four-year-old informed us that he had sexually abused her. She told us and the police that he had forced her to perform oral sex on him, and performed oral sex on her. He was never arrested. He admitted to these details, and later pled guilty in a court of law. Due to the nature of child disclosure, which occurs in spurts, we did not learn all the details of her abuse until some time later. She told us that he punched her in the stomach to make her do these things, as well as ejaculated or urinated in her mouth. She also informed us that there was sexual abuse multiple times, but due to her age could not explain what happened at what times. Although never adjudicated for these final details, our daughter's therapist is of the opinion that abuse was violent and occurred multiple times. She explained that abuse rarely occurs to the extreme he admitted to in a single step. These details were never pursued further by the police, although we reported them.

As we stated, our case is extraordinary, because it is so ordinary. In this country, 1 of 4 girls and 1 of 6 boys is sexually molested prior to the age of 18.[1] That is **20%** of our children who will be victims. We hope to be a voice for them. Ninety-five percent of victims know their perpetrators.[2] They are our neighbors, teachers, friends, and even family. One of every seven victims of sexual assault reported is a child under the age of 6[3]; 67% of sexual assault victims are juveniles, and 34% were under age 12.[4] In other words, MOST victims of sexual assault are children. Forty percent of offenders who

victimize children under 6 are juveniles. [3] Sixty percent of sexual assaults occur in the victim's home or the home of friends.[5] As you can see, our case is very typical.

In December 2004, our offender was adjudicated for 1 count of violent first degree sexual assault of a child, with a second count of violent first degree sexual assault read in. We were told from the prosecuting attorney that he got the most severe punishment that the court can wield on a first offense. Later, however, we learned that this is not true. There is a gap between practice and legal possibilities. In our county, practice tends to be lenient on juvenile sex offenders. For raping a four-year-old at age 13, his primary disciplinary actions due to adjudication include: completion of sex offender therapy (approx. 1 year), supervision approx. 1 time/month by a social worker for 1 year, 48 hours of community service within a year, and restitution to us of $126.20 for costs, within a year. The court waived his mandatory registration as a sex offender, this, in spite of the fact he violently forced someone 9 years his junior to commit sexual acts. Adolescent offenders average seven victims prior to their first arrest.[6] For the record, our offender was adjudicated, but never arrested. Stronger accountability for the actions of first time offenders may serve to lower this sobering statistic. For further details, please see addendum #1, regarding the court's decision in case #04 JV 762. In summary, by December 2005, our offender will have fulfilled all of his court-ordered conditions and be free from correctional supervision. The department of corrections has no ability to track this juvenile sexual offender. If he moves out of state, there will be no record of his adjudication in his new state. The family recently moved into the city of Oregon, Wisconsin, to a neighborhood with many more children. No one there knows his past. The sheriff cannot notify any neighbors, because he doesn't know he's a sex offender: he is not on the sex offender registry. We cannot tell anyone legally, as we would be guilty of contempt of court, and open ourselves up for a lawsuit from the perpetrator's family. The possibility that he may re-offend is terrifying: every time a molester recommits, it re-victimizes the original victims. A year after his case cleared the courts, he will go back to his regular life.

Our life, on the other hand, will be very different for a long time to come. The initial upheaval was traumatic for the entire family. Nightmares, separation anxiety and anxiety over the perpetrator's return (due to the fact that he was living 2 doors down and allowed to stay at home) affected all of our children. Our 9-year-old was wracked with guilt, as she had been in the house when the abuse occurred, but was unaware that it was occurring. Her friendship with the perpetrator's sister changed, and this was hurtful and confusing to her on top of everything else. She was very aware and upset with the fact she would be forced to ride the same bus as the perpetrator the coming school year. Our 4-year old had extreme personality changes, changing from a very self-confident, active child, to a child who, to this day, lacks confidence, is angry, irritable, abusive to herself and others, hitting herself and purposely bruising herself, and finds separation difficult. She has been depressed, calls herself stupid, explains that noone likes her and still talks about various ways to commit suicide when she is angry. She continues in therapy. As parents, we found it extremely difficult to work. Michelle had to cut back to working 2-3 times per week for several months. Eric continued to work, but his productivity continues to lag. We have both been on antidepressants. For us, being parents of a sexually abused

child has come at the high cost of extreme guilt, depression, and the loss of our confidence in our ability to parent.

The fiscal cost of sex abuse to society is enormous. We haven't been able to find figures, and doubt that they are tracked, but we will estimate our costs as best as we can. We estimate that we lost about $5000 due to lost work and expenses not covered by insurance. We estimate that the police department spent about 8 hours on our case, social services about the same during the initial crisis phase. Our therapy has been fully covered (for now) by insurance, at 2-3 times per month, for 9 months and counting. The perpetrator has been in therapy for up to 3 times per week for the last 9 months. This is not a complete list, and the costs for our case alone are clearly in the tens of thousands. Multiply that times the number of sex abuse cases per year in this country, and you can see what kind of a fiscal problem it is.

Our offender, had he been an adult, would have served up to 60 years for a Class B Felony, 1st degree sexual assault, for each of two counts.[7] He could have been labeled a sexual predator.[7] He would not have been exempt from the sex offender registry.[7] The disparity between the juvenile and adult consequences is discouraging, especially when you consider that 42% of pedophiles begin offending prior to the age of 12.[6] In fact, 60-80% of adult sex offenders begin offending as adolescents.[6] The recidivism rate, when studied over 25 years, for extrafamilial sexual assaults, can be as high as 52%, in estimates from survival analyses.[8] The need for juvenile accountability seems apparent.

These statistics clearly show the need to monitor adolescent sexual offenders. We must incorporate federal laws and an effective national sex offender registry to monitor these individuals, and some type of police discretion as to juvenile notification to the public. Research suggests treatment and intensive supervision can serve to prevent future victimization by forcing the perpetrator to take accountability for his actions.[9] Reality paints a different picture. The fact is that offenders can move from state to state only a year after their adjudication and will have a clean record in his new state. In Milwaukee County, Wisconsin, only 14 juveniles of hundreds of eligible cases reviewed were placed on the juvenile sex offender registry.[10] In addition, when researching for this letter, we found that Wisconsin, and it seems, most states, do not track the number of adjudicated sex offenders, nor the percentage of those that were put on the sex offender registry. We were told we would have to search county by county. Sexual Offender registration and law enforcement discretionary notification can only be effective if we give the department of corrections and the sheriff the ability to effectively monitor these individuals. How can we, as a nation, successfully manage juvenile sex offenders, if we are tracking such a small portion? Mandatory should mean mandatory. Stop most attempts at plea-bargaining to a lesser charge by stipulating an age variance between offender and victim means automatic registration. If our case had happened to you, as lawmakers, would you be able to come home and look your child in the eye and tell him or her that justice had been served? Based on our current systems for juveniles, can you truly say that society abhors this behavior as society claims it does? We feel it is currently swept under the rug. In fact, the prosecuting attorney told us that we should be very

happy, because our offender told us he was sorry. Sorry doesn't do much to help a five-year-old who will struggle for years to come to grips with what the offender did to her.

We believe juveniles should be held legally accountable for their behavior. Accountability is necessary to assist the offender in taking responsibility for their behavior. Treatment has an improved chance of working if the offender takes responsibility for his actions, and also improves with intensive supervision.[11] Part of taking responsibility is accepting punishment and monitoring.[9] Without this, we only teach the sex offender how to abuse smarter (chose younger victims without the ability to state what happened clearly, deny everything, and leave no physical evidence). Despite its effectiveness, treatment is only one component of an effective strategy to protect the community. Monitoring and support by community corrections agents, as well as other professionals play a crucial role.

As parents of a victim, we urge you to put in place mandatory minimum sentencing, mandatory registration on a National Sex Offender Registry in the case of sexual assault/abuse so that communication between states can be improved, discretion for community notification when adult and juvenile offenders live nearby, and increased GPS monitoring for offenders. We hope we have been effective in explaining the need for change. We would be happy to speak with you if you have any questions or comments regarding this letter. Thank you for your time and consideration.

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References

[1] Schaefer, Karen., What Only a Mother Can Tell You About Child Sexual Abuse. Child Welfare League of America, 1993.

[2] CCPCA. 1992. www.prevent-abuse-now.com\stats.htm#offenders

[3] www.ojp.usdoj.gov\vjs\ibrs.htm

[4] (from U.S. Dept. of Justice, Bureau of Justice Statistics, 2000.) www.wcasa.org\resources\factssheets\childsa.html

[5] Center for Sexual Abuse Management, Department of Justice, 2000.

[6] www.focusas.com\AdolescentSexOffenders.html

[7] Sex Crimes and Penalties in Wisconsin. State of Wisconsin Legislative Reference Bureau, Informational Bulletin 04-3, September 2004.

[8] Doren, 1998. (Involved in Sexual Predator Programs at Mendota Mental Health Institute, Madison, WI) www.ipt-forensics.com\journal\volume10\j10_6.htm

[9] www.atsa.com\ppjuvenile.html

[10] Report from Bob Segall, channel 6 news, Milwaukee, WI. Aired February, 2005. We are currently trying to reach Bob to get more information, however, he has been on vacation. If you would like more information, please contact us.

[11] Barbaree, Hudson, and Seto. 1993. Center for Sex Abuse Management, Dept. of Justice.