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JUVENILE JUSTICE

Reason To Hope:
On the Front Lines
With John Walsh

Also

- ◆ A Safety Net for the Internet
- ◆ Keeping Children Safe

OJJDP

Journal of the
Office of Juvenile Justice and Delinquency Prevention

Total Pages: 39

LRM ID: REJ439

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, April 21, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference

OMB CONTACT: Ronald E. Jones

PHONE: (202)395-3386 FAX: (202)395-3109

SUBJECT: JUSTICE Draft Report on HR3494 Child Protection and Sexual Predator Punishment Act

DEADLINE: Noon Wednesday, April 22, 1998

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Justice wants to send the attached draft letter prior to a House Judiciary Subcommittee hearing on Thursday, 4/23. A copy of HR 3494, the principal subject of the testimony/letter, is attached. We understand DAAG Di Gregory (criminal Division) will be present at the hearing to answer questions concerning the letter.

Please note the letter also mentions several other bills on the last three pages.

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LRM ID: REJ439 SUBJECT: JUSTICE Draft Report on HR3494 Child Protection and Sexual Predator Punishment Act

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

**TO: Ronald E. Jones Phone: 395-3388 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-3454**

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Bill McCollum
Chairman
Subcommittee on Crime
Committee on the Judiciary
U. S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We are pleased to present the views of the Department of Justice on H.R. 3494, the "Child Protection and Sexual Predator Punishment Act of 1998," as well as our views on H. Con. Res. 125, H.R. 1972, H.R. 2122, H.R. 2173, H.R. 2488, H.R. 2815 and H.R. 3185.

At the outset, we commend you for moving H.R. 3494 forward and state the strong support of the Department and the Administration for H.R. 3494's goal of combating child pornography and the sexual exploitation of minors. Toward that end, we offer the following suggestions which we believe will strengthen H.R. 3494 by making it more workable and effective.

Inclusion of "production of child pornography" and "attempt" in the coercion of a minor statute and the travel to engage in sexual activity with a minor statute. Proposed sections 101 and 103 amend 18 U.S.C. 2422, which proscribes using the mail or a facility or means of interstate or foreign commerce to contact a minor for the purposes of engaging in criminal sexual activity. Section 202 amends 18 U.S.C. 2423, which prohibits the transportation of minors to engage in any sexual activity for which any person can be charged with a criminal offense. The production of child pornography is not encompassed within the statutes' definition of prohibited sexual activity, however. As a result, individuals who travel or use facilities of interstate commerce to persuade minors to engage in the production of child pornography have not been subject to federal prosecution. The addition of "production of child pornography" would allow federal prosecution in these circumstances.

We also believe that inclusion of "attempt" language in 18 U.S.C. 2422(a) would be helpful in charging cases where the defendant attempts to lure individuals into illegal sexual

activity, but the travel was intercepted and only an attempt occurred. Sections 2422(b) and the bill's proposed Section 2422(c) already have an attempt provision.

Allowing prosecution of production of child pornography cases where materials used to make the child pornography were transported in interstate or foreign commerce. Although the bill amends 18 U.S.C. 2252, the child pornography distribution and possession statute, it does not amend 18 U.S.C. 2251, the child pornography production statute. We suggest a section that amends 18 U.S.C. 2251(a) and (b) to include language permitting prosecution of the person "if such visual depiction was produced with materials that had been mailed, shipped or transported in interstate or foreign commerce by any means, including, but not limited to, computer." The child pornography possession statutes in 18 U.S.C. 2252 and 2252A proscribe the possession of child pornography that was produced with materials that had been mailed, or shipped or transported in interstate or foreign commerce. The child pornography production statute, however, only allows prosecution if the defendant knows or has reason to know that the visual depictions themselves will be transported in interstate or foreign commerce, or if the depictions actually were so transported. There have been a number of cases where the defendant produced the child pornography but did not intend to transport the images in interstate commerce. In such cases, the federal government cannot prosecute the production of child pornography charge, but, instead, must turn the production case over to state prosecutors. The suggested amendment will enable the case to be prosecuted federally, which will ensure that an appropriately severe sentence is available.

Permitting forfeiture of assets utilized to distribute or possess "morphed" child pornography or certain items of child pornography or to produce child pornography overseas for importation into the United States, or the proceeds of such offenses, or in cases under the Mann Act. We suggest that in Section 105, 18 U.S.C. 2252A and 18 U.S.C. 2260 should be inserted in the list of statutes that subject property to criminal and civil forfeiture under 18 U.S.C. 2253 and 2254, respectively, and that chapter 117 in its entirety be added to the criminal forfeiture predicates to section 2253, and added to section 2254. Sections 2252A and 2260 are the only statutes referring to child pornography that are not referenced in the child pornography forfeiture section, 18 U.S.C. 2253. As a result, the government has not been able to seek forfeiture of computers that were utilized to receive or distribute "morphed" child pornography, or computers containing substantial images of child pornography in situations where all the child pornography was found in the computer, under the new child pornography statute, 18 U.S.C. 2252A. Inclusion of these two child pornography statutes within the forfeiture section will permit forfeiture of assets or proceeds involved in these child

pornography offenses.

We also suggest that, in Section 105, chapter 117 should be inserted in the list of statutes that subject property to criminal and civil forfeiture under 18 U.S.C. 2253 AND 2254, respectively. Chapter 117 covers crimes in which a computer may be used to contact a child, a car may be used to transport a child, or a house may be used to house a minor in a brothel. Inclusion of these two child pornography statutes within the forfeiture section will permit forfeiture of assets or proceeds involved in these crimes involving minors.

Correction on amendment of the pretrial detention statute. Section 106 creates the possibility of pretrial detention for certain child sex offenders. However, the proposed section, which would amend 18 U.S.C. 3142(f), is partially redundant with 18 U.S.C. 3156(a)(4), which defines "crime of violence" to include offenses under Chapter 109A and Chapter 110. We suggest that an amendment of the definition section to include Chapter 117 offenses would be a simpler and better alternative.

Change the definition of sexual act in the "travel to engage in sexual activity with a minor" statute. Section 202 amends 18 U.S.C. 2423 to create the new crimes of transporting an individual the person believes to be a minor for illegal sexual activity and traveling in interstate commerce for the purpose of engaging in illegal sexual activity with an individual the person believes to be a minor. Initially, we note that the phrase "belief that the individual has not attained the age of 18 years" should be stricken, and the phrase "an individual who has been represented to the person as not having attained the age of 18 years" should be substituted. This is the same language found in Section 101 of the bill.

We also suggest that in Subsection 2423(b), the phrase "for the purpose of engaging in any sexual act (as defined in section 2246) with another person who has not attained the age of 18 years, or whom the person believes has not attained the age of 18 years, that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States" should be stricken and the phrase "for the purpose of engaging in any sexual activity with another person who has not attained the age of 18 years, or who has been represented to have not attained the age of 18 years, for which any person can be charged with a criminal offense" substituted for the stricken language. An anomaly is apparent when one compares subsection 2423(a) with subsection 2423(b). Subsection (a) permits prosecution of persons who transport a minor in interstate commerce with the intent that the minor engage in any sexual activity for which any person could be charged with a criminal offense. Thus, if the defendant intended to commit a state sex crime with the minor, such as statutory rape, the

transportation would come under the proscriptions of the statute. Subsection (b), by contrast, permits prosecution of those who travel themselves with the intent to commit sex crimes that would violate Chapter 109A, if the sexual activity had occurred within federal jurisdiction. In these circumstances, a person who traveled in interstate commerce with the intention of having consensual sexual activity with a 16-year-old minor would not violate the statute, because Chapter 109A only punishes consensual sexual activity between the defendant and a minor between the ages of 13 and 15, if the perpetrator is four or more years older than the minor. The existing language has been a barrier to prosecution of section 2423(b) crimes in cases where the person travels to meet a minor aged 16-18. If the state has a statute prohibiting consensual sex with minors under the age of 18, the suggested change in the language would inappropriately permit travel to engage in sexual activity that is proscribed under state law.

Elimination of mandatory minimum sentences for possession of 50 or more items of child pornography and for using a computer to contact a minor for sexual activity. Section 104 inserts language in the child pornography possession statute that requires a mandatory two year sentence if the possession consisted of 50 or more items. Section 107 amends the coercion statute, 18 U.S.C. 2422, by requiring a mandatory three year sentence for using a computer to persuade a minor to engage in sexual activity. We believe that mandatory minimum sentences in these circumstances are unwise. The provisions will render guilty pleas less likely, because defendants will no longer plead guilty to possession charges in the hope that they will receive favorable consideration for a downward departure. In addition, a mandatory minimum requirement for those who use a computer to contact minors is unduly harsh, particularly where there is no criminal history, no proof that sexual activity occurred, or that, in fact, the recipient of the message was a minor. However, we support a directive to the Federal Sentencing Commission to develop Federal Sentencing Guidelines enhancements in cases where the computer is an instrument used in any attempted or actual sexual exploitation of a minor under the age of 18. These enhancements should be applicable to cases under 18 U.S.C. sections 2422 and 2423.

Striking Section 204, the Punishment for Repeat Offenders Section. We recommend that Section 204 be stricken for two reasons. The section amends 18 U.S.C. 2241, the aggravated sex offense statute, by adding a new subsection (e) that punishes repeat offenders by imposing life imprisonment for those who violate Section 2241 and who had twice been previously convicted of: either (1) a serious State or Federal sex crime, which is defined as an offense under Sections 2241 or 2242; or (2) crimes that would have been an offense under either of such sections, if the offense had occurred within federal jurisdiction. This

proposed subsection is at least partially redundant, however. The three strikes statute, found at 18 U.S.C. 3559(c), already includes federal or state offenses consisting of aggravated sexual abuse and sexual abuse as described in 18 U.S.C. 2241 and 2242. Under the three strikes statute, defendants would similarly receive life imprisonment if they had two prior serious sex crime convictions.

Proposed subsection (a)(1)(B) actually creates a new federal crime, even though it is placed in a "punishment for repeat offenders" subsection. It would create a mandatory life felony for a person who has two prior serious sex crime convictions, and who commits an aggravated sex crime in which either: (1) the person traveled in interstate or foreign commerce or used the mail or any facility of interstate or foreign commerce to commit the crime; or (2) the person's conduct occurred in or affected interstate or foreign commerce. The expansion of federal jurisdiction in these circumstances is difficult to justify. For example, if interstate travel to commit an aggravated sex offense after two prior convictions is worthy of federal jurisdiction, why should there not be federal jurisdiction for the first offense? Further, it is difficult to conceive how a rape crime could affect interstate or foreign commerce.

Eliminate the redundancy of placing the crime of "crossing state lines to have sexual activity with a minor under 12 years" in two different sections by combining Sections 2241(c) and 2243(a). Section 207 corrects an anomaly in the Amber Hagerman Act by striking the phrase "crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years" from 18 U.S.C. 2243(a). We support the objective of this provision but suggest substitute language in section 2241(c) combining elements of Section 2241(c) and 2243(a). The new language would proscribe: (1) crossing State lines with intent to engage in sexual relations with a minor under 12 years old and then engaging in or attempting to engage in the sexual activity; (2) engaging in aggravated sexual activity, under the circumstances described in subsections (a) or (b) with a minor aged 12 to 17; and (3) crossing State lines with intent to engage in a sexual act with a minor aged 12 to 17, and then engaging in or attempting to engage in the sexual activity, if the perpetrator is at least four years older than the minor. A principal effect of our suggestion is that these last two crimes would raise the age of the protected minor from 12 to 17 years old with maximum penalties of imprisonment of up to 15 years, a fine, or both, whereas the first crime would maintain the maximum penalty of life. The combined statutes would also have a "state of mind" requirement as specified in 2241(d) and a "defenses" subsection as specified in 2243(c). Section 2243 would remain intact only as to subsection (b), sexual abuse of a ward.

The rationale behind our suggested change relates to the fact that Chapter 109A and Chapter 110 have differing penalties for essentially the same offense. The crime of "crossing State lines to engage in a sexual act with a minor under the age of 12" is now proscribed by sections 2241(c), 2243(a) and 2423(b), which uses the language "individual under the age of 18." By combining 2241(c) with 2243(a) and by requiring that the sexual act actually occurred, the statute's harsher penalty of any term of years or life would appropriately fit the crime. Section 2423(b) and its maximum penalty of ten years would still be available if no sexual activity actually occurred.

In addition, the suggested increase in the protected age of the minor from age 16 to age 18 in the aggravated child rape section and the statutory rape section would be consistent with the protection of minors statutes, the majority of which refer to a minor as an individual under the age of 18. See Chapter 110 and Chapter 117 offenses.

Deletion of federal jurisdictional base in kidnaping statute if the offense affects interstate or foreign commerce. Section 302 permits federal jurisdiction over a state kidnaping if the mail or any facility or means of interstate or foreign commerce is used in furtherance of the offense or if the kidnaping "affects interstate or foreign commerce." We support the former (mail or use of a facility of commerce base, to which we suggest also the addition of "travel in interstate or foreign commerce language as in 18 U.S.C. 1952), but believe that the proposed affecting commerce base is too broad for kidnaping offenses. In light of the fact that the kidnaping statute has a 24-hour presumption that permits the FBI to investigate regardless of the circumstances of the offense, there is simply no need for federal jurisdiction over purely intrastate activity.

Creation of a new resources center on child abduction and serial murder investigations. Section 304 proposes to repeal the current Missing and Exploited Child Task Force (42 U.S.C. 5776a) and create a new unit within the FBI to work child abduction and serial killer cases. This section appears to combine the functions of the current Child Abduction/Serial Killer Unit (CASKU) in the FBI with the functions of the multi-agency missing children task force into one unit to more effectively use the resources of the FBI, which we support. It also appears to address many of the operational and procedural problems encountered by the current task force. However, the bill spells out in detail how the unit would operate and what tasks it would carry out. Perhaps less detail in its functions would permit more flexibility to the unit so it could better meet its goals. We also question whether creating a national unit as well as units in each of the FBI field offices is the best use of resources. It seems redundant to have so many units when mechanisms are already in place through the designation of crimes

Against Children Coordinators in each field office who are available to liaison with the national unit as needed. We are in favor of the continued relationship with United States Customs, Secret Service, Postal Inspection Service and Marshals Service so that their resources and expertise will be available to the unit whenever necessary.

Other matters. Section 104 makes clear that illegal possession of child pornography, as proscribed by 18 U.S.C. 2252, can refer to possession of three or more matters, each of which contains a visual depiction of child pornography, or one matter containing three or more visual depictions of child pornography. We suggest that the phrase "computer disk" be inserted in the phrase "three or more books, magazines, periodicals, films, video tapes, or other matter" to clarify that possession of three or more computer disks, each of which contains at least one visual depiction of child pornography, also violates the possession statute, just as possession of one computer disk, containing three or more visual depictions of child pornography, violates the possession statute.

We also believe that Chapter 117 offenses should be recognized as enhancement offenses throughout Chapter 110 and Chapter 109A. For example, 18 U.S.C. 2251(d) permits an enhancement if the person has a conviction under Chapters 110 or 109A, but does not include prior convictions under Chapter 117. Similarly, while there is a 5 year mandatory minimum for individuals charged with receipt or distribution of child pornography and who have prior state convictions for child molestation (18 U.S.C. 2252(b)(1) and 2252A(b)(1)), there is no enhanced provision for those individuals charged with possession of child pornography who have prior convictions for child abuse (18 U.S.C. 2252(b)(2) and 2252A(b)(2) provide only for increased minimum for state convictions for possession). We suggest an increased mandatory minimum of 2 years for individuals charged with any subsection of 2252 or 2252A if the individual had a prior conviction for sexual abuse of a minor. In addition, although there is a mandatory restitution statute for Chapter 110 offenses (18 U.S.C. 2259) and for Chapter 109A offenses (18 U.S.C. 2248), there is no mandatory restitution statute for Chapter 117 offenses. The bill should include a section mandating restitution for Chapter 117 offenses, as well.

Section 301 provides for the use of administrative subpoenas in cases involving crimes against minors, or individuals represented to be minors. We support this section but recommend extension of the subpoenas to all crimes involving minors under chapters 53, 109A, 110, and 117.

Section 308 proposes a new federal offense for the crossing of state lines with intent to commit murder. The FBI Director does not support federal jurisdiction in serial murders. Murder

is a local violation that is effectively addressed by local law enforcement. Officers and detectives handle these investigations on a daily basis and have developed an expertise in this area. Through the National Center for the Analysis of Violent Crime (NCAVC), the FBI currently assists local law enforcement in serial murder investigations, when requested, by providing technical and forensic resource coordination and immediate investigative support through onsite consultations and by sharing research findings and violent crime analysis. The FBI laboratory also provides forensic support and resources. However, the FBI supports the proposed language on H.R. 3494 that provides resources for funding the Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center. The FBI believes that this legislation would enhance the Bureau's existing ability to assist state and local law enforcement in serial murder investigations.

H. Con. Res. 125, H.R. 1972, H.R. 2122, H.R. 2173, H.R. 2488, H.R. 2815 and H.R. 3185. We are pleased to offer our views on the additional bills and resolution mentioned in your letter of March 20, 1998. H. Con. Res. 125 would express the sense of Congress that each state should establish an advisory board to conduct risk assessments of sex offenders for the purposes of community notification. While the Department strongly supports efforts to assist states in developing effective community notification programs for sex offenders, we are concerned that, if H. Con. Res. 125 were to pass, states may have the impression that the highly detailed program set forth in the Resolution is the only acceptable method for notifying their communities about dangerous sex offenders. Since the passage of Megan's Law (Pub.L.No. 104-145), which amended the community notification provisions of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (Pub.L.No. 103-322) to require the release of relevant information that is necessary to protect the public concerning registered sex offenders, states have developed a variety of different methods for notifying communities about sex offenders. We believe it is appropriate for states to retain some flexibility in how they conduct notifications under the general guidelines of the Wetterling Act and Megan's Law, particularly because each state has different needs and circumstances. Indeed, recent amendments to the Wetterling Act that were included in the FY 98 Commerce, Justice, State Appropriations Act, were designed to give states greater flexibility in deciding what procedures should be used in setting up and maintaining their sex offender registration programs. Moreover, community notification is too new a program for Congress to be dictating procedures, when we have not yet been able to assess what procedures work best. The Department, through the Bureau of Justice Assistance, is funding two studies examining community notification. It would be prudent to wait until we know more about how these programs operate.

H.R. 2488, the Volunteers for Children Act, proposes to facilitate fingerprint checks for individuals seeking to work in youth serving organizations. The National Child Protection Act (42 U.S.C. 5119a) provides for background screening of individuals who work with children, the elderly and the disabled. Fingerprint checks by the FBI, pursuant to P.L. 92-544, are limited by the requirement that state law on the subject must authorize the federal check as well. This bill proposes to bypass these restrictions in states that have not addressed background checks of individuals in youth-serving organizations. The concept of the legislation which proposes to facilitate completion of thorough background checks for individuals working with youth is laudable. However, the proposed bill actually provides little motivation or incentive to states to implement background check systems. The proposal actually minimizes the benefit of local record background checks which are often more timely and germane to the individual's activity in the community. In the absence of state statutory guidance, the agency responsible for relaying the results of the background check must make difficult choices between the privacy rights of the applicant and the public safety concerns. We would oppose any further bypass of these systems which would result in background checks based on applicant's name rather than on fingerprints.

H.R. 1972 prohibits the sale or purchase, by "list brokers," of personal information about a child without the consent of the child's parent. This bill is designed to provide protection for children, so that personal information cannot be so easily acquired by those individuals who use that information to harm or exploit children. It is our understanding that the FTC is currently preparing a report to Congress on the effectiveness of self-regulation as a means of protecting consumer privacy on the Internet. It would be appropriate to wait for the FTC report before legislation is proposed. The bill also provides for disclosure of these lists to the National Center for Missing and Exploited Children to compare with names of children listed with the organization as missing. The language of the bill does not address privacy issues involved with disclosure to NCMEC and management of the information, nor does it provide for any penalty for not disclosing.

There are two technical comments we offer regarding H.R. 1972 as well. First, please note that paragraph (2) in subsection (b) explicitly assumes that the person is a list broker. This is evidently a drafting error, resulting from a failure to fully revise the language from subsection (a)(3) relating to list brokers, when it was adapted in formulating the parallel offense in subsection (b) for persons who offer commercial products or services to children. Second, the offense defined in paragraph (1) of subsection (c) refers to any worker registered pursuant to the Jacob Wetterling Act. Since the actual sex offender registration programs are established by the

states, and sex offenders' legal obligations to register arise from the state laws which establish the state programs, this section should probably refer instead to any worker registered pursuant to a state sex offender registration program.

Two bills, H.R. 2173 and H.R. 2815, address concerns about those who prey upon children through use of the Internet. H.R. 2815 creates a new offense, 18 U.S.C. 2260A, that prohibits anyone from using the Internet to target a child for "sexually explicit messages or contacts." The coercion of a minor statute, 18 U.S.C. 2422(b), already punishes an individual who uses, or attempts to use, the Internet to persuade a minor to engage in illegal sexual activity. Similarly, the travel with intent statute, 18 U.S.C. 2423(b), already punishes an individual who travels to meet a minor with the intent to engage in illegal sexual activity. Furthermore, if, under the teachings of ACLU v. Reno, Congress cannot prohibit the "display" of indecent messages to minors, it could be argued that a statute proscribing the sending of sexually explicit messages to minors is equally unconstitutional.

H.R. 2173, which requires reporting of child abuse by electronic communications service providers, could be a step toward making the Internet a safer environment for our children. Presently, some Internet service providers voluntarily report known incidences of individuals using their services to exploit children. The Department previously supported bills similar to H.R. 2173. However, as drafted this bill is unclear as to whom a report is made and where it is to be referred for further investigation, nor does it provide for any sanctions for failure to make a report. Furthermore, it is unclear if the bill refers to only those incidents reported to the provider or whether it might require the provider to develop a monitoring or policing system for all communications. The latter is not viable for providers due to cost and resource issues. Lastly, no penalty is suggested for failure to report such incidents.

H.R. 2122 provides for a mandatory life sentence (unless the death penalty is imposed) if a victim of the production of child pornography or a serious violent felony dies as a result of the offense and the victim is under 14. We would not object to the proposal if it provided that the death must have been intentional. However, we note that there are other situations which might result in the death of the victim, such as cases under the Mann Act, but that would not be afforded the same protection under this bill.

H.R. 3185 removes the requirement in the child pornography possession statute that the individual must possess at least three matters containing a visual depiction of child pornography. Under the proposed language, an individual could be charged with possession of child pornography if he possessed one illegal

image. We have no objection to this proposal.

* * * * *

We look forward to working with you and your staff to enact tough and effective legislation to combat child exploitation. Please do not hesitate to call upon us if we may be of additional assistance in connection with this or any other matter. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

Ann M. Harkins
Acting Assistant Attorney General

ceos.ltr
4/21/98
1100

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105TH CONGRESS
2D SESSION

H. R. 3494

To amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1998

Mr. MCCOLLUM (for himself, Ms. DUNN, Ms. PRYCE of Ohio, Ms. GRANGER, Mrs. NORTHUP, Mrs. FOWLER, Mr. FRANKS of New Jersey, Mr. FOLEY, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. RAMSTAD, Mr. BARR of Georgia, Mr. CHABOT, Mr. DIAZ-BALART, Mr. GUTKNECHT, and Mr. LAMPSON) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Child Protection and
5 Sexual Predator Punishment Act of 1998".

1 TITLE I—PROTECTING CHIL-
2 DREN FROM SEXUAL PREDA-
3 TORS AND COMPUTER POR-
4 NOGRAPHY

5 SEC. 101. CONTACTING MINORS FOR SEXUAL PURPOSES.

6 Section 2422 of title 18, United States Code, is
7 amended by adding at the end the following:

8 “(c) Whoever, using the mail or any facility or means
9 of interstate or foreign commerce, or within the special
10 maritime and territorial jurisdiction of the United
11 States—

12 “(1) knowingly contacts an individual who has
13 not attained the age of 18 years; or

14 “(2) knowingly contacts an individual, who has
15 been represented to the person making the contact
16 as not having attained the age of 18 years;

17 for the purposes of engaging in any sexual activity, with
18 a person who has not attained the age of 18 years, for
19 which any person may be criminally prosecuted, or at-
20 tempts to do so, shall be fined under this title or impris-
21 oned not more than 5 years, or both.”.

22 SEC. 102. TRANSFER OF OBSCENE MATERIAL TO MINORS.

23 (a) IN GENERAL.—Chapter 71 of title 18, United
24 States Code, is amended by adding at the end the follow-
25 ing:

1 **“§ 1470. Transfer of obscene material to minors**

2 “Whoever, using the mail or any facility or means
3 of interstate or foreign commerce—

4 “(1) knowingly transfers obscene matter to an
5 individual who has not attained the age of 18 years,
6 or attempts to do so; or

7 “(2) knowingly transfers obscene matter to an
8 individual who has been represented to the trans-
9 feror as not having attained the age of 18 years;
10 shall be fined under this title or imprisoned not more than
11 5 years, or both.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 at the beginning of chapter 71 of title 18, United States
14 Code, is amended by adding at the end the following new
15 item:

“1470. Transfer of obscene material to minors.”.

16 **SEC. 103. INCREASED PRISON SENTENCES FOR ENTICE-**
17 **MENT OF MINORS.**

18 Section 2422 of title 18, United States Code, is
19 amended—

20 (1) in subsection (a), by adding at the end “If
21 the individual had not attained the age of 18 years
22 at the time of the offense, the maximum imprison-
23 ment for an offense under this subsection is 10
24 years.”; and

1 (2) in subsection (b), by striking "10" and in-
2 serting "15".

3 **SEC. 104. INCREASED PENALTIES FOR CERTAIN ACTIVITIES**
4 **RELATING TO MATERIAL INVOLVING THE**
5 **SEXUAL EXPLOITATION OF MINORS OR**
6 **CHILD PORNOGRAPHY AND TECHNICAL COR-**
7 **RECTION.**

8 (a) INCREASED PENALTIES IN SECTION 2252.—Sec-
9 tion 2252(b) of title 18, United States Code, is amended—

10 (1) in each of paragraphs (1) and (2), by strik-
11 ing "or chapter 109A" and inserting "chapter 109A,
12 or section 2421, 2422, or 2423"; and

13 (2) in paragraph (2), by inserting "the offense
14 consisted of the possession of 50 or more items of
15 the sort described in subsection (a)(4) or" after "if".

16 (b) INCREASED PENALTIES IN SECTION 2252A.—
17 Section 2252A(b)(2) of title 18, United States Code, is
18 amended by inserting "the offense consisted of the posses-
19 sion of 50 or more images of the sort described in sub-
20 section (a)(4) or" after "if".

21 (c) TECHNICAL CORRECTION.—Section 2252(a) of
22 title 18, United States Code, is amended so that para-
23 graph (4) reads as follows:

24 "(4) either—

1 “(A) in the special maritime and territorial
2 jurisdiction of the United States, or on any
3 land or building owned by, leased to, or other-
4 wise used by or under the control of the Gov-
5 ernment of the United States, or in the Indian
6 country (as defined in section 1151 of this
7 title), knowingly possesses—

8 “(i) 3 or more books, magazines, peri-
9 odicals, films, video tapes, or other matter
10 that contain any visual depiction, if—

11 “(I) the producing of such visual
12 depiction involves the use of a minor
13 engaging in sexually explicit conduct;
14 and

15 “(II) such visual depiction is of
16 such conduct; or

17 “(ii) any book, magazine, periodical,
18 film, videotape, computer disk, or any
19 other material that contains 3 or more vis-
20 ual depictions, if—

21 “(I) the producing of each visual
22 depiction involves the use of a minor
23 engaging in sexually explicit conduct;
24 and

6

1 “(II) each visual depiction is of
2 such conduct; or

3 “(B) knowingly possesses—

4 “(i) 3 or more books, magazines, peri-
5 odicals, films, video tapes, or other matter
6 that contain any visual depiction that has
7 been mailed, or has been shipped or trans-
8 ported in interstate or foreign commerce,
9 or which was produced using materials
10 which have been mailed or so shipped or
11 transported, by any means including by
12 computer, if—

13 “(I) the producing of such visual
14 depiction involves the use of a minor
15 engaging in sexually explicit conduct;
16 and

17 “(II) such visual depiction is of
18 such conduct; or

19 “(ii) any book, magazine, periodical,
20 film, videotape, computer disk, or any
21 other material that contains 3 or more vis-
22 ual depictions, if—

23 “(I) the producing of each visual
24 depiction involves the use of a minor

1 engaging in sexually explicit conduct;
2 and

3 “(II) each visual depiction is of
4 such conduct;”.

5 **SEC. 105. CRIMINAL FORFEITURE FOR SOLICITATION OF**
6 **MINORS AND INTERSTATE PROSTITUTION.**

7 Section 2253(a) of title 18, United States Code, is
8 amended by inserting “, or who is convicted of an offense
9 under section 2421, 2422, or 2423 of this title,” after
10 “2252 of this chapter”.

11 **SEC. 106. PRETRIAL DETENTION OF CHILD SEX OFFEND-**
12 **ERS.**

13 Section 3142(f)(1) of title 18, United States Code,
14 is amended—

15 (1) by striking “or” at the end of each of sub-
16 paragraphs (C) and (D); and

17 (2) by adding at the end the following:

18 “(E) an offense under chapter 109A, 110,
19 or 117, involving child pornography or against
20 a minor; or”.

21 **SEC. 107. INCREASED PRISON SENTENCES.**

22 Subsection (b) of section 2422 of title 18, United
23 States Code, is amended by adding at the end the follow-
24 ing: “If in the course of committing the offense under this
25 subsection, the defendant used a computer to transmit a

1 communication to the minor, the minimum term of impris-
2 onment for the offense under this subsection is 3 years.”.

3 **SEC. 108. REPEAT OFFENDERS IN TRANSPORTATION OF-**
4 **FENSE.**

5 (a) **GENERALLY.**—Chapter 117 of title 18, United
6 States Code, is amended by adding at the end the follow-
7 ing:

8 **“§ 2425. Repeat offenders**

9 “(a) The maximum term of imprisonment for a viola-
10 tion of this chapter after a prior sex offense conviction
11 shall be twice the term otherwise provided by this chapter.

12 “(b) As used in this section, the term ‘prior sex of-
13 fense conviction’ means a conviction for an offense—

14 “(1) under this chapter or chapter 109A or
15 110; or

16 “(2) under State law for an offense consisting
17 of conduct that would have been an offense under a
18 chapter referred to in paragraph (1) if the conduct
19 had occurred within the special maritime and terri-
20 torial jurisdiction of the United States or in any
21 Territory or Possession of the United States.”.

22 (b) **CLERICAL AMENDMENT.**—The table of sections
23 at the beginning of chapter 117 of title 18, United States
24 Code, is amended by adding at the end the following new
25 item:

“2425. Repeat offenders.”.

**TITLE II—PUNISHING SEXUAL
PREDATORS**

**SEC. 201. SENTENCING ENHANCEMENT IN SECTION 2423
CASES.**

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the sentencing guidelines to provide a sentencing enhancement for any offense listed in section 2423 of title 18, United States Code.

(b) INSTRUCTION TO COMMISSION.—The Sentencing Commission shall ensure that the sentences, guidelines, and policy statements for offenders convicted of offenses described in subsection (a) are appropriately severe and reasonably consistent with other relevant directives and with other guidelines.

**SEC. 202. INCREASED PENALTIES FOR TRANSPORTATION
OF MINORS OR ASSUMED MINORS FOR ILLE-
GAL SEXUAL ACTIVITY AND RELATED
CRIMES.**

Section 2423 of title 18, United States Code, is amended to read as follows:

1 **§ "2423. Transportation of minors and assumed mi-**
2 **nors**

3 "(a) TRANSPORTATION WITH INTENT TO ENGAGE
4 IN CRIMINAL SEXUAL ACTIVITY.—A person who know-
5 ingly—

6 "(1) transports an individual who has not at-
7 tained the age of 18 years; or

8 "(2) transports an individual, under the belief
9 that the individual has not attained the age of 18
10 years;

11 in interstate or foreign commerce, or in any Territory or
12 Possession of the United States, with intent that the indi-
13 vidual engage in prostitution, or in any sexual activity for
14 which any person can be charged with a criminal offense,
15 shall be fined under this title or imprisoned not more than
16 15 years, or both.

17 "(b) TRAVEL WITH INTENT TO ENGAGE IN SEXUAL
18 ACT WITH A JUVENILE.—A person who travels in inter-
19 state commerce, or conspires to do so, or a United States
20 citizen or an alien admitted for permanent residence in
21 the United States who travels in foreign commerce, or con-
22 spires to do so, for the purpose of engaging in any sexual
23 act (as defined in section 2246) with another person who
24 has not attained the age of 18 years, or whom the person
25 believes has not attained the age of 18 years, that would
26 be in violation of chapter 109A if the sexual act occurred

1 in the special maritime and territorial jurisdiction of the
2 United States shall be fined under this title, imprisoned
3 not more than 15 years, or both.”.

4 **SEC. 203. INCREASED PENALTIES FOR ABUSIVE SEXUAL**
5 **CONTACT.**

6 Section 2244 of title 18, United States Code, is
7 amended by adding at the end the following:

8 “(c) OFFENSES INVOLVING YOUNG CHILDREN.—If
9 the sexual contact that violates this section is with an indi-
10 vidual who has not attained the age of 12 years, the maxi-
11 mum term of imprisonment that may be imposed for the
12 offense shall be twice that otherwise provides in this sec-
13 tion.”.

14 **SEC. 204. PUNISHMENT FOR REPEAT OFFENDERS.**

15 Section 2241 of title 18, United States Code, is
16 amended by inserting after subsection (d) the following:

17 “(c) PUNISHMENT FOR REPEAT OFFENDERS.—(1)
18 Whoever has twice previously been convicted of a serious
19 State or Federal sex crime and who—

20 “(A) violates this section; or

21 “(B) in a circumstance described in paragraph
22 (2) of this subsection, engages in conduct that would
23 have violated this section if the conduct had oc-
24 curred in the special maritime and territorial juris-
25 diction of the United States;

1 shall be imprisoned for life.

2 “(2) The circumstance referred to in paragraph (1)
3 of this subsection is that—

4 “(A) the person engaging in such conduct trav-
5 eled in interstate or foreign commerce or used the
6 mail or any facility or means of interstate or foreign
7 commerce in furtherance of the offense; or

8 “(B) such conduct occurs in or affects inter-
9 state or foreign commerce and would have violated
10 this section if the conduct had occurred in the spe-
11 cial maritime and territorial jurisdiction of the
12 United States.

13 “(f) SERIOUS STATE OR FEDERAL SEX CRIME.—For
14 the purposes of subsections (c) and (f), the term serious
15 State or Federal sex crime means a State or Federal of-
16 fense for conduct which—

17 “(i) is an offense under this section or section
18 2242 of this title; or

19 “(ii) would have been an offense under either of
20 such sections if the offense had occurred in the spe-
21 cial maritime or territorial jurisdiction of the United
22 States.”.

23 **SEC. 205. REPEAT OFFENDERS IN SEXUAL ABUSE CASES.**

24 Section 2247 of title 18, United States Code, is
25 amended to read as follows:

1 **“§ 2247. Repeat offenders**

2 “(a) The maximum term of imprisonment for a viola-
3 tion of this chapter after a prior sex offense conviction
4 shall be twice the term otherwise provided by this chapter.

5 “(b) As used in this section, the term ‘prior sex of-
6 fense conviction’ has the meaning given that term in sec-
7 tion 2425.”.

8 **SEC. 206. CIVIL REMEDY FOR PERSONAL INJURIES RE-**
9 **SULTING FROM CERTAIN SEX CRIMES**
10 **AGAINST CHILDREN.**

11 Section 2255 of title 18, United States Code, is
12 amended by striking “2251 or 2252” and inserting
13 “2241(c), 2243, 2251, 2252, 2421, 2422, or 2423”.

14 **SEC. 207. ELIMINATION OF REDUNDANCY AND AMBIGU-**
15 **ITIES.**

16 (a) **REDUNDANCY.**—Section 2243(a) of title 18,
17 United States Code, is amended by striking “crosses a
18 State line with intent to engage in a sexual act with a
19 person who has not attained the age of 12 years, or”.

20 (b) **MAKING CONSISTENT LANGUAGE ON AGE DIF-**
21 **FERENTIAL.**—Section 2241(c) of title 18, United States
22 Code, is amended by striking “younger than that person”
23 and inserting “younger than the person so engaging”.

24 (c) **DEFINITION OF STATE.**—Section 2246 of title 18,
25 United States Code, is amended—

1 (1) in paragraph (5), by striking the period and
2 inserting a semicolon; and

3 (2) by adding a new paragraph as follows:

4 “(6) the term ‘State’ means a State of the
5 United States, the District of Columbia, and any
6 commonwealth, possession, or territory of the United
7 States.”.

8 **TITLE III—FEDERAL INVESTIGA-**
9 **TIONS OF SEX CRIMES**
10 **AGAINST CHILDREN AND SE-**
11 **RIAL KILLERS**

12 **SEC. 301. ADMINISTRATIVE SUBPOENAS.**

13 (a) IN GENERAL.—Chapter 203 of title 18, United
14 States Code, is amended by adding at the end the follow-
15 ing:

16 **“§ 3064. Administrative subpoenas**

17 “(a) AUTHORIZATION OF USE.—In an investigation
18 of an alleged violation of section 2241(c), 2243, 2421,
19 2422, or 2423 of this title where a victim is an individual
20 who has not attained the age of 18 years, the Attorney
21 General may subpoena witnesses, compel the production
22 of any records (including books, papers, documents,
23 electronic data, and other tangible things which constitute
24 or contain evidence) which the Attorney General finds rel-
25 evant or material to the investigation. The attendance of

1 witnesses and the production of records may be required
2 from any place in any State or in any territory or other
3 place subject to the jurisdiction of the United States at
4 any designated place of hearing, except that a witness
5 shall not be required to appear at any hearing more than
6 500 miles distant from the place where the witness was
7 served with a subpoena. Witnesses summoned under this
8 section shall be paid the same fees and commissions that
9 are paid witnesses in the courts of the United States.

10 “(b) SERVICE.—A subpoena issued under this section
11 may be served by any person designated in the subpoena
12 to serve it. Service upon a natural person may be made
13 by personal delivery of the subpoena to that person or by
14 certified mail with return receipt requested. Service may
15 be made upon a domestic or foreign corporation or upon
16 a partnership or other unincorporated association which
17 is subject to suit under a common name, by delivering the
18 subpoena to an officer, to a managing or general agent,
19 or any other agent authorized by appointment or by law
20 to receive service of process. The affidavit of the person
21 serving the subpoena entered on a true copy thereof by
22 the person serving it shall be proof of service.

23 “(c) ENFORCEMENT.—In the case of contumacy by
24 or the refusal to obey a subpoena issued to any person
25 under this section, the Attorney General may invoke the

1 aid of any court of the United States within the jurisdic-
2 tion of which the investigation is carried on, or of which
3 the person is an inhabitant or in which the person carries
4 on business or may be found, to compel compliance with
5 the subpoena. The court may issue an order requiring the
6 subpoenaed person to appear before the Attorney General
7 to produce records, if so ordered, or to give testimony re-
8 garding the matter under investigation. Any failure to
9 obey the order of the court may be punished by the court
10 as contempt thereof. All process in any such case may be
11 served in any judicial district in which such person may
12 be found.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of chapter 203 of title 18, United States
15 Code, is amended by adding at the end the following new
16 item:

“3064. Administrative subpoenas.”.

17 **SEC. 302. KIDNAPPING.**

18 (a) 24-HOUR RULE.—Section 1201(b) of title 18,
19 United States Code, is amended by adding at the end the
20 following: “However, the fact that the presumption under
21 this section has not yet taken effect does not preclude a
22 Federal investigation of a possible violation of this section
23 before the twenty-four hour period has ended.”.

24 (b) JURISDICTIONAL ELEMENTS.—Section 1201(a)
25 of title 18, United States Code, is amended—

1 (1) by striking "or" at the end of paragraph
2 (4); and

3 (2) by adding after paragraph (5) the following:

4 "(6) the mail or any facility or means of inter-
5 state or foreign commerce is used in furtherance of
6 the offense; or

7 "(7) the offense affects interstate or foreign
8 commerce, or would do so if the offense were con-
9 summated;".

10 (c) CLARIFICATION OF ELEMENT OF OFFENSE.—
11 Section 1201(a) of title 18, United States Code, is amend-
12 ed by inserting ", regardless of whether such person was
13 alive when transported across a State boundary provided
14 the person was alive when the transportation began" be-
15 fore the semicolon at the end of paragraph (1);

16 **SEC. 303. MURDER.**

17 (a) NEW OFFENSE OF CROSSING STATE LINES WITH
18 INTENT TO COMMIT MURDER.—Chapter 51 of title 18,
19 United States Code, is amended by adding at the end the
20 following:

21 **"§ 1123. Crossing State lines with intent to commit**
22 **murder**

23 "(a) Whoever travels across a State line or enters or
24 leaves Indian country with the intent to engage in conduct
25 that constitutes murder in the first degree (as defined in

1 section 1111) shall be punished by imprisonment for life,
2 and if death results, may be punished by death.

3 “(b) No prosecution for any offense described in this
4 section shall be undertaken by the United States except
5 on written certification of the Attorney General or the
6 highest ranking subordinate of the Attorney General with
7 responsibility for criminal prosecutions that, in the judg-
8 ment of the certifying official, the conduct intended to be
9 engaged in was a serial killing. A certification under this
10 subsection shall not be reviewable in any court.

11 “(c) As used in this section—

12 “(1) the term ‘State’ means a State of the
13 United States and also includes the District of Co-
14 lumbia, and any commonwealth, territory, or posses-
15 sion of the United States; and

16 “(2) the term ‘serial killing’ means one in a se-
17 ries of 3 or more killings during separate criminal
18 episodes, at least one of which is committed in the
19 United States having common characteristics that
20 suggest the reasonable possibility the killings were
21 committed by the same actor or actors.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 at the beginning of chapter 51 of title 18, United States
24 Code, is amended by adding at the end the following new
25 item:

“1123. Crossing State lines with intent to commit murder.”.

1 SEC. 304. MORGAN P. HARDIMAN CHILD ABDUCTION AND
2 SERIAL MURDER INVESTIGATIVE RE-
3 SOURCES CENTER.

4 (a) ESTABLISIMENT.—Not later than 90 days after
5 the date of the enactment of this Act, the Attorney Gen-
6 eral shall establish a Child Abduction and Serial Murder
7 Investigative Resources Center to be known as the “Mor-
8 gan P. Hardiman Child Abduction and Serial Murder In-
9 vestigative Resources Center” (hereinafter in this section
10 referred to as the “CASMIRC”).

11 (b) PURPOSE.—The purpose of this section is to es-
12 tablish a Federal Bureau of Investigation Child Abduction
13 and Serial Murder Investigative Resources Center man-
14 aged by the FBI’s Critical Incident Response Group’s Na-
15 tional Center for the Analysis of Violent Crime (NCAVC)
16 and multidisciplinary resource teams in FBI field offices
17 to provide investigative support through the coordination
18 and provision of Federal law enforcement resources, train-
19 ing, and application of other multidisciplinary expertise,
20 to assist Federal, State, and local authorities in matters
21 involving child abductions, mysterious disappearance of
22 children, child homicide, and serial murder across the
23 country. The CASMIRC shall be co-located with the
24 NCAVC.

25 (c) DUTIES OF THE CASMIRC.—The CASMIRC
26 shall perform such duties as the Attorney General deems

1 appropriate to carry out the purposes of the CASMIRC,
2 including but not limited to—

3 (1) identifying, developing, researching, acquiring,
4 ing, and refining multidisciplinary information and
5 specialities to provide for the most current expertise
6 available to advance investigative knowledge and
7 practices used in child abduction, mysterious disappearance
8 of children, child homicide, and serial
9 murder investigations;

10 (2) providing advice and coordinating the application
11 of current and emerging technical, forensic,
12 and other Federal assistance to Federal, State, and
13 local authorities in child abduction, mysterious disappearances
14 of children, child homicide, and serial
15 murder investigations;

16 (3) providing investigative support, research
17 findings, and violent crime analysis to Federal,
18 State, and local authorities in child abduction, mysterious
19 disappearances of children, child homicide,
20 and serial murder investigations;

21 (4) providing, if requested by a Federal, State,
22 or local law enforcement agency, on site consultation
23 and advice in child abduction, mysterious disappearances
24 of children, child homicide and serial murder
25 investigations;

1 (5) coordinating the application of resources of
2 pertinent Federal law enforcement agencies, and
3 other Federal entities including, but not limited to,
4 the United States Customs Service, the Secret Service,
5 the Postal Inspection Service, and the United
6 States Marshals Service, as appropriate, and with
7 the concurrence of the agency head to support Federal,
8 State, and local law enforcement involved in
9 child abduction, mysterious disappearance of a child,
10 child homicide, and serial murder investigations;

11 (6) conducting ongoing research related to child
12 abductions, mysterious disappearances of children,
13 child homicides, and serial murder, including identification
14 and investigative application of current and
15 emerging technologies, identification of investigative
16 searching technologies and methods for physically locating
17 abducted children, investigative use of offender behavioral
18 assessment and analysis concepts, gathering statistics and
19 information necessary for case identification, trend analysis,
20 and case linkages to advance the investigative effectiveness of
21 outstanding abducted children cases, develop investigative
22 systems to identify and track serious serial offenders that
23 repeatedly victimize children for comparison to unsolved cases,
24 and other investigative re-

1 search pertinent to child abduction, mysterious dis-
2 appearance of a child, child homicide, and serial
3 murder covered in this section;

4 (7) working under the Federal Bureau of Inves-
5 tigation's NCAVC in coordination with the National
6 Center For Missing and Exploited Children
7 (NCMEC) and the Office of Juvenile Justice and
8 Delinquency Prevention (OJJDP) to provide appro-
9 priate training to Federal, State, and local law en-
10 forcement in matters regarding child abductions,
11 mysterious disappearances of children, child homi-
12 cides; and

13 (8) establishing a centralized repository based
14 upon case data reflecting child abductions, mysteri-
15 ous disappearances of children, child homicides and
16 serial murder submitted by State and local agencies,
17 and an automated system for the efficient collection,
18 retrieval, analysis, and reporting of information re-
19 garding CASMIRC investigative resources, research,
20 and requests for and provision of investigative sup-
21 port services.

22 (d) APPOINTMENT OF PERSONNEL TO THE
23 CASMIRC.—

24 (1) SELECTION OF MEMBERS OF THE CASMIRC
25 AND PARTICIPATING STATE AND LOCAL LAW EN-

1 **FORCEMENT PERSONNEL.**—The Director of the Fed-
2 eral Bureau of Investigation shall appoint the mem-
3 bers of the CASMIRC. The CASMIRC shall be
4 staffed with FBI personnel and other necessary per-
5 sonnel selected for their expertise that would enable
6 them to assist in the research, data collection, and
7 analysis, and provision of investigative support in
8 child abduction, mysterious disappearance of chil-
9 dren, child homicide and serial murder investiga-
10 tions. The Director may, with concurrence of the ap-
11 propriate State or local agency, also appoint State
12 and local law enforcement personnel to work with
13 the CASMIRC.

14 (2) **STATUS.**—Each member of the CASMIRC
15 (and each individual from any State or local law en-
16 forcement agency appointed to work with the
17 CASMIRC) shall remain as an employee of that
18 member's or individual's respective agency for all
19 purposes (including the purpose of performance re-
20 view), and service with the CASMIRC shall be with-
21 out interruption or loss of civil service privilege or
22 status and shall be on a nonreimbursable basis, ex-
23 cept where appropriate to reimburse State and local
24 law enforcement for overtime costs for an individual
25 appointed to work with the resource team. Addition-

1 ally, reimbursement of travel and per diem expenses
2 will occur for State and local law enforcement par-
3 ticipation in resident fellowship programs at the
4 NCAVC when offered.

5 (3) TRAINING.—CASMIRC personnel, under
6 the guidance of the Federal Bureau of Investiga-
7 tion's National Center for the Analysis of Violent
8 Crime and in consultation with the NCMEC, shall
9 develop a specialized course of instruction devoted to
10 training members of the CASMIRC consistent with
11 the purpose of this section. The CASMIRC shall also
12 work with the NCMEC and OJJDP to develop a
13 course of instruction for State and local law enforce-
14 ment personnel to facilitate the dissemination of the
15 most current multidisciplinary expertise in the inves-
16 tigation of child abductions, mysterious disappear-
17 ances of children, child homicides, and serial murder
18 of children.

19 (c) REPORT TO CONGRESS.—One year after the es-
20 tablishment of the CASMIRC, the Attorney General shall
21 provide a report to Congress that describes the goals and
22 activities of the CASMIRC. The report shall also contain
23 information regarding the number and qualifications of
24 the members appointed to the CASMIRC, provision for
25 equipment, administrative support, and office space for

1 the CASMIRC, and projected resource needs for the
2 CASMIRC.

3 (f) AUTHORIZATION OF APPROPRIATION.—There are
4 authorized to be appropriated to carry out this section
5 such sums as may be necessary for fiscal year 1999 and
6 each of the two succeeding fiscal years.

7 (g) CONFORMING REPEAL.—Subtitle C of title XVII
8 of the Violent Crime Control and Law Enforcement Act
9 of 1994 (42 U.S.C. 5776a et seq.).

○



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Date: ***April 27, 1998***

To: **Name:** ***Ms. Leanne Shimabukuro***

Agency: ***White House***

Member:

Fax No.: ***202-456-7028***

From: **Name:** ***Susy Rotkis***

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Subject: ***Draft Order***

Total No. Pages (including this page) ***3***

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Adam Walsh Children's Fund

Executive Order

Public Service Notices to Principals and Teachers in Title I Schools

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to provide for the posting of public service notices in public schools receiving Title I funding, and any other schools who so wish to participate, it is hereby ordered as follows:

Section 1. *Posting of Public Service Notices to Principals and Teachers in Title I Public Schools.* The Secretary of the Department of Education shall take such actions as necessary to provide for the posting of public service notices to principals, administrators, teachers, employees and volunteers in Title I Public Schools. Furthermore, the Secretary shall make available to all schools the public service notices mentioned herein.

Section 2. *Definition.* For purposes of this Order, "public service notices" shall include notices of missing children who may be enrolled in school, information and photos about such missing children and their abductors, if known, as well as child safety and other information. The Secretary shall promulgate rules that provide for public service notices to be distributed to public schools for the purpose of encouraging school principals, teachers, administrators, employees and volunteers to look at such notices in order to determine whether any child with whom they may be in contact is a missing child.

Section 3. *Exceptions.* Nothing in this Order shall require the Department of Education to require school staff or students to look at photos of missing children.

Section 4. *Judicial Review.* This order is intended only to improve the internal management of the Federal Government, and is not intended, and should not be construed to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.



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Picture Them Home

A National Campaign for Missing Children's Day

For the past fifteen years, families and child advocates nationwide have observed National Missing Children's Day on May 25th. Proclaimed first by President Ronald Reagan in 1983 and honored by every administration since, May 25th is the day six-year-old Etan Patz disappeared from a New York City street corner on his way to school in 1979. His case remains unsolved and is an annual reminder to the nation to renew efforts to reunite missing children with their families and make child protection a national priority.

One reason Etan Patz's case quickly received the attention of local and national news media -- even before cases of missing children routinely garnered such attention--is that his father is a professional photographer, and Etan's black and white portraits were quickly disseminated in an effort to find him. His case is a reminder to all parents of the need for high quality pictures of their children, for use in case of an emergency, and for the need for all Americans to pay close attention to the posters and pictures of missing children that in the 1990s have become commonplace as a tool to help in the search for missing children.

Even after almost two decades, Americans are unsure whether they can actually play a role in recognizing a missing child from a poster and help to reunite them with their families. *Picture Them Home* is a new campaign to raise awareness about the power of pictures, and their importance in the search for missing children. One in seven children are recovered as a direct result of someone in the general public recognizing their picture and notifying authorities. **Pictures work**, and if even more Americans took the time to look at them, more families would be reunited.

How can you help? It's simple and takes very little time. Whenever you pass a poster of a missing child, really look at it, whether it comes in your mail, is posted at your local post office or you see it online. Don't think you can't help...*you can*. Make an effort never to be complacent about studying these pictures. One day, you might help to bring a child home.

Next, make sure you keep current, high-quality pictures of your own children, regardless of their ages, and update them at least annually. A recent poll of law enforcement found that they consider pictures to be the single most important tool in the search for missing children.

For more information about the *Picture Them Home* campaign and additional ways the public and private sectors can help, visit the website of the National Center for Missing and Exploited Children at www.missingkids.com or call our hotline, toll-free, at 1-800-843-5678.

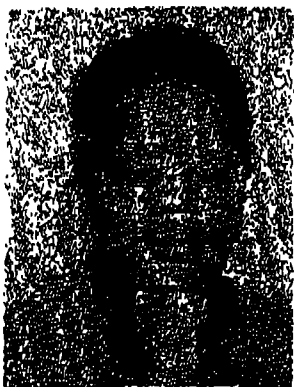
Picture Them Home for National Missing Children's Day. Because pictures bring back more than memories...

Branches:
California
Florida
New York
South Carolina

Adam Walsh Children's Fund



Fall 1997, Volume XXV

**Robert Strode**

Date of Birth: 06/14/82

Date Missing: 03/14/97

Missing From: Council Bluffs, IA
Endangered Runaway**Andrew Thomas Slinkard**

Date of Birth: 09/14/88

Date Missing: 10/17/95

Missing From: Greenfield, IN
Family Abduction

Have You Seen Me?
If so, please call
1-800-THE-LOST
(1-800-843-5678)

Safety Tips

My Rules for Online Safety

- I will not give out personal information such as my address, telephone number, parents' work address/telephone number, or the name and location of my school without my parents' permission.
- I will tell my parents right away if I come across any information that makes me feel uncomfortable.
- I will never agree to get together with someone I "meet" online without first checking with my parents. If my parents agree to the meeting, I will be sure that it is in a public place and bring my mother or father along.
- I will never send a person my picture or anything else without first checking with my parents.
- I will not respond to any messages that are mean or in any way make me feel uncomfortable. It is not my fault if I get a message like that. If I do I will tell my parents right away so that they can contact the online service.
- I will talk with my parents so that we can set up rules for going online. We will decide upon the time of day that I can be online, the length of time I can be online, and appropriate areas for me to visit. I will not access other areas or break these rules without their permission.

These tips are from *Child Safety on the Information Highway* by Lawrence J. Magid. They are reprinted with permission of the National Center for Missing and Exploited Children (NCMEC). Copyright © NCMEC 1994. All rights reserved.

Once a week since 1985 ADVO, Inc., has mailed a card to millions of homes throughout the United States that features the photograph of and descriptive information about a missing child. On July 9, 1997, a mother in Ohio received the card featuring Vincent Clayton and realized that the missing child featured was her foster son despite the fact that she knew him by a different name. The foster mother called her caseworker who immediately called the National Center for Missing and Exploited Children (NCMEC) where she talked to NCMEC Photo Distribution Coordinator D'Ann Tafin. Because the caseworker wanted to see another picture of the child to help make an identification, D'Ann suggested that she visit NCMEC's web site to view Vincent's picture online. While still on the telephone with D'Ann the social worker exclaimed, "That's him!" A positive identification was made, and Vincent is now home with his family in Michigan after having been missing for 14 months.

Recovery

Explore NCMEC online at <http://www.missingkids.com>

Total Pages: _____

LRM ID: REJ460

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, May 7, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference
OMB CONTACT: Ronald E. Jones *R. Jones for*
PHONE: (202)395-3386 FAX: (202)395-3109

SUBJECT: JUSTICE Statement of Administration Policy on HR3494 Child Protection
and Sexual Predator Punishment Act

DEADLINE: 4:00 PM Friday, May 8, 1998

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: HR 3494 is scheduled for House floor action on Wednesday, May 13th. Attached is the amendment approved by the Judiciary Committee on May 6th. A copy HR3494, as introduced, was circulated with DOJ testimony as LRM REJ439 on April 21.

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LRM ID: REJ460 SUBJECT: JUSTICE Statement of Administration Policy on HR3494 Child Protection and Sexual Predator Punishment Act

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

**TO: Ronald E. Jones Phone: 395-3386 Fax: 396-3109
 Office of Management and Budget
 Branch-Wide Line (to reach legislative assistant): 395-3454**

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

DRAFT --- NOT FOR RELEASE

**May 7, 1998
(House)**

H.R. 3494 - Child Protection and Sexual Predator Punishment Act
(McCollum (R) Florida and 22 cosponsors)

The Administration supports House passage of H.R. 3494.

* * * * *

AMENDMENT TO H.R. 3494
OFFERED BY MR. MCCOLLUM

Page 8, after the matter following line 25, insert the following:

1 SEC. ____ DEFINITION AND ADDITION OF ATTEMPT OF-
2 FENSE.

3 (a) DEFINITION.—

4 (1) GENERALLY.—Chapter 117 of title 18,
5 United States Code, is amended by adding at the
6 end the following:

7 "§2425. Definition for chapter

8 "For the purposes of this chapter, sexual activity for
9 which any person can be charged with a criminal offense
10 includes the production of child pornography, as defined
11 in section 2256(8).",

12 (2) CLERICAL AMENDMENT.—The table of sec-
13 tions at the beginning of chapter 117 of title 18,
14 United States Code, is amended by adding at the
15 end the following new item:

"2425. Definition for chapter."

16 (b) ATTEMPT OFFENSE.—Section 2422(a) of title
17 18, United States Code, is amended by inserting "or at-
18 tempts to do so," after "criminal offense,".

Page 4, after line 2, insert the following:

F:\MDB\98COMM\JUD\CRIME\PM.006

H.L.C.

2

1 SEC. 104. ADDITIONAL JURISDICTIONAL BASE FOR PROS-
2 ECUTION OF PRODUCTION OF CHILD POR-
3 NOGRAPHY.

4 (a) USE OF A CHILD.—Subsection (a) of section
5 2251 of title 18, United States Code, is amended by in-
6 serting “if such visual depiction was produced with mate-
7 rials that had been mailed, shipped, or transported in
8 interstate or foreign commerce by any means, including
9 a computer,” before “or if”.

10 (b) ALLOWING USE OF A CHILD.—Subsection (b) of
11 section 2251 of title 18, United States Code, is amended
12 by inserting “, if such visual depiction was produced with
13 materials that had been mailed, shipped, or transported
14 in interstate or foreign commerce by any means, including
15 a computer,” before “or if”.

Redesignate succeeding sections accordingly.

Page 7, strike lines 13 through 20 and insert the following:

Section 3156(a)(4)(C) of title 18, United States Code, is amended by striking “or chapter 110” and inserting “, 110, or 117, or section 2252A or 2260,”.

Page 10, beginning in line 8, strike “, under the belief that the individual has not” and insert “who has

been represented to the person doing that transportation as not having".

Page 10, beginning in line 22, strike "for the purpose" and all that follows through "United States" in line 2 on page 11, and insert "for the purpose of engaging in any sexual activity, with another person who has not attained the age of 18 years or who has been represented to the traveler or conspirator as not having attained the age of 18 years, for which any person can be charged with a criminal offense,".

Page 7, after line 4, insert the following:

SEC. . CLARIFICATION OF POSSESSION OFFENSE.

Each of subparagraphs (A) and (B) of section 2252(a)(4) of title 18, United States Code, is amended by inserting "computer disks," after "periodicals,".

Redesignate succeeding sections accordingly.

Page 4, after line 12, strike "section 2421, 2422, or 2423" and insert "chapter 117".

Page 4, after line 15, insert the following:

- 1 (b) INCREASED PENALTIES IN SECTION 2251(d).—
- 2 Section 2251(d) of title 18, United States Code, is amend-

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H.L.C.

4

1 ed by striking "or chapter 109A" each place it appears
2 and inserting ", chapter 109A, or chapter 117".

Redesignate succeeding sections accordingly.

Page 14, after line 7, insert the following:

3 SEC. ____ DEATH OR LIFE IN PRISON FOR CERTAIN OF-
4 FENSES WHOSE VICTIMS ARE CHILDREN.

5 Section 3559 of title 18, United States Code, is
6 amended by adding at the end the following:

7 "(d) DEATH OR IMPRISONMENT FOR CRIMES
8 AGAINST CHILDREN.—Notwithstanding any other provi-
9 sion of law, a person who is convicted of a Federal offense
10 that is a serious violent felony (as defined in subsection
11 (c)) or a violation of section 2251 shall, unless the sen-
12 tence of death is imposed, be sentenced to imprisonment
13 for life, if the victim of the offense is under 14 years of
14 age, the victim dies as a result of the offense, and the
15 defendant, in the course of the offense, engages in conduct
16 described in section 3591(a)(2).".

Page 17, strike line 16 and all that follows through
the matter following line 25 on page 18 and insert:

F:\MDB\98COMM\JUD\CRIME\PM.008

H.L.C.

5

1 **SEC. 303. AUTHORITY TO INVESTIGATE SERIAL KILLINGS.**

2 (a) **IN GENERAL.**—Chapter 33 of title 28, United
3 States Code, is amended by inserting after section 537 the
4 following:

5 **"§ 538. Investigation of serial killings**

6 "(a) The Attorney General and the Federal Bureau
7 of Investigation may investigate serial killings in violation
8 of the laws of a State or political subdivision, when such
9 investigation is requested by the head of a law enforce-
10 ment agency with investigative or prosecutive jurisdiction
11 over the offense.

12 "(b) For purposes of this section—

13 "(1) the term 'serial killings' means a series of
14 3 or more killings, at least one of which was commit-
15 ted within the United States, having common char-
16 acteristics such as to suggest the reasonable possibil-
17 ity that the crimes were committed by the same
18 actor or actors;

19 "(2) the term 'killing' means conduct that
20 would constitute an offense under section 1111 of
21 title 18, United States Code, if Federal jurisdiction
22 existed; and

23 "(3) the term 'State' means a State of the
24 United States, the District of Columbia, and any
25 commonwealth, territory, or possession of the United
26 States."

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H.L.C.

6

1 (b) The table of sections at the beginning of chapter
2 33 of title 28, United States Code, is amended by adding
3 at end the following new item:

"538. Investigation of serial killings."

Page 8, after the matter following line 25, insert the
following:

4 SEC. . USE OF INTERSTATE FACILITIES TO TRANSMIT
5 IDENTIFYING INFORMATION ABOUT A MINOR
6 FOR CRIMINAL SEXUAL PURPOSES.

7 (a) IN GENERAL.—Chapter 110 of title 18, United
8 States Code, is amended by adding at the end the follow-
9 ing:

10 "§ 2260A. Use of interstate facilities to transmit infor-
11 mation about a minor

12 "Whoever, using the mail or any facility or means
13 of interstate or foreign commerce, or within the special
14 maritime and territorial jurisdiction of the United States,
15 knowingly transmits, prints, publishes, or reproduces, or
16 causes to be transmitted, printed, published, or repro-
17 duced, the name, address, telephone number, electronic
18 mail address, or other identifying information of an indi-
19 vidual who has not attained the age of 18 years for the
20 purposes of facilitating, encouraging, offering, or soliciting
21 any person to engage in any sexual activity for which any

McCullum

"Child Protection and Sexual Predator Punishment Act of 1998"

Title I – Protecting Children from Sexual Predators and Child Pornography

- Prohibits *contacting* a minor over the Internet for the purposes of engaging in illegal sexual activity. This prohibits soliciting a minor for sexual acts
- Prohibits knowingly transferring obscene materials to a minor over the Internet
- Increases penalties for enticing a minor to travel across State lines to engage in illegal sexual activity
- Increases penalties for using a computer to entice a minor to engage in illegal sexual activity
- Increases penalties for sending child pornography to a child
- Increases penalties for possessing 50 or more images of child pornography (there is currently no greater punishment for the possession of large quantities of child pornography)
- Allows for criminal forfeiture for federal offenses under chapter 109A and 117 crimes, including: 1) transportation of a minor for illegal sexual activity; 2) coercion or enticement of a minor to engage in criminal sexual activity; 3) transportation in interstate commerce with intent to engage in criminal sexual activity with a minor
- Authorizes pretrial detention of federal child sex offenders
- Increases penalties for using a computer to coerce or entice a minor to engage in sexual activity

Title II – Punishing Sexual Predators

- Requires the U.S. Sentencing Commission to review and amend the sentencing guidelines to increase the penalties for 1) transporting a minor across State lines for the purposes of engaging in certain sexual abuse offenses; 2) traveling in interstate commerce with the intent to engage in sexual activities with a minor

- Allows for federal prosecution of certain sexual assault cases involving the crossing of State lines
- Mandates life in prison for anyone who commits a federal sexual assault and has twice been convicted of a serious State or federal sex crime
- Doubles the penalties for repeat sex offenders
- Allows for civil remedy for personal injuries resulting from certain sex crimes against children

Title III – Federal Investigations of Sex Crimes Against Children

- Allows for administrative subpoenas in certain child exploitation investigations
- Allows for the immediate commencement of federal investigations involving kidnaping offenses (eliminates the 24-hour rule)
- Allows for federal investigation of kidnaping offenses if: 1) any facility or means of interstate or foreign commerce was used in furtherance of the offense, or 2) the kidnaping offense affects interstate or foreign commerce
- Allows for federal investigation of serial murder offenses when the offender crosses State lines with intent to commit first degree murder
- Reorganizes the Morgan P. Hardiman Missing and Exploited Children's Task Force to improve its effectiveness in kidnaping and serial murder investigations. The task force would be simplified through the establishment of regional task forces in FBI field offices which would serve as a liaisons for State and local law enforcement and other federal law enforcement agencies in cases of child abduction and serial murders. The task force would be authorized at a level of \$7,500,000 each year for the next three years.

Related Measures for Consideration:

1. H.R. _____, sponsored by Rep. Deborah Pryce. Withholds 5% of Byrne Grant funding to States that allow a prisoner incarcerated for a pornography or sex crime involving a child access to any interactive computer service without supervision. Requires BOP to prohibit prisoners from unsupervised Internet access.

Remarks: Mrs. Pryce has written to the Subcommittee urging action on her proposal. This is a priority and she is open to any improvements to the measure.

2. H.R. 1972, by Rep. Bob Franks. Prohibits the sale of personal information about children without their parents' consent.

Remarks: The Subcommittee held a hearing on a nearly identical bill in the 104th Congress. Mr. Frank's office has contacted the Subcommittee indicating that this bill is a priority for Mr. Franks.

3. H.R. 2173, by Rep. Bob Franks. Requires reporting of child sexual abuse (e.g., child pornography) by Internet service providers.

Remarks: Mr. Franks has contacted the Subcommittee, urging action on his proposal. A similar proposal was transmitted by the administration in the 104th Congress. America On-Line and the National Center for Missing and Exploited Children have expressed some concerns.

4. H.R. 2815, by Reps. Weller and Hastert. Provides penalties for use of an interstate facility to target children for sexually explicit messages or contacts.

Remarks: This bill is a priority of Mr. Weller and Mr. Hastert's and was written for constituents who were victimized in their District. While the current language is somewhat vague, both Members have requested changing the language to resemble a Florida State statute which prohibits the exchange of minor's names for the purposes of facilitating sexual activities with any minor.

5. H.R. 3185, by Rep. Bob Riley. Makes illegal the possession of one or more images of child pornography. (It is currently illegal to possess 3 or more images of child pornography.)

Remarks: Mr. Riley has contacted the Subcommittee urging action on his bill.



U.S. Department of Justice

Office of Justice Programs

Office of Juvenile Justice and
Delinquency Prevention

Office of the Administrator

Washington, DC 20531

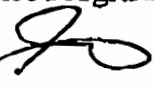
May 1, 1998

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THE ASSOCIATE ATTORNEY GENERAL

Laurie Robinson 
Assistant Attorney General
Office of Justice Programs

FROM: Shay Bilchik 
Administrator

SUBJECT: Advance Notification of OJJDP Publication

PURPOSE: To provide you with advance copies and notification of the pending release of
When Your Child Is Missing: A Family Survival Guide. (NCJ 170022)

DISCUSSION: Each year an estimated 900,000 children are reported missing. Most of them have either run away or been abducted by family members. Last year, OJJDP convened a working group to address the critical need for information for parents of missing children. *When Your Child Is Missing: A Family Survival Guide* was developed to give family members the information, guidance, and tools that they need to work with law enforcement agencies to find their missing child. What makes the *Guide* unique is that it was written, with assistance from law enforcement and youth service professionals, by parents who have experienced the trauma of a missing child.

Because the first 48 hours are the most critical in finding a missing child, the introduction discusses what parents should do immediately after discovering that their child is missing. The next seven sections focus on various aspects of the search for—and recovery of—the missing child. Each section examines short-term and long-term issues and includes a checklist and summary for easy reference. The first two sections describe the different types of searches and stress the need for close cooperation with law enforcement. The next two sections are devoted to the dissemination of information and photographs of the missing child. The fifth and sixth sections address the role of volunteers and the use of rewards and donations. The final section looks at personal and family considerations. Other helpful features in the *Guide* include recommended readings; a list of additional resources, including phone numbers and contact information; and profiles of the parent authors.

RECEIVED
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05/11/00 10:11:00 AM

The announcement for the release of *When Your Child Is Missing: A Family Survival Guide* will be made by the Attorney General at the Missing Children's Day Ceremony on May 21. The parents who wrote the *Guide* will be in attendance and will be recognized for their contribution.

TIMETABLE: The *Guide* will be released after the Attorney General's announcement on May 21 to U.S. Attorneys, State Attorneys General, State juvenile justice advisory groups, State chief justices, State/regional/county directors of law enforcement training, State missing children coordinators, missing children State clearinghouses, governors, criminal justice agency heads, juvenile and family court judges, prosecutors, sheriffs, police chiefs, public and private juvenile facility administrators, policymakers, and researchers.

If additional information regarding this document is needed, I may be reached at (202) 307-5911.

Attachments



Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, APRIL 16, 1998

OJJDP
202/307-0703

JUSTICE DEPARTMENT LAUNCHES MISSING AND EXPLOITED CHILDREN WEB SITE

WASHINGTON, D.C. -- As part of an ongoing effort to prevent child abduction and exploitation, the Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP) announced its new Missing and Exploited Children's Program web site:

www.ncjrs.org/ojjdp/missing/index.html.

The site features "Tips for Kids" that tells where to go if they are scared, lost, or need help. They can also share their own ideas on safety and self-protection, as well as learn how to avoid cyber-exploitation.

"This new website has a simple purpose," noted President Clinton. "It is to protect children and provide parents with the information they need to keep their families safe. We love and cherish our children, and we must insure that they have the tools they need to protect themselves from harm."

"We know that youth are spending increasing amounts of time exploring the Internet. This gives us an opportunity to provide them with critical information that can keep them out of harm's way," added OJJDP Administrator Shay Bilchik. "It is our hope that this site will help keep our children safe -- both online and on the streets."

(MORE)

-2-

The site also contains information for parents, law enforcement officers, educators and others concerned about the problem of missing children. The "Support for Parents" section addresses how parents can best protect their children and what steps they should take if their child is missing.

In addition to information, the site also features links to other sites, such as the Justice Department's Kids Page (www.usdoj.gov/kidspage), which offers youth information about crime prevention and other criminal justice issues, and the National Center for Missing and Exploited Children's CyberTipline, which serves as a national resource for tips and leads regarding the sexual exploitation of children through the Internet.

Other key features of the site include:

- Information on available law enforcement training in investigating child kidnaping and abduction cases.
- OJJDP Missing and Exploited Children publications.
- Links to missing children information sites in Argentina, Belgium, Brazil, Canada, and the Netherlands.

The CyberTipline is www.missingkids.com/cybertip. Parents and others concerned with child safety can also report suspicious or illegal Internet activity through the National Center for Missing and Exploited Children's toll-free number, 1-800/843-5678.

The website is the latest in a series of initiatives during the Clinton Administration designed to assist in locating missing children and to prevent child abductions. In 1996, President Clinton directed federal agencies to post the photos of missing children in federal buildings.

(MORE)

-3-

Two years earlier, the Clinton Crime Act created the Morgan P. Hardiman Task Force on Missing and Exploited Children, bringing together agents from every federal law enforcement agency to work on the most difficult missing children cases.

Information about other OJJDP publications, programs and conferences is available through the OJJDP web site at www.ncjrs.org/ojjhome.htm and from OJJDP's Juvenile Justice Clearinghouse, Box 6000, Rockville, Maryland 20857. The toll-free number is 1-800/638-8736.

Information about other Office of Justice Programs (OJP) bureaus and program offices is available at www.ojp.usdoj.gov. Media should contact OJP's Office of Congressional and Public Affairs at 202/307-0703.

###

OJJDP 98105

After hours contact: Adam Spector, 202/516-6800

JC-

I asked the Center to give me a summary of what has already been done on missing children. Also attached is McCollum bill language + their (center's) leg. agenda. I'm not clear on whether

McCollum bill covers their ^{whole} leg agenda, but I will find out.

leane



2101 Wilson Boulevard
Suite 550 • Arlington, VA
22201-3077

Telephone: 703-235-3900

Facsimile: 703-235-4067

<http://www.missingkids.com>

Fax Transmission Cover Page

Date: April 15, 1998

To: **Name:** Ms. Leanne Shimabukuro

Agency: White House

Member: NA

Fax No.: 202-456-7028

From: **Name:** Susy Rotkis

Dept.: Legislative Counsel

Fax No.: (703) 235-4067

Phone: (703) 235-3900

Subject: Missing Child & Other Child Protection Leg.

Total No. Pages (including this page) 15

Ms. Shimabukuro:

Thank you so much for your dedication to assisting NCMEC in Missing Children's Day events. I look forward to working with you.

Fondly,

Susan

Branches:
California
Florida
New York
South Carolina

Adam Walsh Children's Fund



2101 Wilson Boulevard
Suite 550 • Arlington, VA
22201-3077

Telephone: 703-235-3900

Facsimile: 703-235-4067

<http://www.missingkids.com>

A Brief Summary of Federal Missing Children Legislation

The following is a brief summary of the Federal response to the problem of missing children in the United States.

- 1974** **Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP)**, 42 U.S.C. 5601 *et seq.*
This Act establishes the Office of Juvenile Justice and Delinquency Prevention (OJJDP) as the lead Federal agency responsible for all matters of juvenile justice. The juvenile justice system attends to the needs of neglected and abused children, as well as juvenile delinquents. OJJDP's mission is to provide direction, coordination, leadership, and resources to State and local juvenile justice systems and the related youth services delivery system.
- 1980** **Parental Kidnapping Prevention Act (PKPA)**, 28 U.S.C. 1738A.
This Act addresses the interstate issues of parental child abduction. Although all fifty states have laws prohibiting child abduction by a non-custodial parent, confusion develops when it is unclear which parent has legal custody of the child. The PKPA requires States to enforce and not modify custody determinations made by other States that are consistent with the jurisdictional provisions of the Act. It also authorizes the Federal Parent Locator Service to use its computer to find address information on abductor parents and abducted children. The PKPA directs the U.S. Department of Justice to apply the Federal Fugitive Felon Act to interstate parental kidnapping cases when a State felony warrant has been issued and authorizes the issuance of a Federal Unlawful Flight to Avoid Prosecution (UFAP) warrant.
- 1982** **Missing Children Act**, 28 U.S.C. 534(a).
After intense public and media outcry, Congress enacts the first piece of Federal legislation specifically addressing the problems of missing children. The Missing Children Act ensures that complete descriptions of missing children can be entered in the Federal Bureau of Investigation's National Crime Information Center (NCIC) computer, even if the abductor has not been charged with a crime.

Branches:
California
Florida
New York
South Carolina

1984**Missing Children's Assistance Act, 42 U.S.C. 5771 *et seq.***

This groundbreaking piece of federal legislation resulted in the establishment of the National Center for Missing and Exploited Children. Recognizing that "Federal assistance is urgently needed to coordinate and assist in this interstate problem," Congress amended the JJDP Act and instructed OJJDP to accomplish, among other tasks, the following:

- establish and operate a national clearinghouse of information about missing and exploited children;
- provide technical assistance to the law enforcement agencies, nonprofit agencies, and families to help locate and recover missing children; and
- conduct research on missing and exploited children and publish summaries of the research findings, including periodic national incidence studies.

1988**Hague Convention on the Civil Aspects of International Child Abduction, 51 Fed. Reg. 10503.**

Negotiated in 1980 and ratified by the U.S. in 1988, the Hague Convention is an international treaty governing the return of internationally abducted children. It provides for the prompt return of these children, usually to the country of their habitual residence, subject to very limited exceptions. The courts of the country of the child's habitual residence have jurisdiction in custody decisions. Each ratifying country must establish a central authority to help parents in locating and securing the child's return. In the United States, the central authority is the Office of Citizens Consular Affairs at the Department of State, but the actual caseload is managed at the National Center for Missing and Exploited Children. This Convention will govern the return of the child only if both countries have ratified the Treaty. Forty-five countries have ratified the Convention as of March 1, 1997.

1988**International Child Abduction Remedies Act, 42 U.S.C. 11601 *et seq.***

This Act establishes the procedures to implement the provisions of the Hague Convention on the Civil Aspects of International Child Abduction in the United States, which governs the return of internationally abducted children. This Act requires the President to designate a Federal agency as the central authority for administration of the treaty provisions within the United States. It empowers State and Federal courts to hear cases for the return of children who have been abducted from foreign countries to the United States and authorizes the courts to protect the well-being of the child and to prevent the child's further removal or concealment. The United States central authority is authorized to have access to information in certain American records pertaining to the whereabouts of an abductor or child.

- 1990 National Child Search Assistance Act, 42 U.S.C. 5779, 5780.**
This Act requires Federal, State, and local law enforcement agencies to report each missing child case to the National Crime Information Center (NCIC), which will then publish an annual statistical summary of such reports. Each State is required to assure the U.S. Department of Justice that law enforcement agencies within that State do not require a waiting period before accepting a missing child report. The law enforcement agencies are also required to update records every 60 days and adopt appropriate search and investigation procedures for such cases.
- 1993 International Parental Kidnapping Crime Act, 18 U.S.C. 1204.**
This Act creates a federal offense of international parental abduction, subjecting the offender to a fine and/or imprisonment. In section 1204(b), Congress explicitly states its preference for use of the Hague Convention on the Civil Aspects of International Child Abduction as a first resort in these cases.
- 1996 Memorandum for the Heads of Executive Departments and Agencies, January 19, 1996.**
President Bill Clinton signs an executive order directing the posting of missing person or children posters in Federal facilities. The order applies to all Federal buildings, including leased office buildings, and establishes the National Center for Missing and Exploited Children as the coordination point for this national dissemination effort.

The **Uniform Child Custody Jurisdiction Act (UCCJA)** establishes rules governing which State has jurisdiction to make or modify a custody determination, even after a child has been abducted. The UCCJA applies to State proceedings for custody, visitation, and joint custody but not to actions for child support. The UCCJA enables a parent with a valid custody decree to have the decree honored and enforced in whatever State the child is located without having to retry the whole custody case. The UCCJA permits judges to order child abductors to pay all reasonable costs, including attorney's fees, incurred by the victim parent in locating and recovering the child. The UCCJA discourages parental kidnapping by giving the judge the power to refuse to hear a case if an abductor petitions the judge for a new custody order or for changes in an existing order. All 50 States, the District of Columbia, and the Virgin Islands have enacted the UCCJA, however, some States altered some of the law's provisions prior to its enactment. It is important for concerned parents to read the UCCJA as enacted in their state and the State in which their child is located.

Other Federal Initiatives

- 1996** **Establishment of the Jimmy Ryce Law Enforcement Training Center,** Omnibus Appropriations Act of 1996, Conference Report 104-863.
The early 1990s saw a handful of particularly violent, horrific child abductions, molestations, and murders. Nearly all child abduction cases are managed by State and local law enforcement authorities, and research studies at this time demonstrate that, more than ever, time is crucial in the successful recovery of an abducted child and much time is being lost due to inadequate officer training. In response to a joint request from the U.S. Department of Justice (USDJO) and the National Center for Missing and Exploited Children (NCMEC), Congress sets aside funds to better train State law enforcement officials nationwide. The cornerstone of this effort is the establishment of a training center at NCMEC. Here, top policy officials would receive focused, comprehensive training on developing policies and protocols geared toward successful resolution of these cases. This training is complemented by USDJO/OJJDP regional training for investigative officers, and National Crime Information Center (NCIC) training of NCIC computer terminal operators.
- 1996** **Establishment of the Exploited Child Unit,** Omnibus Appropriations Act of 1996, Conference Report 104-863.
Recognizing the increasing need for national clearinghouse resources specific to the issues of exploitation of children, Congress earmarks funds for creation of a special unit at the National Center for Missing and Exploited Children to provide information and technical assistance in cases of exploitation. These staff members have expertise in all areas of exploitation, including child pornography on the Internet and sexual tourism.
- 1997** **"Child Abduction" Flagging Mechanism,** CJIS/NCIC Policy Update December 31, 1996. Effective February 2, 1997.
Following a cooperative effort involving members of Congress, the Federal Bureau of Investigation (FBI), the National Crime Information Center (NCIC), and the National Center for Missing and Exploited Children (NCMEC), NCIC policy is amended to enhance Federal, State, and local law enforcement response to cases of missing and exploited children. Prior to this amendment, especially suspicious or dangerous abduction cases received no special priority in the computerized information system used nationwide; therefore, law enforcement agencies and NCMEC were often not notified of the case entry into the computer for many hours or even days. The new mechanism "flags" the case as a serious child abduction and sends immediate notification to NCMEC and the FBI's Child Abduction and Serial Killer Unit (CASKU).

LEGI-SLATE Report for the 105th Congress Mon, March 30, 1998 11:04am (EDT)

BILL TEXT Report for H.R.3494
As introduced in the House, March 18, 1998

H.R.3494 As introduced in the House, March 18, 1998

105th CONGRESS
2d Session

H. R. 3494

To amend title 18, United States Code, with respect to violent sex crimes
against children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 18, 1998

Mr. McCollum (for himself, Ms. Dunn, Ms. Pryde of Ohio, Ms. Granger, Mrs.
Northup, Mrs. Fowler, Mr. Franks of New Jersey, Mr. Foley, Mr.
Cunningham, Mr. Deal of Georgia, Mr. Ramstad, Mr. Barr of Georgia, Mr.
Chabot, Mr. Diaz-Balart, Mr. Gutmacht, and Mr. Lampson) introduced the
following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, with respect to violent sex crimes
against children, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United
States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Protection and Sexual Predator
Punishment Act of 1998".

TITLE I--PROTECTING CHILDREN FROM SEXUAL PREDATORS AND
COMPUTER PORNOGRAPHY

SEC. 101. CONTACTING MINORS FOR SEXUAL PURPOSES.

Section 2422 of title 18, United States Code, is amended by adding at the
end the following:

"(c) Whoever, using the mail or any facility or means of interstate or
foreign commerce, or within the special maritime and territorial jurisdiction
of the United States--

"(1) knowingly contacts an individual who has not attained the age of
18 years; or

"(2) knowingly contacts an individual, who has been represented to
the person making the contact as not having attained the age of 18 years;

for the purposes of engaging in any sexual activity, with a person who has not attained the age of 18 years, for which any person may be criminally prosecuted, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both."

SEC. 102. TRANSFER OF OBSCENE MATERIAL TO MINORS.

(a) In General.--Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 1470. Transfer of obscene material to minors

"Whoever, using the mail or any facility or means of interstate or foreign commerce--

"(1) knowingly transfers obscene matter to an individual who has not attained the age of 18 years, or attempts to do so; or

"(2) knowingly transfers obscene matter to an individual who has been represented to the transferor as not having attained the age of 18 years;

shall be fined under this title or imprisoned not more than 5 years, or both."

(b) Clerical Amendment.--The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding at the end the following new item:

"1470. Transfer of obscene material to minors."

SEC. 103. INCREASED PRISON SENTENCES FOR ENTICEMENT OF MINORS.

Section 2422 of title 18, United States Code, is amended--

(1) in subsection (a), by adding at the end "If the individual had not attained the age of 18 years at the time of the offense, the maximum imprisonment for an offense under this subsection is 10 years."; and

(2) in subsection (b), by striking "10" and inserting "15".

SEC. 104. INCREASED PENALTIES FOR CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS OR CHILD PORNOGRAPHY AND TECHNICAL CORRECTION.

(a) Increased Penalties in Section 2252.--Section 2252(b) of title 18, United States Code, is amended--

(1) in each of paragraphs (1) and (2), by striking "or chapter 109A" and inserting "chapter 109A, or section 2421, 2422, or 2423"; and

(2) in paragraph (2), by inserting "the offense consisted of the possession of 50 or more items of the sort described in subsection (a)(4) or" after "if".

(b) Increased Penalties in Section 2252A.--Section 2252A(b)(2) of title 18, United States Code, is amended by inserting "the offense consisted of the possession of 50 or more images of the sort described in subsection (a)(4) or" after "if".

(c) Technical Correction.--Section 2252(a) of title 18, United States Code, is amended so that paragraph (4) reads as follows:

"(4) either--

"(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country (as defined in section 1151 of this title), knowingly possesses--

"(1) 3 or more books, magazines, periodicals, films, video tapes, or other matter that contain any visual depiction, if--

"(I) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(II) such visual depiction is of such conduct; or

"(ii) any book, magazine, periodical, film, videotape, computer disk, or any other material that contains 3 or more visual depictions, if--

"(I) the producing of each visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(II) each visual depiction is of such conduct; or

"(B) knowingly possesses--

"(1) 3 or more books, magazines, periodicals, films, video tapes, or other matter that contain any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if--

"(I) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(II) such visual depiction is of such conduct; or

"(ii) any book, magazine, periodical, film, videotape, computer disk, or any other material that contains 3 or more visual depictions, if--

"(I) the producing of each visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(II) each visual depiction is of such conduct;".

SEC. 105. CRIMINAL FORFEITURE FOR SOLICITATION OF MINORS AND INTERSTATE PROSTITUTION.

Section 2253(a) of title 18, United States Code, is amended by inserting ", or who is convicted of an offense under section 2421, 2422, or 2423 of this title," after "2252 of this chapter".

SEC. 106. PRETRIAL DETENTION OF CHILD SEX OFFENDERS.

Section 3142(f)(1) of title 18, United States Code, is amended--

(1) by striking "or" at the end of each of subparagraphs (C) and (D); and

(2) by adding at the end the following:

"(E) an offense under chapter 109A, 110, or 117, involving child pornography or against a minor; or".

SEC. 107. INCREASED PRISON SENTENCES.

Subsection (b) of section 2422 of title 18, United States Code, is amended by adding at the end the following: "If in the course of committing the offense under this subsection, the defendant used a computer to transmit a communication to the minor, the minimum term of imprisonment for the offense under this subsection is 3 years."

SEC. 108. REPEAT OFFENDERS IN TRANSPORTATION OFFENSE.

(a) Generally.--Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 2425. Repeat offenders

"(a) The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter.

"(b) As used in this section, the term 'prior sex offense conviction' means a conviction for an offense--

"(1) under this chapter or chapter 109A or 110; or

"(2) under State law for an offense consisting of conduct that would have been an offense under a chapter referred to in paragraph (1) if the conduct had occurred within the special maritime and territorial jurisdiction of the United States or in any Territory or Possession of the United States."

(b) Clerical Amendment.--The table of sections at the beginning of chapter 117 of title 18, United States Code, is amended by adding at the end the following new item:

"2425. Repeat offenders."

TITLE 17--PUNISHING SEXUAL PREDATORS**SEC. 201. SENTENCING ENHANCEMENT IN SECTION 2423 CASES.**

(a) In General.--Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the sentencing guidelines to provide a sentencing enhancement for any offense listed in section 2423 of title 18, United States Code.

(b) Instruction to Commission.--The Sentencing Commission shall ensure that the sentences, guidelines, and policy statements for offenders convicted of offenses described in subsection (a) are appropriately severe and reasonably consistent with other relevant directives and with other guidelines.

SEC. 202. INCREASED PENALTIES FOR TRANSPORTATION OF MINORS OR ASSUMED MINORS FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.

Section 2423 of title 18, United States Code, is amended to read as follows:

Sec. "2423. Transportation of minors and assumed minors

"(a) Transportation With Intent To Engage in Criminal Sexual Activity.--A person who knowingly--

"(1) transports an individual who has not attained the age of 18 years; or

"(2) transports an individual, under the belief that the individual has not attained the age of 18 years;

in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than 15 years, or both.

"(b) Travel With Intent To Engage in Sexual Act With a Juvenile.--A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2246) with another person who has not attained the age of 18 years, or whom the person believes has not attained the age of 18 years, that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States shall be fined under this

title, imprisoned not more than 15 years, or both."

SEC. 203. INCREASED PENALTIES FOR ABUSIVE SEXUAL CONTACT.

Section 2244 of title 18, United States Code, is amended by adding at the end the following:

"(c) Offenses Involving Young Children.--If the sexual contact that violates this section is with an individual who has not attained the age of 12 years, the maximum term of imprisonment that may be imposed for the offense shall be twice that otherwise provides in this section."

SEC. 204. PUNISHMENT FOR REPEAT OFFENDERS.

Section 2241 of title 18, United States Code, is amended by inserting after subsection (d) the following:

"(e) Punishment for Repeat Offenders.--(1) Whoever has twice previously been convicted of a serious State or Federal sex crime and who--

"(A) violates this section; or

"(B) in a circumstance described in paragraph (2) of this subsection, engages in conduct that would have violated this section if the conduct had occurred in the special maritime and territorial jurisdiction of the United States;

shall be imprisoned for life.

"(2) The circumstances referred to in paragraph (1) of this subsection is that--

"(A) the person engaging in such conduct traveled in interstate or foreign commerce or used the mail or any facility or means of interstate or foreign commerce in furtherance of the offense; or

"(B) such conduct occurs in or affects interstate or foreign commerce and would have violated this section if the conduct had occurred in the special maritime and territorial jurisdiction of the United States.

"(f) Serious State or Federal Sex Crime.--For the purposes of subsections (e) and (f), the term serious State or Federal sex crime means a State or Federal offense for conduct which--

"(i) is an offense under this section or section 2242 of this title; or

"(ii) would have been an offense under either of such sections if the offense had occurred in the special maritime or territorial jurisdiction of the United States."

SEC. 205. REPEAT OFFENDERS IN SEXUAL ABUSE CASES.

Section 2247 of title 18, United States Code, is amended to read as follows:

"Sec. 2247. Repeat offenders

"(a) The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter.

"(b) As used in this section, the term 'prior sex offenses conviction' has the meaning given that term in section 2425."

SEC. 206. CIVIL REMEDY FOR PERSONAL INJURIES RESULTING FROM CERTAIN SEX CRIMES AGAINST CHILDREN.

Section 2255 of title 18, United States Code, is amended by striking "2251 or 2252" and inserting "2241(c), 2243, 2251, 2252, 2421, 2422, or 2423".

SEC. 207. ELIMINATION OF REDUNDANCY AND AMBIGUITIES.

(a) Redundancy.--Section 2243(a) of title 18, United States Code, is amended by striking "crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or".

(b) Making Consistent Language on Age Differential.--Section 2241(c) of title 18, United States Code, is amended by striking "younger than that person" and inserting "younger than the person so engaging".

(c) Definition of State.--Section 2246 of title 18, United States Code, is amended--

(1) in paragraph (5), by striking the period and inserting a semicolon; and

(2) by adding a new paragraph as follows:

"(6) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States."

TITLE III--FEDERAL INVESTIGATIONS OF SEX CRIMES AGAINST
CHILDREN AND SERIAL KILLERS

SEC. 301. ADMINISTRATIVE SUBPOENAS.

(a) In General.--Chapter 203 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 3061. Administrative subpoenas

"(a) Authorization of Use.--In an investigation of an alleged violation of section 2241(c), 2243, 2421, 2422, or 2423 of this title where a victim is an individual who has not attained the age of 18 years, the Attorney General may subpoena witnesses, compel the production of any records (including books, papers, documents, electronic data, and other tangible things which constitute or contain evidence) which the Attorney General finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing, except that a witness shall not be required to appear at any hearing more than 500 miles distant from the place where the witness was served with a subpoena. Witnesses summoned under this section shall be paid the same fees and commissions that are paid witnesses in the courts of the United States.

"(b) Service.--A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to that person or by certified mail with return receipt requested. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) Enforcement.--In the case of contumacy by or the refusal to obey a subpoena issued to any person under this section, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or of which the person is an inhabitant or in which the person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony regarding the matter under investigation. Any failure to obey the order of the court may be punished by the court as contempt thereof. All process in any such case may be served in any judicial district in which such person may be found."

(b) Clerical Amendment.--The table of sections at the beginning of

chapter 203 of title 18, United States Code, is amended by adding at the end the following new item:

"3064. Administrative subpoenas."

SEC. 302. KIDNAPPING.

(a) 24-Hour Rule.--Section 1201(b) of title 18, United States Code, is amended by adding at the end the following: "However, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the twenty-four hour period has ended."

(b) Jurisdictional Elements.--Section 1201(a) of title 18, United States Code, is amended--

(1) by striking "or" at the end of paragraph (4); and

(2) by adding after paragraph (5) the following:

"(6) the mail or any facility or means of interstate or foreign commerce is used in furtherance of the offense; or

"(7) the offense affects interstate or foreign commerce, or would do so if the offense were consummated;"

(c) Clarification of Element of Offense.--Section 1201(a) of title 18, United States Code, is amended by inserting ", regardless of whether such person was alive when transported across a State boundary provided the person was alive when the transportation began" before the semicolon at the end of paragraph (1);

SEC. 303. MURDER.

(a) New Offense of Crossing State Lines With Intent To Commit Murder.--Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 1123. Crossing State lines with intent to commit murder

"(a) Whoever travels across a State line or enters or leaves Indian country with the intent to engage in conduct that constitutes murder in the first degree (as defined in section 1111) shall be punished by imprisonment for life, and if death results, may be punished by death.

"(b) No prosecution for any offense described in this section shall be undertaken by the United States except on written certification of the Attorney General or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions that, in the judgment of the certifying official, the conduct intended to be engaged in was a serial killing. A certification under this subsection shall not be reviewable in any court.

"(c) As used in this section--

"(1) the term 'State' means a State of the United States and also includes the District of Columbia, and any commonwealth, territory, or possession of the United States; and

"(2) the term 'serial killing' means one in a series of 3 or more killings during separate criminal episodes, at least one of which is committed in the United States having common characteristics that suggest the reasonable possibility the killings were committed by the same actor or actors."

(b) Clerical Amendment.--The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1123. Crossing State lines with intent to commit murder."

SEC. 304. MORGAN P. HARDIMAN CHILD ABDUCTION AND SERIAL MURDER INVESTIGATIVE RESOURCES CENTER.

(a) Establishment.--Not later than 90 days after the date of the enactment of this Act, the Attorney General shall establish a Child Abduction and Serial Murder Investigative Resources Center to be known as the "Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center" (hereinafter in this section referred to as the "CASMIRC").

(b) Purpose.--The purpose of this section is to establish a Federal Bureau of Investigation Child Abduction and Serial Murder Investigative Resources Center managed by the FBI's Critical Incident Response Group's National Center for the Analysis of Violent Crims (NCAVC) and multidisciplinary resource teams in FBI field offices to provide investigative support through the coordination and provision of Federal law enforcement resources, training, and application of other multidisciplinary expertise, to assist Federal, State, and local authorities in matters involving child abductions, mysterious disappearance of children, child homicide, and serial murder across the country. The CASMIRC shall be co-located with the NCAVC.

(c) Duties of the CASMIRC.--The CASMIRC shall perform such duties as the Attorney General deems appropriate to carry out the purposes of the CASMIRC, including but not limited to--

(1) identifying, developing, researching, acquiring, and refining multidisciplinary information and specialties to provide for the most current expertise available to advance investigative knowledge and practices used in child abduction, mysterious disappearance of children, child homicide, and serial murder investigations;

(2) providing advice and coordinating the application of current and emerging technical, forensic, and other Federal assistance to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(3) providing investigative support, research findings, and violent crime analysis to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(4) providing, if requested by a Federal, State, or local law enforcement agency, on site consultation and advice in child abduction, mysterious disappearances of children, child homicide and serial murder investigations;

(5) coordinating the application of resources of pertinent Federal law enforcement agencies, and other Federal entities including, but not limited to, the United States Customs Service, the Secret Service, the Postal Inspection Service, and the United States Marshals Service, as appropriate, and with the concurrence of the agency head to support Federal, State, and local law enforcement involved in child abduction, mysterious disappearance of a child, child homicide, and serial murder investigations;

(6) conducting ongoing research related to child abductions, mysterious disappearances of children, child homicides, and serial murder, including identification and investigative application of current and emerging technologies, identification of investigative searching technologies and methods for physically locating abducted children, investigative use of offender behavioral assessment and analysis concepts, gathering statistics and information necessary for case identification, trend analysis, and case linkages to advance the investigative effectiveness of outstanding abducted children cases, develop investigative systems to identify and track serious serial offenders that repeatedly victimize children for comparison to unsolved cases, and other investigative research pertinent to child abduction, mysterious disappearance of a child, child homicide, and serial murder covered in this section;

(7) working under the Federal Bureau of Investigation's NCAVC in coordination with the National Center For Missing and Exploited Children (NCMEC) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to provide appropriate training to Federal, State, and local law

enforcement in matters regarding child abductions, mysterious disappearances of children, child homicides; and

(8) establishing a centralized repository based upon case data reflecting child abductions, mysterious disappearances of children, child homicides and serial murder submitted by State and local agencies, and an automated system for the efficient collection, retrieval, analysis, and reporting of information regarding CASMIRC investigative resources, research, and requests for and provision of investigative support services.

(d) Appointment of Personnel to the CASMIRC.--

(1) Selection of members of the casmirc and participating state and local law enforcement personnel.--The Director of the Federal Bureau of Investigation shall appoint the members of the CASMIRC. The CASMIRC shall be staffed with FBI personnel and other necessary personnel selected for their expertise that would enable them to assist in the research, data collection, and analysis, and provision of investigative support in child abduction, mysterious disappearance of children, child homicide and serial murder investigations. The Director may, with concurrence of the appropriate State or local agency, also appoint State and local law enforcement personnel to work with the CASMIRC.

(2) Status.--Each member of the CASMIRC (and each individual from any State or local law enforcement agency appointed to work with the CASMIRC) shall remain as an employee of that member's or individual's respective agency for all purposes (including the purpose of performance review), and service with the CASMIRC shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis, except where appropriate to reimburse State and local law enforcement for overtime costs for an individual appointed to work with the resource team. Additionally, reimbursement of travel and per diem expenses will occur for State and local law enforcement participation in resident fellowship programs at the NCAVC when offered.

(3) Training.--CASMIRC personnel, under the guidance of the Federal Bureau of Investigation's National Center for the Analysis of Violent Crime and in consultation with the NCMEC, shall develop a specialized course of instruction devoted to training members of the CASMIRC consistent with the purpose of this section. The CASMIRC shall also work with the NCMEC and OJJDP to develop a course of instruction for State and local law enforcement personnel to facilitate the dissemination of the most current multidisciplinary expertise in the investigation of child abductions, mysterious disappearances of children, child homicides, and serial murder of children.

(c) Report to Congress.--One year after the establishment of the CASMIRC, the Attorney General shall provide a report to Congress that describes the goals and activities of the CASMIRC. The report shall also contain information regarding the number and qualifications of the members appointed to the CASMIRC, provision for equipment, administrative support, and office space for the CASMIRC, and projected resource needs for the CASMIRC.

(f) Authorization of Appropriation.--There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1999 and each of the two succeeding fiscal years.

(g) Conforming Repeal.--Subtitle C of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 5776a et seq.).

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN
LEGISLATIVE AGENDA 1998

The National Center for Missing and Exploited Children (NCMEC) proposes an ambitious and much needed legislative agenda for 1998. Our focus continues to respond to the plight of both missing and sexually exploited children. While we have made many strides in the area of missing-child legislation, there is still much to be done. Our continued commitment to ending all forms of child sexual exploitation has never been more visible. NCMEC's mission is to continue our impact on the development and implementation of solid legislation designed to protect children.

Missing Child Legislation

1. Uniform family abduction and criminal custodial interference statutes must be passed in every state. Currently, 31 states and the District of Columbia have inadequate custodial interference laws. NCMEC will work with state legislators, executives, and attorneys general to help effectuate changes in existing state laws. States should
 - a. make abductors criminally liable for concealing or removing a child in violation of the custody rights of the left-behind parent.
 - b. ensure that a parent's lack of resources does not hinder his or her ability to prosecute custodial rights and be reunited with his or her child. Free legal services, victims assistance and criminal restitution programs should provide resources to left-behind parents.
 - c. coordinate state programs to prepare law enforcement officers to work with community agencies and courts to improve the criminal-justice response to family abduction.
 - d. institute requirements that lawyers and judges be educated in family abduction and child-custody issues.
 - e. enact legislation permitting and recognizing *ex parte* custody orders.
2. Enact legislation that gives law enforcement the authority to detain for 24 hours any child who has been entered into the NCIC as missing. There are times when law enforcement actually locates a child, only to have him go missing again because they have no authority to hold the child.
3. International child abduction can be arrested if we "Prevent Departure." One of the biggest barriers to recovering children in international abductions is the lack of the ability of law enforcement to prevent the departure of abductors. This problem also confronts law enforcement in pursuit of terrorists and fugitives who leave the United States. The federal government needs to prevent the departure of missing children and their abductors. Under the Illegal Immigration Reform and Alien Responsibility Act of 1996 (IIRARA) the Immigration and Naturalization Service (INS) is required to develop a method for tracking every person leaving the United States. Both INS and SITA (a private travel firm that has the capability to record and flag individual names and passport numbers) can help prevent the escape of abductors, fugitives and terrorists by checking passports against a flagged database. We need the cooperation of INS Commissioner Meissner, and Senate Transportation Committee Chairman Shelby (R - AL) to help effect this plan.

4. **Jennifer's Law.** Identifying information about the bodies of unidentified persons should be entered into the National Crime Information Computer (NCIC) to help parents and law enforcement close out missing child and missing persons cases. NCMEC supports HR 2850, which will require local and state law enforcement agencies to enter identifying information into the NCIC. However, the current draft of the legislation needs to be modified to reflect the proper Federal Bureau of Investigation (FBI) protocol to aid the ability of local law enforcement and the NCIC to cross check and match unidentified persons with missing persons. We are seeking the advice of FBI counsel to make appropriate recommendations.
5. Schools should require proof of identity before a child is enrolled in school. If a parent cannot produce proof of identity, the missing children's clearinghouse should be checked to see if the child is entered as an abducted child. Currently, 26 states and the District of Columbia have no such provision.
6. Record-keeping agencies and schools should flag the records of missing children because abducting parents often try to obtain birth certificates and school records. When the record-keeping agency reports the request to law enforcement, this can provide a vital lead to the child's location. At this time, 21 states and the District of Columbia have no such provision.
7. Schools should be required by law to verify a child's absence because time is of the essence in locating a missing child. If a school fails to follow up on absences, and that child is in fact unaccounted for or missing, precious hours are lost in trying to locate that child. Currently, 38 states and the District of Columbia have no law that requires schools to verify a student's absence.
8. Personal safety education curricula should be mandated by the state to be implemented in every school. Thirty-five states and the District of Columbia have no mandatory personal safety education. There must be a positive, effective prevention/education program that doesn't frighten children and families, but helps them deal with challenges facing children in their daily lives. A comprehensive, age-appropriate personal safety curriculum will help instill children with the self-confidence they need to prevent abduction and sexual exploitation.

Child-Sexual Exploitation Legislation

1. **Megan's Law** needs to be uniformly implemented with active dissemination in all 50 states. A tiered system is currently in place in nine states, with Minnesota's three-tiered system as a model. We can help achieve this legislative goal through dissemination of our publications such as *Selected State Legislation* and the *Report to the Nation*; developing relationships with the state Attorneys General; being responsive to inquiries from state legislators and the media; and providing information and model legislation to trusted and well-placed NPOs that can aggressively pursue laws in their states.
2. **Child pornography crimes** have proliferated with the advent of technology. Possession of child pornography should be a crime in every state.
 - a. Every discrete image of a child should be considered a separate offense.
 - b. Films should be considered to be a collection of discrete images despite packaging.
 - c. Images transmitted over the Internet and possessed via computer should be illegal.

3. Every state must enact child enticement laws making luring or attempting to lure a child a distinct offense. This improvement in the criminal code will identify would-be sex offenders before a child is actually victimized.
4. The National Sex Offender Registry will continue to be a priority for NCMEC. In response to President Clinton's plea to the states, we will play a lead role in communicating to each state the need to commit to participation in the National Sex Offender Registry. The FBI is currently technically capable of complying with most of the requirements of the National Sex Offender Registry Act. However, only 13 states are currently participating. The fact that the large majority of states don't have a central location for the sex offender registry information will make it difficult, if not impossible, for the FBI to include registered offenders from all jurisdictions. Each state needs to develop a central registry in order to help the FBI make it available to law enforcement on a nationwide basis.
5. States must implement comprehensive, multidisciplinary strategies for reducing sex offenses. NCMEC will support this effort through dissemination of "A State Strategy for Reducing Sex Offenses." Because there will never be adequate funds or prison capacity to incarcerate every convicted offender, a strategic allocation of criminal justice and community resources is necessary. One vital element in implementing such a strategy is to develop a range of responses with special attention to identifying, classifying and assessing offenders – with maximum sentences for those who represent the greatest threat to our society.
6. Sex offenders should be correctly identified and charged within the criminal-justice system.
 - a. Prosecutions
 - Every state should vigorously prosecute sex offenders where legal sufficiency exists.
 - Sex offenders should plead to crimes that reflect the seriousness of the offense or be taken to trial. This will require an attitude change for courts and prosecutors who may rather plead the defendant out in order to get a conviction, any conviction, especially when a child's testimony is required.
 - Vigorous prosecution that reflects the crimes committed by the defendant will help the criminal justice system to properly label the defendant as a sex offender. If an offender commits future sex crimes, then law enforcement and courts are better able to assess his recidivism.
 - Sex offenders should never be able to plea bargain out of sex offender registration.
 - b. Seriousness of sex offenses should not be limited to traditional notions of violent crimes. Legislatures should define crimes that are predatory and/or violent as among the most serious offenses.
7. States should make a special finding of sexual motivation as a sentence enhancement where the actual crime charged/convicted was something else such as burglary or murder.
 - a. States should make victimizing a child a special sentencing enhancement.
 - b. States need to make use of the Internet to lure a child a special and distinct offense.
 - c. States should explore treatment as an option for low risk offenders who are motivated to seek treatment.
 - d. States should increase sentences for probation and parole violators who violate due to another similar sex offense, and also increase punishment for the second recidivist offense.

8. Sentencing reform in the states needs to include implementation of sentence ranges for the type of offense committed, the seriousness of the crime (i.e., it was predatory, a child was victimized, etc.), and recidivism.
9. Sentencing options should include community-based treatment programs that should be available only to those who plead guilty, are receptive to treatment, and whose crimes are less dangerous.
10. Parole, probation and other forms of court-ordered supervision should be strengthened to reduce recidivism, to identify repeat offenders, and monitor treatment and progress of offenders who are re-introduced into the community.
 - a. Pre-sentence reports should be required for all offenders.
 - b. Judges, court officials, prosecutors and law enforcement officers should be trained in sex offense occurrences, treatment and supervision.
 - c. Special provisions should be written into sentencing statutes which cause predatory recidivist offenders to have longer sentences, be subjected to lifetime supervision or be subject to civil commitment statutes.
 - d. Flat-time release without supervision should be eliminated for sex offenders. All sex offenders should be subject to community supervision and reporting requirements.
 - e. Deferred adjudication and probation should always result in prison time for violators.
 - f. Parolees and Probationers should be monitored by the use of polygraph examinations to help insure compliance and detect violations of terms of release.
11. Civil confinement statutes should be enacted in every state as a response to the threat posed by the most serious sexual predators who are released, non-responsive to or refuse treatment, or who have promised they will offend again. Pursuant to the U.S. Supreme Court's decision last term in Kansas v. Hendricks, legislatures have an enumerated set of standards to follow to ensure constitutional implementation of civil confinement. There are only 6 states with civil confinement statutes applicable to sexual predators.
12. Volunteers for Children Act (VCA), introduced in September by Rep. Mark Foley (R - FL). NCMEC will continue to support the passage of the VCA. The VCA permits youth-serving volunteer agencies to conduct NCIC background screening of volunteers who work with children.
13. Effective background screening of every youth-serving organization, especially at schools and child-care facilities, needs to be a priority in every state. Some states do not even have adequate initial screening of employees who work with children and almost never conduct periodic updates. Every state should enact legislation requiring background checks with periodic updates.



OJJDP Office of Juvenile Justice and Delinquency Prevention

Shay Bilchik, Administrator

FACT SHEET #32 October 1995

National Center for Missing and Exploited Children

by Ronald Laney

The Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, Public Law 93-415, as amended by the Missing Children's Assistance Act of 1984, establishes a Missing and Exploited Children Program in the Office of Juvenile Justice and Delinquency Prevention (OJJDP). In addition to authorizing assistance for research, demonstration, and service programs, the Missing Children's Assistance Act authorizes the use of Federal resources to establish and support a national resource center and clearinghouse dedicated to missing and exploited children issues. Since April 1984 the National Center for Missing and Exploited Children (NCMEC) has worked in partnership with OJJDP to carry out the following statutorily mandated functions:

1. Establish a toll-free hotline
2. Provide technical assistance to parents, law enforcement and other agencies working on missing and exploited children issues
3. Promote information sharing and provide technical assistance by networking with regional non-profit organizations, State clearinghouses, and law enforcement agencies
4. Develop publications that contain practical, timely information
5. Provide information regarding programs offering free or low-cost transportation services that assist in reuniting children with their families.

NCMEC's activities and accomplishments include:

- The NCMEC toll-free hotline (1-800-843-5678) has received over 905,000 calls ranging from requests for publications and technical assistance to sighting reports of missing children. Substantive information is immediately forwarded to the appropriate law

enforcement agency. NCMEC hotline staff coordinate lodging and transportation assistance for families traveling for the purpose of reunification with their children. NCMEC works with corporations to provide no cost lodging and transportation to families unable to pay for these services.

- NCMEC is electronically linked with 46 State-level missing children clearinghouses. Information and images can be transmitted instantly through this on-line network. NCMEC promotes active information exchange with State clearinghouses and provides pictures of missing children, lead information for local law enforcement, and responses to technical information requests. Upon request, NCMEC will provide training for clearinghouse staff.

- Through a network of 460 private sector partners, NCMEC disseminates millions of photographs of missing children. ADVO, Inc. alone distributes more than 57 million pictures of missing children to households on a weekly basis. One in seven children featured has been recovered. PIP Printing, working with NCMEC, has supplied millions of missing children fliers at no cost to searching parents.

- Through advanced imaging technology, NCMEC "age progresses" photographs of children who have been missing for two years or more to generate new leads. At least 11 children have been recovered as a result of this technology.

- In long-term cases, NCMEC provides analytical services that include a behavioral analysis to enhance the evaluation of leads taken by the hotline for consistency with suspect behavior. Leads can be grouped geographically for cluster analysis.

- NCMEC provides advice and technical assistance to law enforcement professionals in such areas as conducting interviews, obtaining search warrants, and collecting evidence. Through link analysis techniques, NCMEC identifies cases that exhibit common denominators and facilitates communication between law enforcement agencies.

- NCMEC has developed a substantial publication list related to missing and exploited children issues. Subjects range from advice for parents selecting babysitters to a *Case in Point* series, designed for distribution to criminal justice professionals that examines case histories of convicted serial child molesters. Thousands of NCMEC's *Missing and Abducted Children: A Law Enforcement Guide to Case Investigation and Program Management* have been distributed to Federal, State, and local law enforcement personnel.

- NCMEC maintains an active liaison with state and local private non-profit organizations that provide direct local services regarding missing and exploited children issues. NCMEC maintains a list of non-profit organizations located throughout the United States, Canada and Europe. This list is made available to individuals seeking information regarding resources that may assist them with a missing or exploited child incident. NCMEC has also developed a publication, *Non-profit Service Provider's Handbook*, for individuals considering starting a missing children's service organization.

- In partnership with thirteen national law enforcement associations, NCMEC coordinates the services of volunteer, retired police officers through Project ALERT. Volunteers must be nominated by their respective association and then complete an intensive, specialized course that builds on their investigative expertise. Using Project ALERT volunteers, NCMEC provides on-site assistance to local police in complex missing and exploited children cases.

- NCMEC has developed a case management software package for dissemination to state clearinghouses and law enforcement agencies to facilitate case management. The software allows agencies to load their individual data, ensuring appropriate investigative steps and procedures are carried out.

- NCMEC provides training to medical facility personnel regarding infant abduction. This training is designed to promote awareness and to prompt self-assessment by nursing and security staff regarding facility security procedures. Training also includes abductor behavioral profiles and practical recommendations for prevention.

- NCMEC has developed a comprehensive safety curriculum *Kids and Company: Together for Safety*. This curriculum, designed for grades kindergarten through 6, was developed for use by teachers, parents, and children to help prevent abuse and abduction. The package includes activity sheets, games, visual aids, and training tapes.

- Under a recently completed interagency agreement, NCMEC processes in-coming Hague Convention cases for the Department of State. Under the agreement, NCMEC assists in locating children illegally removed from other countries to the United States and facilitates U. S. Hague visitation access or their return to the custodial parent.

These varied activities reflect the aggressive use of NCMEC's resources to prevent abductions and facilitate the return of missing and exploited children. The OJJDP/NCMEC partnership, now entering its thirteenth year, demonstrates sustained commitment to preserving America's families.

In addition, under a contract with the National Alzheimer's Association, NCMEC operates the Safe Return Program. This program serves as a registry and hotline (1-800-572-1122) for Alzheimer's patients. Safe Return facilitates the return of Alzheimer's victims to their caregivers by providing identification information through the toll free hot line.

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