Rogers, Laura

From: [redacted]
Sent: Friday, June 01, 2007 12:17 PM
To: GetSMART
Subject: Guidelines for Sex Offenders

The bashing of sex offenders is disproportionate to the vast numbers of garden-variety types that fill up our prisons and registries: a lower-functioning young man in late teens to early twenties with an underage, teenage girlfriend. Two suggestions: change the name of such a crime from 'Sexual Assault of a Child' to something else to distinguish it from sex crimes against pre-pubescent children. For example: 'Sex with Underage Partner' and lower the penalties for such crimes.

Donald R. Hands, Ph.D., CCHP.
[redacted]

5-31-07

Dear Sir,

Im writing in regards to the Adam Walsh Act 2006. I thank you for allowing me to comment on this. Everyone in the United States knows that a tier III is the worst of the worst of Sex Offenders. In your new rules you'll be going by the age of the victim to determin which tier the offender will be.

I feel you are making a gross mistake by doing it this way. That means a 14 or 15 yr old boy who's hormones are raging messes around with a young child will end up being a Tier III. Please reconsider this.

My son was raped when he was five years old by a 14 yr old now this boy was a bonafied pedafile. He raped other children too. But there are other boys 14 + 15 who definetly for a one time offence should not be so severly pentalized as a tier III.

How will they ever be able to finish school with their mugshot on the internet. Impossible. Won't happen. Lets not get so paranoid about these young guys. Those 18 + 19 yr old who go after girls under 16 now they know what their doing. But at 14 + 15 their still so imature. What if it happened to your son, would you

wont your son to be treated as this?
I hate sex abuse I dont care what age they are. Our society started this. With sex everywhere on TV + magazines. Why cant you put all juvenules on a personal + confidential registry to where the public can not see their info.

Were got 600,000 S.O. who will be out of work, no families, what do they get to lose but to run and hide. I know I would be tempted. I hope you will not be putting the name of their vehicles or licenceplates on there their family drives that car to.

What about the children of these sex offenders how embarassing to them. They'll never know anything but shame.

I pray to God that you would change your mind. Please be merciful to them as God is to us. It could be your son one day.

Thank You

[redacted]

[redacted]

Rogers, Laura

From: [redacted]
Sent: Wednesday, July 25, 2007 8:24 PM
To: GetSMART
Subject: Docket No. OAG 121

Here are my comments on the Attorney General's proposed guidelines for Adam Walsh:

1. This will negatively impart children as young as 14 if it includes retroactive inclusion in the national registry. This is unfair and dragonic. This will ruin many lives.
2. The proposed guidelines tend to lump all sex offenders into one. There is a difference between a 22 or 22 year old who is immature and a predatory man of 40 or 50.
3. The sentencing structure allows for gps monitoring and lifetime probation. This is more punishment than a drunk gets for driving drunk and killing a family. The severity of the punishment is much harsher than for other classifications of crimes.
4. The punishment is always aimed at the older of the relationship; take for example the 19 or 22 year old with a younger girl. It is always "assumed" that she is the victim merely because of her age. Girls nowadays are a lot more sexually active and with older guys- they want older guys because of the status, the job and the vehicle. If it is a crime to have sex under the age of consent, then why are the younger consensually consenting girls not being prosecuted?

I am the mother of a young man who is now a convicted sex offender because he had consensual sex with a teen - his life is ruined but she has moved on to another over 18 guy. Who will stop her?

Sincerely,

[redacted]

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http://newlivehotmail.com

July 25, 2007

SMART Office
810 7th Street NW
Washington, DC 20531

Subject: **SORNA Proposed Guidelines, OAG Docket No. 121**

Thank you for taking the time to consider our concerns regarding SORNA.

SORNA in its current from will not accomplish the goal of protecting our nations children. Too much emphasis is being placed on lower risk offenders thus not allowing very high risk offenders to receive the scrutiny they deserve. SORNA allows, and even encourages, a state to use the exact same resources for both low and high risk offenders by not using circumstances and risk levels to classify tier levels.

The tier levels are based on the crime of conviction or years of incarceration rather than the actual offense and risk for re-offense. This means that the same offense may be placed on different tier levels in different states depending on the state statutes. This is most obvious when an offense involves a young offender having a sexual relationship with a consenting minor. The laws vary so widely from state to state that the exact same offense will be a tier I, tier II, or tier III offense or not even considered an offense at all in some states. For instance, if a 19 year old young man has a consensual romantic sexual relationship with a 14 year old girl in Kentucky it would be Sexual Misconduct (class A misdemeanor), in Arkansas it would be 4th degree sexual assault (misdemeanor), in Missouri, Hawaii, Illinois, and Maine it would not be a crime at all, and in Texas it would be Sexual Assault (2nd degree felony), the exact same offense as a violent forced rape.

If the intent is to make the registry consistent throughout the nation, SORNA will fall far short of its intent. I am sure you are familiar with the case in Georgia regarding the young man who is serving a ten year prison term for a consensual relationship with a consenting 15 year old girl when he was 17. He will be required to register as a sex offender for life when he is released. Just last week the 18 year old son of Mark Lunsford was given ten days in jail and no time on the registry for his relationship with a 14 year old girl. In Iowa a young man has been in jail for over a year because of a relationship with a 13 year old consenting female while he was 16. This young man has not been sentenced but is being held because the court has not decided if he should be considered a juvenile or not. In Texas a young father of three is required to register for life as a sex offender because of a sexual relationship with his wife before they were married while he was 19 and she was 16. Another young man in Texas has been required to register for life because of a relationship with his girlfriend that began when he was 18 and she was 14 and lasted for almost a year before the parents became angry with their daughter and chose to punish her by filing charges against her boyfriend. These are just a few examples of the thousands of cases all over this country that involve young men who were involved in consensual sexual relationships with willing minors.

These young men do not belong on the sex offender registry. At the very least they should be considered low risk, tier I offenders and be given the chance to be removed from the registry

once they have been punished. SORNA does allow for those in consensual relationships with no more than a four year age difference but it is left up to the individual states to be more harsh if so desired. However, does it make sense that a young man 3.9 years older than his girlfriend is not required to register while one 4.1 years older is required to register for life as a tier III offender? Obviously not. The tier level should be based on the circumstances of the offense not the offense of conviction. In Texas, a violent rapist, a 50 year old predator , and a 19 year old with a minor girlfriend are charged with the exact same offense. Therefore, they will all be considered tier III offenders and be on the registry for life. They will all be required to verify registration four times a year. The exact same resources will be used to enact the SORNA guidelines for the child predator as the young man in a consensual relationship. This is a tremendous waste of resources over a lifetime that could be much better spent.

Why would a state want to place these young offenders in the tier III category. Simply put, they receive more federal funds based on having more registered sex offenders. This is clearly a situation where a state is abusing federal funds. It is time for our lawmakers to return to the original intent of the sex offender registry by using it to register those persons who are convicted for violent, forced sexual acts or predatory acts against a child. SORNA must eliminate the registration of others or at the very least place them in tier I. To do otherwise severely hampers and reduces the effectiveness of sex offender registration and notification and waste billions of dollars in resources that could be used to truly offer protection from high risk offenders.

Minnesota resident Patty Wetterling, who lost her young son Jacob18 years ago in a most unimaginable way is a familiar is concerned about these laws. Jacob was approached and abducted by a masked man in a pick up truck while riding his bike with his brother and another friend in his quiet suburban town. To this day, Jacob has not been found. His mother, Patty was one of the very first high profile child victim advocates to successful lobby for legislative change on Capitol Hill. The Jacob Wetterling Act, named after her missing son, was signed into law in 1994. It required states to maintain a registry of convicted sex offenders for law enforcement purposes that was not accessible to the general public. The targets of "The Act" were sexually violent, dangerous, repeat offenders.

It was a good law. However, in the intervening years it has been amended numerous times, most notably by Meagan's Law, which made the information contained in the registry public information and mandated community notification. Most recently it has been amended yet again, by the Adam Walsh Act courtesy of John Walsh of *America's Most Wanted* and disgraced former Republican Congressman Mark Foley of Florida. All of the subsequent amendments to the original act have been named after a child that has been brutally murdered, whether by a registered sex offender or not. Each amendment has consistently expanded the definition of a sex offender and increased penalties to the point of utter ridiculousness, and Patty Wetterling has had enough. Lawmakers and big business have effectively made a mockery of the Jacob Wetterling tragedy and Patty is speaking out for change.

Patty Wetterling says it's an example of sex offender laws that go too far. "Everybody wants to out-tough the next legislator."I'm tough on crime," they'll say, 'No, I'm even more tough.' It's all about ego and boastfulness," says Wetterling. Wetterling says she wants public policy to be

effective. She says broad sweeping laws that treat all offenders the same waste resources and lives. John Walsh was quoted in *USA Today* saying, "We tried so hard to make this just for serious sex offenders." What happened?

Allison Taylor, executive director of the Texas Council on Sex Offender Treatment, which coordinates that state's sex-offender treatment strategies says, "The systems at the state and federal levels need to be fixed." We have 41,000 names on our (sex offender) registry," she says. "If we could take our money and focus it on the 10% or so who are most likely to reoffend, we could make great progress." That's why federal and state agencies need to concentrate their spending on the worst offenders, Taylor says. She says that current laws require the state to keep tabs on everyone on the registry, no matter how likely each is to commit another crime. That drains money from efforts to identify, treat and monitor the most hard-core offenders. "Our thinking needs to be overhauled," Taylor says.

It is our hope that the federal guidelines will be amended so that more emphasis will be placed on high risk offenders and not allow the same valuable resources to be used monitoring lower risk offenders for long periods of time. Spreading our resources over such a wide range does not allow for the close scrutiny of dangerous offenders that is necessary to adequately protect anyone. SORNA tier levels should be amended so that only those from whom we truly need protection receive the focus of our resources.

Thank you for your consideration.

Sincerely,

James and Beverly Elam

[redacted]

Rogers, Laura

From: Laura Shoda[redacted]
Sent: Thursday, July 26, 2007 4:56 PM
To: GetSMART
Subject: docket number OAG 121

If I am understanding this correctly, it states that juveniles who have been convicted of a sex offense will be required to register as adults do at this time, and this is retroactive.

Has anyone considered the fact that many adolecents who act out sexually have been molested themselves? This is a learned behavior, kids don't just wake up one morning and start molesting other children. Therefore when people state: "Victims are damaged for life." this also includes those children who have been molested themselves and then in turn molested others. This does not excuse them for their behavior toward others, but rather in many cases explains the behavior.

The fact still remains that they need the same impathy and consideration for being healed as any other victim. Along with that they have to live with the guilt of knowing that they have inflicted the same kind of hurt onto another human being as was inflicted onto them. They need counseling to help them sort out their feelings and understand what and why they feel as they do to redirect them in a more positive, healthy way of being.

Many adolecents are in negative situations which impose the behaviors onto them, they are a victim of circumstances and are simply acting out due to such.

Also the idea of treating them as an adult is innapropriate, as adolescents are still developing, unlike adults. Most juveniles who have committed sex offenses are boys around 13 or 14 (puberty is in full force) which the vast majority, 90 percent or more, will not offend as adults. This is especially true for the cases in which there has been intervention through courts with parent involvement in which the child goes through a treatment program successfully. People can change for the better, especially children who are easily influenced through positive behavior modifications.

With all of this being said, is it fair to require juvenile sex offenses to be registered, only to be ostracized by peers and neighbors damaging their self esteem and causing negative behaviors in return? After all this type of stress is what triggers re-offending. Does anyone truly think this will fix the problem? It will only cause more offenses, after all if you are repeatedly told or marked as a "bad person" you will become or be a "bad person."

And for the adult who offended as a child who has since lived as a perfect role model for all those around them to be shamed for an act which was committed as a child, now to completely shake their entire existence in the community which could possibly cause them to lose their job, be cast out by their friends and neighbors who have otherwise loved and trusted them for the person they have been their entire life?

Everyone has done something in the past in which they regret and wish not to be known by the public. We all make mistakes and we learn by them. Therefore becoming a stronger and better person leaving the negative in the past.

I feel it is in the best interest of victims, perpetrators and the general population to not require adolecents to register as an adult does. It would simply mark them life causing them the inability to learn from their mistakes and live a normal life as they are entitled to. If a child successfully finishes a treatment program the likely hood of them re-offending is very low. Let them live their life as "lesson learned" as all of us have been given the gift of forgiveness in one way or another.

If a child then offends as an adult, or after going through treatment, they should be required to register as an adult. Due to the fact at that point they obviously were not able to be rehabilitated and the chances are that they are one of the 10% who will continue to offend throughout their adult life. But it is not fair to ruin the lives of the 90% who will not re-offend to "possibly" prevent the other 10%. You would be doing more harm than good in requiring adolecents to register.

I have six children of my own, parental supervision is a must for prevention. If people truly want to make the situation better, they should inform school age children of the fact that it is against the law for anyone under the age of 16 to be sexually active in any way, shape or form. Also that if they do engage in sexual behavior and it is reported to authorities (regardless of whether they thought it was consensual) they will face being committed of such crimes, placed on probation, placed in a residential facility, be required to go through a therapeutic treatment program etc..... Rather than telling them their body parts and what to do with them then letting them know it is normal to be interested in exploring and giving them condoms!!!

Rogers, Laura

From: [redacted]
Sent: Wednesday, July 25, 2007 9:51 PM
To: GetSMART
Subject: OAG Docket No. 121

July 25, 2007

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering & Tracking
Of the Justice Department
Office of Justice Programs

Re: OAG Docket No. 121

Dear sirs,

I am concerned that many young men and women are on the registry now that do not really belong. The registry should be a list of people that the public needs to be aware of not a list of kids playing doctor or teens making poor decisions. I appreciate that the Smart Office is trying to put together guidelines for the individual States, but as the past has shown each State treats the same situations differently. Below I have listed my concerns. I have quoted the National Guidelines in black and my comments in blue. I hope my comments will be useful in your endeavors to protect all the people of this country.

Section: A Convictions Generally, Paragraph 5 states "SORNA does not require registration for Juveniles adjudicated delinquent for all sex offenses for which an adult sex offender would be required to register, but rather requires registration only for a defined class of older juveniles who are adjudicated delinquent for committing particularly serious sexually assaultive crimes or child molestation offenses." Many 16 and 17 year old in different states are prosecuted as adults. If an individual is under the age of 18 they two should be included in this non registering group. It is very necessary for the state to be able to take individuals off the list if the person is exempt as per the new legislation without fear of losing federal funding.

Section: C Sex Offenses Generally, Paragraph 7 States "SORNA qualifies the foregoing definition of "sex Offense" To exclude an offense involving consensual conduct. The exclusion for certain cases involving child victims based on victim age and age difference means that a jurisdiction may not have to require registration in some cases based on convictions under provisions that prohibit sexual acts or contact (even if consensual) with underage person. For example, under the laws of some jurisdictions, an 18 year old may be criminally liable for engaging in consensual sex with a 15 year old. The jurisdiction would not have to require registration in such a case to comply with the SORNA standards, since the victim was at least 13 and the offender was not more than four years older. SORNA must allow states to take existing offenders who qualify for this exclusion off the list without threat of loss of funding. Michigan changed its law in 2004 so that so called Romeo and Juliet cases would not be put on the registry but ones already on were not allowed to come off because the state was told they would lose federal funding. Older Romeo and Juliet cases were able to petition for a 10 year registry which reduces their registration by 15 years. These are the cases that no one wants to see on the registry. These teens are not child molesters, they are promiscuous teens. I feel their actions are morally wrong and have no problem with a suitable punishment for both parties of community service but these kids should not be on the registry with child molesters and severely sick people.

Michigan is a state with no tiers. A fifty year old who molests an 8 year old is on the same list the same way as a 17 year old who had consensual sex with his 15 year old girl friend. There is definitely a difference between these two offenders. Also since all states are allowed to decide how they wish to precede these particular individuals (Romeo Juliet Cases) should be allowed in a level one tier. I understand the idea is to get these cases off the registry but you know some state will stay as strict as possible. A teen prosecuted in Michigan who goes to Arkansas will be on the list as a tier 2 because of the new policy for categorizing the tiers and its will be on the list in AR while individuals with similar crimes in AR will not have to register.

Section: D Specified Offenses Against Minors, paragraph 2 states "Solicitation of a Minor to engage in sexual conduct. Any direction, request, enticement, persuasion or encouragement of a minor to engage in sexual conduct." Paragraph 11 states "Criminal Sexual Conduct involving a minor and related internet activities. This clause covers criminal sexual conduct involving a minor or the use of the internet to facilitate or attempt such conduct" Paragraph 14, "Conduct by its nature a sex offense against a minor." These paragraphs should include an exemption of teens within four years of age. Otherwise many teens could become susceptible to these paragraph.

Section V. Classes of Sex Offenders, paragraph 4 defines tier 1. Tier 1 as written can not include Romeo and Juliet cases that involve intercourse because it only includes cases that sentencing would not be more that a year in jail. All case where intercourse is involved would require jail time of more than a year. I know the idea is to get the Romeo and Juliet cases off the registry but you know that will not happen in all states. If you register in one state you must register in all. Some states need a way to assimilate new entries into their system, who normally would not be registered if prosecuted in that state. It would help to include individuals within 4 years of age of each other that have had a consensual encounter to be included in this provision under tier 1. Each state would have to review the individual but at least they would have the option to put the individual in an appropriate level. This would allow states that would not normally prosecute a Romeo and Juliet Case to at least allow a person moving into their community to be evaluated as fairly as possible. For example a 17 year old junior in high school in 2003 had a consensual sex with his sophomore girl friend who is 15. In Michigan where he was prosecuted as an adult he is listed on the internet with no tier. The family moves to a tier state like Arkansas, the offender has be assessed and is assessed as a tier one a low risk to re offend and is registered but not on the public registry. The same is true in Massachusetts. If this bill goes by as it is now this boy would be a level 2 in MI, AR & MA. He would have to be places on the internet in AR & MA where people with similar circumstances might be entirely off the registry, this is unfair. I think it is important to add the Claus for the Romeo and Juliet's in tier one so the states have the ability to decide what best suites their needs. Tier ones can include incidences with a minor when the offender is a minor, person 18 years of age or under or within four years of the victim under specific circumstances. The time is right in Michigan and I hope they will change the law to take the older Romeo Juliet cases off but so many other kids will be trapped because there case does not fit the mold exactly.

It scares me to think of all the Romeo Juliet cases where the offender's life will be destroyed by the submission and publication of all the information required on the registry: Phone #, cell phone, License plate, vehicle description, email address, IM, Employer name and address. I do not know how these people will keep or get a job. I guess they will live on state assistance. Most of this info should be for police but not the public where there is little risk of a re offense. This is another reason for listing these cases as Tier ones, so that incidences with a minor when the offender is a minor, person 18 years of age or under can be taken off the list or at least a non public list so that they are not a burden to the state. Not every Romeo Juliet cases can prove it was consensual so states must be given some room for discretion.

Section XII Duration of Registration
Here is another reason Romeo and Juliet should be allowed under tier 1 because they can be reduced to 10 years if they have a clean record. It should only require a clean sexual record for 10 years. A successful completion of a sex offender treatment program certified by jurisdiction must be completed to qualify for the 10 years only if sentenced to it. Many kids are not sentenced to a treatment play so how can it be required if not sentenced to it.
I think it is unfair to place all Romeo Juliet's under tier 2 requiring registration for 25 year with no hope of early release. Some states will require a Romeo Juliet case where a 17 year olds who had consensual sex with their underage girl friend on the list until they are 42. Not all state will elect to take these cases off the registry, so other states need a way to assimilate new entries into their system, who normally would not be on the state registry if prosecuted in that state. I think you could add a Claus for the Romeo Juliet's here too. Cases where the victim and offender are within 4 years of each other, who hold a clean sexual record for 10 years can apply for reduction of registration to 10 years. In Michigan the 17 year old boy I gave as an example was sentenced to 25 years even though the judge did not want him on the list at all. He said he did not belong there. Michigan changed the law so that the 17 year old could petition for a 10 year registration. The 17 year old had to complete probation, the case had to be specifically because of the age of the victim and he had to prove that he was a low risk to re offend. The seventeen year old was granted the 10 years. If Michigan went by SORNA standards, without changing the law to allow Romeo & Juliet's off, this young man would be a tier 2 and register for 25 years retroactively even though he was sentenced to less. This needs to be changed so that if sentenced to less time on the registry than the new law requires the lesser registry is maintained. Individual states could review the case during the sentenced year of release and decide if the record is clean enough to let the individual off the registry. This could be specifically for offenders within 4 years of age from the victim. Maybe it could be decided by a judge during the year limit of the lesser sentence.

Thank you for your attention and assistance in this matter. I truly appreciate the work you are doing

Sincerely,
Bonnie Kupillas
[redacted]

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Tuesday, July 31, 2007 11:04 AM
To: Rosengarten, Clark
Subject: FW: OAG Docket No. 121

From: Courtney Kupillas[redacted]
Sent: Monday, July 30, 2007 2:31 PM
To: GetSMART
Subject: OAG Docket No. 121

To Whom It May Concern,

I read the OAG Docket No. 121 and wanted to voice my concerns. I want every effort made to eliminate registration altogether for youthful indiscretions. I think it is unfair and unjust to punish teens for having engaged in natural human curiosity with the opposite sex. Those who engage in consensual experimentation within a few years of each other should not be labeled on a list, or exploited to the world as "offenders." These people are teenagers, who were tempted by their new bodies and feelings and made a wrong decision by engaging in exploration with a peer. There are to many young people on the sex offender list who have been condemed for years based off stupid decisions or teenage mistakes they made in their past.

Below are a few additional clauses I would ad to your guidelines.
1. It is very necessary for the State to be able to take existing offenders who qualify for exemption as per the new legislation of the registry without fear of losing federal funding.
2. Solicitation of a Minor to engage in sexual conduct, any direction, request, enticement, persuasion or encouragement of a minor should have an exemption for teens within four years of age, otherwise many teens could become susceptible to this offense.
3. In a Tier system, Tier one, as written, can not include Romeo & Juliet cases that involve intercourse because it only includes cases that involve jail sentencing of less than a year. All cases where intercourse or oral sex is involved would require sentencing of more than a year. A clause should be added to allow offenders under the age of 18 or within four years of the age of the victim to be assessed as a level one if the state deems them to be a low risk to re offend. In this way a state has the option to take their residence prosecuted in there state off the registry and they have options on how to treat a offender coming in from a stricter state.
4. The guidelines do allow states to elect to allow a non public registry for level one tier. States should be able to decide if offenders within four years of their victim that committed a felony are eligible for the level one non public registry. Many state today already have this non public registry for youthful felonies that are considered low risk to re offend, the new guidelines as written would take this option away. This option must remain in tack for the states.
5. Tier one can petition for a shorter registration of 10 years if they have a clean record for the ten years. It should only require a clean sexual record.
6. Tier one can petition for a shorter registration of 10 years if they successful complete a sex offender treatment program certified by jurisdiction. This should only be if you

were sentenced by the judge to do so. If it was not required at sentencing then it should not be required for the petition.
7. In a tier system a level two offender is required to register for 25 years. A clause should be added that allows offenders who are within a 4 year age difference of the victim to petition for a reduction in years of registration if their sexual record is clean for 10 years.
8. Some states like Michigan already allow for reduction in years of registration for offenders, convicted of a felony, who were within three years of the victims age, who have completed probation, who have been prosecuted specifically because of the age of the victim and who have proven that they are at low risk to re offend. These offenders have had their registration reduced to 10 years by a judge. The new guidelines would require these same individuals to now register for 25 years. This should be changed to allow the individual to register as per the judges decision.

Make the effort to protect those who need protecting. Teens are to young to be held accountable for laws that we as a society do not tech them. Placing a boy on a list with rapists, when he had consensual sex with a high school peer (a few months over a year apart in age) is obsured. These young men and women should not be condemed because of teenage curiosity and they should not be punished and labeled as "sexual offenders and preditors" when their individual circumstances were not preditorial to begin with.

As a country it is our obligation to teach our children and our teenagers the law and how to obide it. Sagetory rape is not explained to youths as a peer on peer encounter. It is explained as a "sick person," a "bad person," an "older person" with bad thoughts and who is harmful in an attacking way. These teens are not aware that they themselves could be considered "preditors." They are not aware of these extreme laws that could hinder there future. In adulthood, ignorance is no excuse but to condem a high school teenager for ignorance to this law is shameful on us as a society. You need to protect these youths.

Thank you,

Courtney Kupillas

[redacted]

Rogers, Laura

From: Christopher J Kupillas [redacted]
Sent: Thursday, July 26, 2007 2:24 PM
To: GetSMART
Subject: Re: OAG Docket No. 121

To Whom It May Concern,

I want every effort made to eliminate registration altogether for youthful indiscretions. Their are many Romeo & Juliet type cases on the registry along with children playing doctor, I want those individuals off the registry.
Below are a few additional clauses I would ad to your guidelines.
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as per the new legislation of the registry without fear of losing federal funding.
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encouragement of a minor should have an exemption for teens within four years of age, otherwise many
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added to allow offenders under the age of 18 or within four years of the age of the victim to be assessed
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take their residence prosecuted in there state off the registry and they have options how to treat
a offender coming in from a stricter state.
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able to decide if offenders within four years of their victim that committed a felony are eligible for the level
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the individual to register as per the judges decision.

[redacted]

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Tuesday, July 31, 2007 11:06 AM
To: Rosengarten, Clark
Subject: FW: OAG DOCKET #121

From: eileenheaney[redacted]
Sent: Monday, July 30, 2007 12:38 PM
To: GetSMART
Cc: Bonnie Kupillas
Subject: OAG DOCKET #121

----- Original Message -----
From:[redacted]
To: getsmart@usdoj.gov
Sent: Monday, July 30, 2007 12:24 PM
Subject: Youthful Offenders

To Whom It May Concern,

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It should only require a clean sexual record.

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EILEEN HEANEY
[redacted]

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Monday, July 30, 2007 12:01 PM
To: Rosengarten, Clark
Subject: FW: OAG Docket No. 121

From: [redacted]
Sent: Thursday, July 26, 2007 8:56 PM
To: GetSMART
Subject: OAG Docket No. 121

To Whom It May Concern,

I want every effort made to eliminate registration altogether for youthful indiscretions. Their are many Romeo & Juliet type cases on the registry along with children playing doctor, I want those individuals off the registry. Below are a few additional clauses I would ad to your guidelines.

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Sincerely,

Clifford A. Cid

[redacted]

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Thursday, July 26, 2007 3:58 PM
To: Rosengarten, Clark
Subject: FW: OAG Docket No. 121

From: Doolan, Joan [redacted]
Sent: Thursday, July 26, 2007 8:50 AM
To: GetSMART
Subject: OAG Docket No. 121

Re: OAG Docket No. 121
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Joan H. Doolan
[redacted]

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Monday, August 06, 2007 10:48 AM
To: Rosengarten, Clark
Subject: FW: important please read

From: MandS Symancyk[redacted]
Sent: Tuesday, July 31, 2007 11:49 PM
To: GetSMART
Subject: important please read

To Whom It May Concern,

I want every effort made to eliminate registration altogether for youthful indiscretions. Their are many Romeo & Juliet type cases on the registry along with children playing doctor, I want those individuals off the registry. Below are a few additional clauses I would ad to your guidelines.

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Sincerely,
Maryann Symancyk

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Tuesday, July 31, 2007 11:00 AM
To: Rosengarten, Clark
Subject: FW: Docket 121
Attachments: Docket 121.doc

From: [redacted]
Sent: Monday, July 30, 2007 6:07 PM
To: GetSMART
Subject: Docket 121

July 30, 2007

Laura L. Rogers, Director

Smart Office

Office of Justice Programs

United States Department of Justice

810 7th Street NW

Washington, DC 20531

Re: OAG Docket No. 121

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Sincerely yours,

Adeline Bono

[redacted]

Rogers, Laura

From: [redacted]
Sent: Thursday, July 26, 2007 9:44 AM
To: GetSMART
Subject: ATTN: LAURA L. ROGER, DIRECTOR SMART OFFICE

Re: OAG Docket No. 121

To Whom It May Concern,

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Sincerely,
Susan M. Smith
[redacted]

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
t: Monday, July 30, 2007 11:52 AM
Rosengarten, Clark
ject: FW: SORNA Guideline Comments

Attachments: Walsh Guideline Comments 3.doc

Walsh Guideline Comments 3.doc...

-----Original Message-----
From: Richard Smith [redacted]
Sent: Saturday, July 28, 2007 12:47 PM
To: GetSMART
Cc: andrews@juvjustice.org; [redacted]
Bob.Sheil@state.vt.us
Subject: SORNA Guideline Comments

Laura Rodgers, Director
Smart Office-Office of Justice Programs

Attached please find SORNA Guideline comments.

Thank you.

hard A. Smith, Chair
dren and Family Council for Preveniton Programs
[redacted]

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http://liveearth.msn.com

VERMONT

Department for Children and Families
Family Services Division
Osgood 2
103 South Main Street
Waterbury, VT 05671-2401

Agency of Human Services

(phone) 802-241-2953
(fax) 802-241-1219

CHILDREN AND FAMILY COUNCIL FOR PREVENTION PROGRAMS
Children's Trust Fund Juvenile Justice Delinquency Prevention

July 27, 2007

VIA ELECTRONIC AND FIRST-CLASS MAIL

Laura L. Rogers, Director
SMART Office—Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

The Children and Family Council for Prevention Programs (CFCPP) would like to take this opportunity to express our general opposition to the application of SORNA to youth adjudicated within the juvenile court system and our particular concerns with the current proposed guidelines.

CFCPP is Vermont's state advisory group for juvenile justice. Members are appointed by the governor and represent a diverse field of youth and professionals in Vermont whose work touches the lives of children, youth, and families. The primary responsibilities of CFCPP are to advise and inform on issues relating to Juvenile Justice, monitor the state's compliance with federal core protections relating to juvenile detention and contact with the criminal justice system, and oversee a number of grants that fund community based programming aimed at both preventing youth from committing offenses and supporting age appropriate interventions for those who already have.

Application of the Guidelines to Youth is Contrary to the Research, Including Research Sponsored by the U.S. Department of Justice

The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth.

According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even though the youth may also be apprehended for non-sex offenses typical of other juvenile delinquents.[2]

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior—even when assaultive —do not pose the same threat in terms of duration or severity to public safety as do adults.

All of the above competently argues against the inclusion of youth in public sex offender registries for 25 years to life.

Application of the Guidelines to Youth Will Interfere with Effective Treatment and Rehabilitation

SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It cannot be too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states' legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate children, parents will be more inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out.[3] The stigma that arises from community notification serves to "exacerbate" the "poor social skills" many juvenile offenders possess,[4] destroying the social networks necessary for rehabilitation.[5]

Application of the Guidelines to Youth Will Put Youth at Risk of Exploitation

SORNA as applied to youth is not in accord with the Act's public safety objective of "protect[ing] the public from sex offenders and offenders against children," in that it will expose these youth to adult offenders who have not sought or benefited from treatment.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders in adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or 17-year-olds to adult courts.[6]

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the

youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender.

States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

The Guidelines Should Waive Public Registration and Community Notification Requirements for Youth Adjudicated within the Juvenile Court System

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but not by the general public, and should allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide will be registered in one or both of the parents' names.

Similarly, the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

In its efforts to support families as the fabric of strong communities, the federal government must be careful not to promulgate policies and promote practices that unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment.

Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

When the Vermont Legislature discussed and debated proposed legislation in 1996 that eventually established a sex offender registry in Vermont there was a decision made by the legislature to exclude from required registration those youth who were adjudicated delinquent of a sexual offense in juvenile court as opposed to being convicted in adult (criminal) court. However, any individual, including all children, against whom an allegation of sexual abuse has been substantiated after investigation have their names placed on a child abuse registry even if a delinquency in not filed in juvenile court or criminal charge is not filed in adult court.

This registry is accessible to prosecutors, the attorney general, certain department commissioners and to employers if such information is used to determine whether to hire or retain a specific individual providing care, custody, treatment, or supervision of children or vulnerable adults. The employer may submit a request concerning employee, volunteer, or contractor or an individual to whom the employer has given a conditional offer of a contract, volunteer position, or employment. The request shall be accompanied be a release signed by the current or prospective employee, volunteer, or contractor.

In addition, there are another two separate statutory provisions in Vermont law that specifically provide notice regarding delinquent youth who have been adjudicated for any delinquent act that involved any sort of sexual

abuse and provide protection for the public. Under 33 V.S. A. Section 5529g(4) a victim of a sexual offense may request to be notified by the agency having custody of the delinquent child before he or she is discharged from secure or a staff secure residential facility.

There is also an exception to the confidentiality of juvenile court records, found in 33 V.S.A. Section 5536(b) and (c) which mandates the family (juvenile) court to provide written notice within seven days of a delinquency adjudication involving sexual abuse as well as certain other listed crimes, to the superintendent of schools for the public school in which the child is enrolled or, in the event the child is enrolled in an independent school, the school's headmaster. This notice is required to contain a description of the delinquent act found by the court. (33 V.S. A. Section 5536a(d))

The current Child Abuse Registry in Vermont should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

CFCPP supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways articulated above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,

Richard A. Smith, Chair,
Children and Family Council for Prevention Programs

C Theresa Lay Sleeper, JJDP Specialist
Tara Andrews, Esq., Deputy Executive Director, CJJ

---

[1] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). *Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report;* available at http://www.ojjdp.ncjrs.org/.

[2] Zimring, F.E. (2004). An American Travesty. University of Chicago Press.

[3] Freeman-Longo, R.E. (2000). Pg. 9. *Revisiting Megan's Law and Sex Offender Registration: Prevention or Problem.* American Probation and Parole Association.
http://www.appa-net.org/revisitingmegan.pdf.

[4] Garfinkle, E., Comment, 2003. *Coming of Age in America: The Misapplication of Sex-Offender Registration and Community Notification Laws to Juveniles.* 91 California Law Review 163.

[5] Ibid.

This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.

Rosengarten, Clark

From: Kaplan, April
Sent: Thursday, August 02, 2007 10:01 AM
To: Rosengarten, Clark
Subject: FW: Comments on SORNA Registration Guidelines
Attachments: CCA Proposed Guidelines Commments.doc

From: Pat Berg Yapp [redacted]
Sent: Wednesday, August 01, 2007 7:43 PM
To: Kaplan, April
Subject: Comments on SORNA Registration Guidelines

Please find attached the Comments from the Child Care Association of Illinois on the proposed implementation guidelines for SORNA.

Please let us know if we can be of any further assistance.

Thank you,
Pat Berg Yapp
Associate Director
Child Care Association of Illinois
[redacted]

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Monday, August 06, 2007 10:41 AM
To: Rosengarten, Clark
Subject: FW: Child Care Association of Illinois Comments on the Proposed Implementation Guidelines of SORNA
Attachments: CCA Proposed Guidelines Commments.doc

From: Patricia Berg [redacted]
Sent: Wednesday, August 01, 2007 7:46 PM
To: GetSMART
Subject: Child Care Association of Illinois Comments on the Proposed Implementation Guidelines of SORNA

Attached please find comments submitted from The Child Care Association of Illinois in response to the Guidelines for Implementation for SORNA.

Please let us know if we may be of any further assistance.

Thank you,

Patricia Berg Yapp
Associate Director
Child Care Association of Illinois
413 West Monroe Street
Springfield, Illinois 62704
1-217-446-6066

August 1, 2007

VIA ELECTRONIC MAIL

Laura L. Rogers, Director
SMART Office—Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed Guidelines to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

The U.S. Department of Justice has invited public comment on the proposed National Guidelines for the Sex Offender Registration and Notification of Act of 2006 (SORNA). In response to that invitation, The Child Care Association of Illinois has reviewed the interim Guidelines and submits the following comments and recommendations for your consideration.

The Child Care Association of Illinois (CCAI) is a not-for-profit membership organization dedicated to improving the delivery of social services to the abused, neglected, troubled and traumatized children, youth and families of Illinois. The CCAI is comprised of more than 70 nonprofit agencies that provide child welfare, youth and juvenile justice services, and children's mental health and prevention services throughout Illinois. Member agencies are the backbone of the child welfare and juvenile justice systems in Illinois and annually provide services to approximately 400,000 clients.

As treatment professionals and child advocates, we have dedicated our professional lives to preventing and eliminating child abuse. Any time a child is harmed or killed by an adult sex offender, we and the public become very alarmed. We laud your attention to this vital issue.

CCAI agencies provide a unique perspective about the impact of SORNA <u>on all children and youth</u> because they provide specialized treatment services to both victims and youthful offenders. They possess expertise as child advocates and as treatment professionals with extensive experience working children and youth who have been abused and neglected and those who have been victims of trauma, including sexual offending. At the same time, many have created specialized programs for treating juvenile sexual offenders in residential and group home settings, within foster care and independent living arrangements as well as in out-patient venues. As a result of our service delivery concentration and expertise, along with our overriding concern about the safety of all children and youth, *CCAI agencies fear that the impact of SORNA on youthful offenders and their victims, as presently constituted, will undercut the very purpose of the Act – which is to protect children from sexual abuse and violent crime.*

What follows are the specific objections we have identified with the Proposed Guidelines.

CCAI objects to the application of SORNA to sexually offending youth adjudicated within the juvenile court system because...

Application Of The Guidelines To Youthful Offenders Is Contrary To Current Research

The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth.

Decades of research emphasize that there are **huge differences between youth who sexually abuse younger children and adult sex offenders**. When children and teenagers engage in sexually abusive behaviors, it is typically different from adult sexual offending in its nature, extent, and response to intervention. Juveniles have significantly lower frequency of the more extreme forms of sexual aggression, fantasy, and compulsivity. A deviant sexual interest in young children, which is a major motivating factor among adult sex offenders, does not appear to play a role in the behavior of most children and teens. With rare exceptions, these youth are not pedophiles. Rather, these behaviors are opportunistic, driven by curiosity and poor judgment, and are more impulsive than compulsive. These differences have been reported by panels commissioned by the U.S. Department of Justice, by public information resources, and by professional and research organizations. Despite this, SORNA subjects both juvenile and adult sex offenders to the same registration and classification provisions.

According to a Fact Sheet developed by the National Center of Sexual Behavior of Youth (NCSBY), at the Center on Child Abuse and Neglect, University of Oklahoma Health Sciences Center based on reports from the Center for Sex Offender Management at the U.S. Department of Justice, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%), and substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). [2] In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even though the youth may be apprehended for non-sex offenses typical of other juvenile delinquents either before or subsequent to their arrest for a sexual offense.[3] The Center also found that adolescent sex offenders are more responsive to treatment than adult sex offenders and do not appear to continue re-offending into adulthood, especially when provided with appropriate treatment.[4]

Research indicates that most juveniles who commit sex offenses are boys around 13 or 14. That may be their only similarity because they differ widely on other characteristics. A small percentage (no one knows how many) will become adult rapists or pedophiles; 90 percent or more, will not. Most have not committed violent assaults or abused multiple children repeatedly. Usually they have had sexual contact with a child who is at least two years younger than they are. Some are overly impulsive or immature adolescents who are unable to approach girls or boys their own age; instead, they engage in inappropriate sexual acts with younger children. Others are delinquent juveniles for whom sexual abuse is just one of the many ways they break the law. According to studies, these youth are much more likely to commit a property crime than they are to commit a second sex offense. Still others are otherwise well-functioning youth with limited behavioral or psychological problems. Some come from well-functioning families while others come from chaotic or abusive backgrounds. There are a number of children who are adjudicated for "playing doctor". Likewise, there are the so-called "Romeo and Juliet" cases, where there has been consensual sex between two teenagers.

In addition, recent findings from neuroscience indicate that brain maturation is a process that continues into early adulthood. There is good evidence that the brain systems that govern impulse control, sense of future consequences, planning, and thinking ahead are still developing well beyond age 18. This lack of maturity and impulsivity play a significant role in the sexualized manifestations of what is truly an impulse control problem for many youth who sexually offend. By placing juvenile offenders on the registry, for as long as life in some cases, both avenues of research are contradicted.

Application Of The Guidelines To Youthful Offenders Violates Longstanding Tenets Of Juvenile Justice

In 1899, the first Juvenile Court in the country was created out of a belief that it was unfair to try adolescents as adults. Since that time, the philosophy of the Juvenile Court has been that children ought to be afforded special consideration, guidance, protection and treatment because most youth who break the law in childhood or early adolescence will grow out of this behavior with the right support and direction. As a result, juvenile courts have protected the identity of youth coming before it while dispensing individualized justice. These practices are rooted in the belief that youth should not be stigmatized for life on the basis of their childhood behavior. Court decisions about culpability and subsequent sanctions, if any, have historically been based upon the best interests of the child and form the basis for adjudicating youth in juvenile court rather than convicting them in adult criminal court.

Thus, the basic premise of the juvenile justice system is that adolescents who commit crimes are different from adults in ways that make them potentially less blameworthy than adults who commit similar acts. In the 2005 landmark U.S. Supreme Court decision, the Court outlawed the death penalty for offenders who were younger than 18 when they committed their crimes. The heart of the ruling was the issue of culpability, or criminal blameworthiness.

The legal system has long held that criminal punishment should be based not only on the harm caused, but also on the blameworthiness of the offender. How blameworthy a person is rests on the circumstances of the crime and of the person committing it. Traditionally, the courts have considered several categories of mitigating factors when determining culpability. These include:

- Impaired decision-making capacity, usually due to mental illness or disability,
- The circumstances of the crime—for example, whether it was committed under duress,
- The individual's personal character, which may suggest a low risk of continuing crime.

Such factors don't exempt a person from punishment but do indicate that the punishment should be less than it would be for others committing similar crimes, who are different or who do so under different circumstances. Including juveniles in the SORNA registration requirements not only violate our tradition of American juvenile justice but also calls into question the very foundation of the entire juvenile justice system. At the same time, it creates a special class of juveniles who are explicitly required to suffer public identification and stigma, possibly for the rest of their lives.

Application Of The Guidelines To Youthful Offenders Will Be Harmful Rather Than Rehabilitative To Juveniles Who Offend

Labeling a juvenile as a "child sexual predator" can have lifelong, irreversible and detrimental effects on a person and his or her family members. When a young person is so labeled, we are sending a very strong message: "This is how you are going to be identified. This is who you are". With such an act, we remove the rehabilitative element that is the philosophical foundation of our juvenile justice system and at the same time cement an identity that is contrary to what we actually desire, which is a normal and healthy young person.

Many child sex offenders are victims of sexual abuse themselves. Many more engage in common sexual behavior, sometimes healthy, sometimes inappropriate, that, as they mature, they will learn to manage. The stigmatization of registration will isolate these youth from normal and healthy opportunities for growth and development. Their access to school may be threatened. Their ability to join youth clubs and associations may be restricted or forbidden. Their opportunities to develop positive peer relationships may be denied because other parents will be afraid to let them associate with their children. The consequence of registration to

youthful offenders will only exacerbate any problems they may already have, destroy social networks critical for rehabilitation [5] and increase the chances that they will engage in future criminal behavior, both sexual and nonsexual.[6]

Nearly 1/3 of sexually abused children will exhibit some sort of sexual behavior problem in response to their abuse. In some cases, this behavior may involve other children or younger children and result in a delinquent adjudication. It would be a travesty of justice for these victims to be tarnished with the public label of offender at the very moment they require specialized services as victims which, in all likelihood, would be denied to them were they so labeled.

SORNA as applied to youth will also have a negative and disruptive impact on their families. Already under stress from the offender's situation, the families too may become isolated from normal community supports and assistance just at the time when they need aid and comfort the most. They may have to move or change jobs because of restrictions on residency, e.g., prohibitions on living within so many feet of a park or school or within a structure. In the majority of cases, the family's address and phone number will be published because that is where the youth lives and what he must report. The community may initially wonder who the real sex offender is, not knowing whether child or adult. Siblings will become identified as part of the family and harassed by their peers. Their school may be the same one attended by the offender.

SORNA as applied to youth will also have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. Faced with the prospect that their child may be required to register, possibly for life, parents will be more inclined to hide their child's problem and not seek help rather than holding their child accountable and seeking appropriate treatment. As treatment professionals, we know that early intervention is critical to successful therapeutic outcomes. In addition, prosecutors and judges may be more eager to enter into a plea agreement and reduce charges because the youth before them will be required to register. In jurisdictions where adjudication is required for treatment access, those youth who need rehabilitative treatment and who would likely benefit the most, are those who would become inadmissible.

SORNA as applied to juveniles will be a poor identifier of potential violent predators and lessen the predictive value of the registry as a weapon for use by law enforcement. SORNA was proposed as a comprehensive revision of the national standards for sex offender registration and notification. The Act's stated purpose is to respond to "vicious attacks by violent sexual predators" by reforming, strengthening and increasing the effectiveness of sex offender registration and notification for the protection of the public. The idea is to make identification of suspects readily available across police jurisdictions to help them locate perpetrators based upon the premise that those who offended in the past will be most likely to offend in the future. But a number of re-compiled youth cohort studies over the last few decades have discovered that the majority of children and teenagers adjudicated for sex offenses do not become adult sex offenders. [7] Indeed, studies have found that 92% of all adult sex offenders were never juvenile offenders. [8] Lumping low risk youthful offenders in with high-risk adult offenders dilutes the usefulness of the information and places an unnecessarily heavy administrative burden on law enforcement as they search the ever expanding data base.

Application Of The Guidelines To Youthful Offenders Who Are Developmentally Delayed Will Be Exceptionally Atrocious

Youth who are developmentally delayed and who commit sexual offenses pose a unique problem in the juvenile justice system from an adjudicatory as well as a treatment perspective.

One of the hallmarks of mental retardation is the impulsivity with which these youth react to a variety of situations. As puberty evolves and they experience sexual feelings, they simply act on the impulse. From research, it appears that developmentally delayed juvenile sex offenders are more likely to engage in hands-off sexually problematic behaviors (e.g., public masturbation, exhibition, voyeurism) and are much less covertly predatory than average IQ offenders. At the same time, they are more likely to be caught due to their lack of social skills and inept behavior. Youth who are classified as developmentally delayed and who commit sexual offenses differ from average IQ juvenile sex offenders in that their life is characterized by greater degrees of impulsivity, poorer social cue interpretation, and fewer coping skills which subsequently leads to increased frustration and even more impulsivity. What's more these youth are more likely to have been sexually abused themselves.

While these youth may know that what they did was "bad or wrong", they most certainly do not fully comprehend the ramifications of their actions because they are functioning intellectually, at best, at the level of a 6th grader and at worst, at that of a kindergartener or 1st grader. As a result, juvenile court jurisdictions have been loathe to place these youth in detention, opting instead for placement in highly structured behavior modification programs that teach them impulse control. Unfortunately, as DD youth age chronologically they remain child like intellectually so that offenses committed as "adults" will likely land the DD person in prison with the general population, where they are overrepresented, subject to longer periods of incarceration and more frequent stays in solitary confinement (often for their own protection) and have less access to alternative sentencing arrangements than non-disabled inmates.

The burden of registration is particularly heavy on this population. One registration requirement is that offenders, in writing, acknowledge that they understand the registration requirements. How will the implementation of the Guidelines affect developmentally disabled youth and children who may chronologically fall under SORNA's purview but who intellectually cannot understand the import of their actions? Can they be held responsible for agreeing to something that they do not truly understand? What if they do not have another responsible party to look after them and make sure they report on time and in accordance with the Act? Given their intellectual capabilities, that situation would be the same as expecting a 2nd grader to report in person to a law enforcement official on a regularly scheduled basis. Were they not to report would we send the 2nd grader to prison? Will we send these people?

Application Of The Guidelines To Youthful Offenders Will Violate Victim Protections In Many Cases

Conventional wisdom among those who provide treatment to adolescent sexual offenders is that many youthful offenders commit acts against other family members. Various research attempts into this particular aspect of adolescent sexual offending have found that anywhere between 18 – 43% of those who sexually offend do so within their own family. SORNA registration requirements dictate that public registration includes not only the name and address of the offender, but also the offense and offense history. What that will mean for interfamily victims, is that their identities will be easily inferred from the information posted on the register.

The emotional consequences of child sexual abuse can range from low self-esteem to serious mental health problems. Many of these youth suffer from having been manipulated rather than explicitly coerced into these activities. As a result, they may feel responsible for, or at least complicit in, the sexual behaviors. The unintended consequence of their public exposure will only serve to further heighten the sense of shame and embarrassment many of them feel and impede their own progress towards healing. They may be taunted at school or, worse, shunned

by their peers and their families reinforcing the belief that "it was their fault". Stigmatization will be a blanket they too will wear.

Application Of The Guidelines To Youth Is Inconsistent With Other Portions Of The Act
Section 111(5)(B) of SORNA indicates that registration need not be required on the basis of a foreign conviction if the conviction " was not obtained with sufficient safeguards for fundamental fairness and due process" for the accused under guidelines or regulations established by the Attorney General. Later on in this section, "sufficient safeguards for fundamental fairness and due process" are deemed to have been obtained if the US State Department, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary enforced the right to a fair trial. Further, the conviction does not constitute a reliable indication of guilt if there is the lack of an impartial tribunal, the denial of the right to respond to the evidence against the person, or to present exculpatory evidence or of denial of the right to the assistance of counsel.

Because of the nature of juvenile courts, these proceedings are not adequate forums to preserve the due process rights of youth for purposes of sex offender registration and notification. When juveniles are tried in juvenile courts in most states, they are not given the full scope of rights adult defendants receive in criminal courts, such as a trial by jury. Knowing that the majority of juveniles will not receive the full scope of procedural rights that adult defendants receive which provide sufficient safeguards for fundamental fairness and due process, juveniles adjudicated in juvenile court should be given the same consideration as their foreign counterparts and not be placed on the register.

Application Of The Guidelines To Youth Will Place Those Identified At Risk Of Exploitation
The public notification elements of SORNA as applied to youth will expose them more easily to adult predators.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will also be able to access the registry via the Internet and identify adjudicated youth within their own community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, registered youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually offending behavior.

Recommendations:

The Guidelines Should Waive Public Registration and Community Notification Requirements for Youth Adjudicated within the Juvenile Court System
The Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the identified authorities but not by the general public. The law should also specify a designated agency, to determine whether community notification is required and in what form, whether in writing or posting on the Internet. These allowances will serve the public safety purposes of the Adam Walsh Act while maintaining the privacy provisions so fundamental to our juvenile court system, furthering the ability of youth to take full advantage of treatment and allowing innocent family members to maintain some measure of privacy.

The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If SORNA must be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how long a youth must register as a sex offender. Judicial guidelines should be promulgated that identify factors judges must consider when exercising that discretion so that the application becomes consistent throughout the States. This would take into account both community safety and the critical differences between adult and juvenile offenders and maintain the individualized dispensation of justice so central to the juvenile court system.

The Child Care Association of Illinois supports safety for children and families throughout the nation, efforts to hold offenders accountable and the protection of youth and children. However, we believe that the Proposed Guidelines will have a negative impact on our efforts to reclaim youth adjudicated as sexual offenders within the juvenile court system and provide the protection for our children we all long for.

Thank you for the opportunity to comment on the Proposed Guidelines. We trust that our comments will be given serious and thoughtful consideration.

Sincerely,

Associate Director
Child Care Association of Illinois
413 West Monroe Street
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References:

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7. Franklin E. Zimring. Juvenile and Adult Sexual Offending in Racine, Wisconsin: Does Early Sex Offending Predict Later Sex Offending in Youth and Young Adulthood? A configuration of a study by (A configuration of a study by Sellin, T. and M. Wolfgang, The Measurement of Delinquency. New York: Wiley. 1964; Sykes, G. The Society of Captives. Princeton, NJ: Princeton University Press. 1958; Tracy, P., M. Wolfgang and

R. Figlio. Delinquency in a Birth Cohort II: A Comparison of the 1945 and 1958 Philadelphia Birth Cohort. Washington, DC: National Institute of Juvenile Justice and Delinquency Prevention. (Final Report 83-JN-AX-0006.) 1984; Wolfgang, M., R. Figlio and T. Sellin. Delinquency in a Birth Cohort. Chicago: University of Chicago Press. 1972). (January 2007).

8. Franklin E. Zimring. The Predictive Power of Juvenile Sex Offending: Evidence from the Second Philadelphia Birth Cohort Study and Juvenile and Adult Sexual Offending in Racine, Wisconsin: Does Early Sex Offending Predict Later Sex Offending in Youth and Young Adulthood? (January 2007.)

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Monday, August 06, 2007 10:44 AM
To: Rosengarten, Clark
Subject: FW: Alaska Division of Juvenile Justice Comments on SORNA (Adam Walsh Act) Guidelines

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From: Newman, Anthony (HSS) [mailto:tony_newman@health.state.ak.us]
Sent: Wednesday, August 01, 2007 1:18 PM
To: GetSMART
Cc: Wood, Leonard R (HSS)
Subject: Alaska Division of Juvenile Justice Comments on SORNA (Adam Walsh Act) Guidelines

August 1, 2007

Laura L. Rogers, Director
SMART Office—Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

It was good to meet you in Indianapolis last week at the National Symposium on Sex Offender Management and Accountability. You did a wonderful job of bringing together a huge crowd of people, addressing their concerns, and providing them with important food for thought. Thanks for all your hard work.

I am writing now to provide you with comments, on behalf of the Alaska Division of Juvenile Justice, on the current proposed guidelines to the Sex Offender Registration and Notification Act of 2006 (SORNA).

The mission of Alaska's Division of Juvenile Justice is to hold juvenile offenders accountable for their behavior, promote the safety and restoration of victims and communities, and assist offenders and their families in developing skills to prevent crime. Our agency operates eight juvenile detention and treatment facilities around the state, provides intake, diversion, and probation supervision services for approximately 3,900 juveniles a year, and works closely with a variety of community partners to prevent and intervene in delinquent behavior. As such, we have a keen interest in regulations and laws related to juvenile sex offenders.

We believe that application of the guidelines to youth is contrary to research--including research sponsored by the U.S. Department of Justice.

According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior. In addition, the recidivism rate among juvenile sex offenders is substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even thought the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior—even when assaultive—do not pose the same threat in terms of duration or severity to public safety as do adults.

These results competently argue against the inclusion of youth in public sex offender registries for 25 years to life.

Application of the guidelines to youth will interfere with effective treatment and rehabilitation.

SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It cannot be too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states' legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate children, parents will be more inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out. The stigma that arises from community notification serves to "exacerbate" the "poor social skills" many juvenile offenders possess, destroying the social networks necessary for rehabilitation.

pplication of the guidelines to youth will put youth at risk of exploitation.

ORNA as applied to youth is not in accord with the Act's public safety objective of "protect [ing] the public from sex offenders and offenders against children," in that it will expose these youth to adult offenders who have not sought or benefited from treatment.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The Guidelines should allow for judicial discretion in cases of youth adjudicated as juveniles.

If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders in adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or 17-year-olds to adult courts.

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender.

States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

The Guidelines should waive public registration and community notification requirements for youth adjudicated within the juvenile court system.

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but

not by the general public, and should allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

Similarly, the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

In its efforts to support families as the fabric of strong communities, the federal government must be careful not to promulgate policies and promote practices that unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment.

Similarly, the mandates and restrictions associated with the Guidelines will impact not only the youth, but the entire family, particularly in terms of where the family is permitted to live, e.g., prohibitions against living within so many feet of a school or a park.

Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

States that create and maintain juvenile registries such as the one described above should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion.

As noted, the Alaska Division of Juvenile Justice supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to limit their application in the ways articulated above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,

Tony Newman
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Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Tuesday, July 31, 2007 5:11 PM
To: Rosengarten, Clark
Subject: FW: OAG Docket No. 121--Comments on Proposed Guidelines
Attachments: Comments on Proposed SORNA Guidelines OAG 121 Final Lttrhd.doc

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From: Tara Andrews [mailto:andrews@juvjustice.org]
Sent: Tuesday, July 31, 2007 4:51 PM
To: GetSMART
Subject: OAG Docket No. 121--Comments on Proposed Guidelines

July 31, 2007

VIA ELECTRONIC MAIL (Pasted Below and Attached)

Laura L. Rogers, Director
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U.S. Department of Justice
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Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:
The Coalition for Juvenile Justice (CJJ) is a representative national nonprofit organization based in Washington, D.C. Created in 1984, CJJ comprises Governor-appointed State Advisory Groups (SAGs) charged to fulfill the mandates as well as the spirit of the federal Juvenile Justice and Delinquency Prevention Act. Working together with allied individuals and organizations, SAGs seek to improve the circumstances of vulnerable and troubled children, youth and families involved with the courts, and to build safe communities. Today, more than 1,500 CJJ members span the U.S. states and territories, providing a forum for sharing best practices, innovations, policy recommendations and peer support.
As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), the Coalition for Juvenile Justice takes this opportunity to express our strong opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current Proposed Guidelines.
In doing so, we incorporate by reference the complete Comments we submitted to David Karp on April 30, 2007, voicing our Opposition to Interim Rule RIN 1.105--AB22, OAG Docket No. 117.
Application of the Guidelines to Youth is Contrary to the Research, Including Research Sponsored by the U.S. Department of Justice
The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth.
According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive

[i]

sexual behavior. In addition, the recidivism rate among juvenile sex offenders is substantially lower, than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even though the youth may be apprehended for [ii]

non-sex offenses typical of other juvenile delinquents.

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior—even when assaultive—do not pose the same threat in terms of duration or severity to public safety as do adults.

All of the above competently argues against the inclusion of youth in public sex offender registries for 25 years to life.

Application of the Guidelines to Youth Will Interfere with Effective Treatment and Rehabilitation

SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It cannot be too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states' legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will also have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate treatment, parents may be inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, [iii]

forcing them to drop out. The stigma that arises from community notification serves to "exacerbate" [iv]

the "poor social skills" many juvenile offenders possess, destroying the social networks necessary for [v]

rehabilitation.

Application of the Guidelines to Youth Will Put Youth at Risk of Exploitation

SORNA as applied to youth is not in accord with the Act's public safety objective of "protect[ing] the public from sex offenders and offenders against children," in that it will expose these youth to adult offenders who have not sought or benefited from treatment.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the

juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or [vi]

17-year-olds to adult courts.

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender.

States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

The Guidelines Should Waive Public Registration and Community Notification Requirements for Youth Adjudicated within the Juvenile Court System

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but not by the general public, and should allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide will be registered in one or both of the parents' names.

In its efforts to support families as the fabric of strong communities, the federal government must be careful not to promulgate policies and promote practices that unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment.

Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

States that create and maintain juvenile registries such as the one described above should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

The Coalition for Juvenile Justice supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, limit their application in the ways articulated above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,

Nancy Gannon Hornberger
Executive Director

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[i]

National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). *Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report;* available at http://www.ojjdp.ncjrs.org/.

[ii]

Zimring, F.E. (2004). An American Travesty. University of Chicago Press.

[iii]

Freeman-Longo, R.E. (2000). Pg. 9. *Revisiting Megan's Law and Sex Offender Registration: Prevention or Problem.* American Probation and Parole Association. http://www.appa-net.org/revisitingmegan.pdf.

[iv]

Garfinkle, E., Comment, 2003. *Coming of Age in America: The Misapplication of Sex-Offender Registration and Community Notification Laws to Juveniles.* 91 California Law Review 163.

[v]

Ibid.

[vi]

This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Thursday, July 26, 2007 3:44 PM
To: Rosengarten, Clark
Subject: FW: SORNA comments
Attachments: SORNA comments.doc

From: Goemann, Melissa [redacted]
Sent: Wednesday, July 25, 2007 12:35 PM
To: GetSMART
Subject: SORNA comments

Dear Ms. Rogers,

Attached please find our written comments regarding the SORNA guidelines. Thank you.

Melissa Coretz Goemann
Director
Mid-Atlantic Juvenile Defender Center
Juvenile Law and Policy Clinic
University of Richmond School of Law
(804) 287-6468 (phone); (804) 287-6489 (fax)
[redacted]

The Mid-Atlantic Juvenile Defender Center

District of Columbia • Maryland • Puerto Rico • Virginia • West Virginia

ensuring excellence in juvenile defense and promoting justice for all children

July 25, 2007

VIA ELECTRONIC AND FIRST-CLASS MAIL

Laura L. Rogers, Director
SMART Office—Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed Guidelines to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), the Mid-Atlantic Juvenile Defender Center takes this opportunity to express our general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current Proposed Guidelines.

The Mid-Atlantic Juvenile Defender Center (MAJDC) is a multi-faceted juvenile defense resource center serving the District of Columbia, Maryland, Virginia, West Virginia, and Puerto Rico. We are committed to working within communities to ensure excellence in juvenile defense and justice for all children. We are a regional affiliate of the National Juvenile Defender Center in Washington, D.C. Part of our work includes training juvenile defenders and we have held trainings on the issue of handling juvenile sex offense cases.

Application of the Guidelines to Youth is Contrary to the Research, Including Research Sponsored by the U.S. Department of Justice

The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth.

According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[i] In addition, the recidivism rate among juvenile sex offenders is substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even thought the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.[ii]

The Children's Law Center; University of Richmond School of Law; 28 Westhampton Way; University of Richmond, VA 23173. (804) 287-6468 (phone); (804) 287-6489 (fax); mgoemann@richmond.edu

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior—even when assaultive—do not pose the same threat in terms of duration or severity to public safety as do adults.

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In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out.[iii] The stigma that arises from community notification serves to "exacerbate" the "poor social skills" many juvenile offenders possess,[iv] destroying the social networks necessary for rehabilitation.[v]

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making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

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Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, of the states within the Mid-Atlantic region, Virginia currently allow for judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender. If a juvenile adjudicated delinquent is 13 years of age or older, the court may require the juvenile to register if, in the courts discretion and on motion of the Commonwealth's Attorney, the court finds that the circumstances of the offense require offender registration.

States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

The Guidelines Should Waive Public Registration and Community Notification Requirements for Youth Adjudicated within the Juvenile Court System

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agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

Similarly, the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

In its efforts to support families as the fabric of strong communities, the federal government must be careful not to promulgate policies and promote practices that unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment.

Similarly, the mandates and restrictions associated with the Guidelines will impact not only the youth, but the entire family, particularly in terms of where the family is permitted to live, e.g., prohibitions against living within so many feet of a school or a park.

Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

States that create and maintain juvenile registries such as the one described above should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

The Mid-Atlantic Juvenile Defender Center supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways articulated above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,

The Children's Law Center; University of Richmond School of Law; 28 Westhampton Way; University of Richmond, VA 23173.
(804) 287-6468 (phone); (804) 287-6489 (fax); mgoemann@richmond.edu

Melissa Coretz Goemann

Director, Mid-Atlantic Juvenile Defender Center

[i] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). *Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report;* available at http://www.ojjdp.ncjrs.org/.

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Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Tuesday, July 31, 2007 11:05 AM
To: Rosengarten, Clark; Kaplan, April
Subject: FW: OAG Docket No. 121

From: Donya Adkerson [redacted]
Sent: Monday, July 30, 2007 12:48 PM
To: GetSMART
Subject: OAG Docket No. 121

July 30, 2007

VIA ELECTRONIC AND FIRST-CLASS MAIL

Laura L. Rogers, Director
SMART OfficeOffice of Justice Programs
U.S. Department of Justice
310 7th Street NW
Washington, D.C. 20531
Email: getsmart@usdoj.gov

Re: OAG Docket No. 121--Comments on Proposed to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), as the Director of Alternatives Counseling, Inc., I would likle to take this opportunity to express our general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current Proposed Guidelines.

Alterantives Counseling has provided treatment to both victims and perptrators of sexual offending since 1991. We serve children and youth from intact homes and those in the child welfare system, as well as adults. I have also worked directly for the Illinois Sex Offender Management Board. In our mission of healing those affecting by sexual abuse, we come to know first hand the variability of both youth and adults who have developed sexual behavior robelms. While we are grateful that governmental authorities are focusing needed attention on this public health issue, we are deeply concerned that policies are now being implemented whihc are based on public fears rather than evdence of what owrks arising from research in the field. We beleive that proposed policies as applied to youth may actually harm, rather than help, public safety.

Application of the Guidelines to Youth is Contrary to the Research, Including Research Sponsored by the U.S. Department of Justice.

The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth. According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health
Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%), and substantially lower than rates for other
delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even thought the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.[2]

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior even when assaultive do not pose the ame threat in terms of duration or severity to public safety as do adults.

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SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It cannot be too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states' legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and
deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as Applied to Youth will Stop Most Familes From Reporting and Seeking Proper Treatment of Youth who Exhibit Problem Sexual Behavior.

As opposed to helping to hold their child accountable and seek appropriate children, parents will be more inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out.[3] The stigma that arises from community notification serves to "exacerbate" the "poor social skills" many juvenile offenders possess,[4] destroying the social networks necessary for rehabilitation.[5]

Application of the Guidelines to Youth Will Put Youth at Risk of Exploitation.

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Youth are not all the same, not even if they have engaged in similar behavior. If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

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supports a policy of judicial discretion on a case-by-case basis subject to certain criteria. For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender. We beleive that public safety is best served when each case is responded to based on the individual risks, strenghts, and needs presented.

States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

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Alternatively, the Guidelines could allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system. States that create and maintain juvenile non-public registries should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

Alternatives Counseling supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we professionally and personally believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways articulated above. Our laws should not harm public safety, even inadvertently.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,

Donya L. Adkerson, MA, LCPC
Director
Alternatives Counseling, Inc.
88 S. Main, PO Box 639
Glen Carbon, IL 62034
tel. 618-288-8085
fax 618-288-8959
Donya@ACHelps.org

[1] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report; available at <http://www.ojjdp.ncjrs.org/>http://www.ojjdp.ncjrs.org/.

[2] Zimring, F.E. (2004). An American Travesty. University of Chicago Press.

[3] Freeman-Longo, R.E. (2000). Pg. 9. Revisiting Megan's Law and Sex Offender Registration: Prevention or Problem. American Probation and Parole Association. <http://www.appa-net.org/revisitingmegan.pdf>http://www.appa-net.org/revisitingmegan.pdf.

[4] Garfinkle, E., Comment, 2003. Coming of Age in America: The Misapplication of Sex-Offender Registration and Community Notification Laws to Juveniles. 91 California Law Review 163.

[5] Ibid.

[6] This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.

Laura L. Rogers, Director
SMART Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

July 20, 2007

Dear Ms. Rogers:

As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), Hillsborough County Sexual Abuse Intervention Network (SAIN) would like to take this opportunity to express our general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current proposed guidelines. SAIN is a collaboration of volunteer professionals working to reduce the incidence of sexual abuse in Hillsborough County, Florida through identifying, referring and supervising youth with sexual behavior problems.

Application of the guidelines to youth is contrary to the research, including research sponsored by the U.S. Department of Justice. The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth. According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%), and substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even though the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.[2]

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior even when assaultive not pose the same threat in terms of duration or severity to public safety as do adults.

All of the above competently argues against the inclusion of youth in public sex offender registries for 25 years to life.

Application of the guidelines to youth will interfere with effective treatment and rehabilitation. SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It cannot be too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate children, parents will be more inclined to hide their child's problem and not seek help

when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out.[3] The stigma that arises from community notification serves to exacerbate the poor social skills many juvenile offenders possess,[4] destroying the social networks necessary for rehabilitation.[5]

SORNA as applied to youth is not in accord with the Act's public safety objective of protect[ing] the public from sex offenders and offenders against children, in that it will expose these youth to adult offenders who have not sought or benefited from treatment.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The guidelines should allow for judicial discretion in cases of youth adjudicated as juveniles. If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders in adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or 17-year-olds to adult courts.[6]

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender. States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but not by the general public, and should allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act

while helping youth in treatment and innocent family members maintain someprivacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

Similarly, the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

In its efforts to support families as the fabric of strong communities, the federal government must be careful not to promulgate policies and promote practices that unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment. Similarly, the mandates and restrictions associated with the Guidelines will impact not only the youth, but the entire family, particularly in terms of where the family is permitted to live, e.g., prohibitions against living within so many feet of a school or a park.

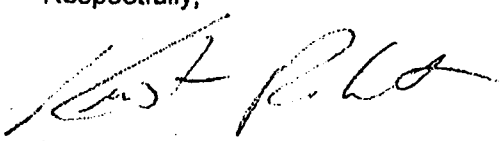
Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

States that create and maintain juvenile registries such as the one described above should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

In conclusion, your entity supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways articulated above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,



Kristina Roberts, M.S.

SAIN Coordinator of Hillsborough County

[1] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report; available at <http://www.ojjdp.ncjrs.org/>http://www.ojjdp.ncjrs.org/.

[2] Zimring, F.E. (2004). An American Travesty. University of Chicago Press.

[3] Freeman-Longo, R.E. (2000). Pg. 9. Revisiting Megan=92s Law and Sex Offender Registration: Prevention or Problem. American Probation and Parole Association. <http://www.appa-net.org/revisitingmegan.pdf>http://www.appa-net.org/revisitingmegan.pdf.

[4] Garfinkle, E., Comment, 2003. Coming of Age in America: The Misapplication of Sex-Offender Registration and Community Notification Laws to Juveniles. 91 California Law Review 163.

[5] Ibid.

[6] This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.

Rogers, Laura

From: [redacted]

Sent: Friday, July 20, 2007 9:33 AM

To: GetSMART

Subject: Re: OAG Docket No. 121--Comments on Proposed to Interpret and Implement

July 31, 2007

VIA ELECTRONIC AND FIRST-CLASS MAIL

Laura L. Rogers, Director
SMART Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Dear Ms. Rogers:
As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), the Your Entity takes this opportunity to express our general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current Proposed Guidelines. Give a brief description of your entity; its purpose, function and make-up; the reasons underlying your interest in youth and how SORNA applies to youth.

Application of the Guidelines to Youth is Contrary to the Research, Including Research Sponsored by the U.S. Department of Justice
The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth.
According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%), and substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even thought the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.[2]

The Center also found that youth are more

responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior even when assaultive not pose the same threat in terms of duration or severity to public safety as do adults.

All of the above competently argues against the inclusion of youth in public sex offender registries for 25 years to life.

Application of the Guidelines to Youth Will Interfere with Effective Treatment and Rehabilitation
SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It cannot be too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate children, parents will be more inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out.[3] The stigma that arises from community notification serves to exacerbate the poor social skills many juvenile offenders possess,[4] destroying the social networks necessary for rehabilitation.[5]

Application of the Guidelines to Youth Will Put Youth at Risk of Exploitation

SORNA as applied to youth is not in accord with the Act's public safety objective of protect[ing] the public from sex offenders and offenders against children, in that it will

expose these youth to adult offenders who have not sought or benefited from treatment.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders in adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or 17-year-olds to adult courts.[6]

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and

instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender. If your state allows for judicial discretion, talk about it: what criteria does the judge use; can the judge reverse him or herself at a later point; are their any cases in which the judge does not have discretion; etc.

States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

The Guidelines Should Waive Public Registration and Community Notification Requirements for Youth Adjudicated within the Juvenile Court System

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but not by the general public, and should allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

Similarly, the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

In its efforts to support families as the fabric of strong communities, the federal government

must be careful not to promulgate policies and promote practices that unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on= children and families who need and can benefit from appropriate treatment. Similarly, the mandates and restrictions associated with the Guidelines will impact not only the youth, but the entire family, particularly in terms of where the family is permitted to live, e.g., prohibitions against living within so many feet of a school or a park.

Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

If your state has a Juvenile Registry that is less punitive and supports both rehabilitative and public safety concerns, talk about it: who has to register; who decides who has to register; what information do registrants have to provide; how often to they have to update the registry; how is this information used; who has access to the information and for what purpose; how long is the registration period; etc.

States that create and maintain juvenile registries such as the one described above should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

Your entity supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways articulated above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,
Deborah Laskowski, LCSW

Tampa, Florida

[1] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report; available at <http://www.ojjdp.ncjrs.org/>http://www.ojjdp.ncjrs.org/.

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[5] Ibid.

[6] This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.

Rogers, Laura

From: [redacted]
Sent: Thursday, July 19, 2007 10:36 PM
To: GetSMART
Subject: SORNA

Bay Area Sex Abuse Treatment Center

July 19, 2007

VIA ELECTRONIC AND FIRST-CLASS MAIL

Laura L. Rogers, Director
SMART Office, Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531
Email: getsmart@usdoj.gov

Re: OAG Docket No. 121--Comments on Proposed
to Interpret and Implement the
Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:
As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), I want to take this opportunity to express my general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current Proposed Guidelines. I run a program that is designed to evaluate and treat both juvenile and adult sex offenders. Many of the juveniles that I work with are young and most have been sexually abused themselves.

Application of the Guidelines to Youth is Contrary to the Research, Including Research Sponsored by the U.S. Department of Justice

The research, including research sponsored by the U.S. Department of Justice, does not upport the application of SORNA to youth. According to the National Center of Sexual Behavior of Youth (NCSBY), [a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center], juvenile sex offenders

engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%), and substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even thought the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.[2]

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior even when assaultive, do not pose the same threat in terms of duration or severity to public safety as do adults. All of the above competently argues against the inclusion of youth in public sex offender registries for 25 years to life.

Application of the Guidelines to Youth Will Interfere with Effective Treatment and Rehabilitation

SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

Youth implicated by the Act have not been convicted of a criminal offense by deliberate action of the states' legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent. By virtue of that adjudication, they have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will have a devastating effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate children, parents will most likely hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

Public registration and community notification requirements will complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out.[3] The stigma that arises from

community notification serves to "exacerbate" the "poor social skills" many juvenile offenders possess,[4] destroying the social networks necessary for rehabilitation.[5]

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SORNA as applied to youth is not in accord with the Act's public safety objective of "protect[ing] the public from sex offenders and offenders against children," in that it will
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Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others who still engaging in sexually inappropriate and abusive behavior.

The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

All 50 states and the District of Columbia allow for the prosecution of serious youthful offenders in adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or 17-year-olds to adult courts.[6]

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the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis, subject to certain criteria.

For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender.

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SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number of the youth will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

In its efforts to support families as the fabric of strong communities, the federal government must be careful not to promulgate policies and promote practices that

unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment. Similarly, the mandates and restrictions associated with the Guidelines will impact not only the youth, but the entire family, particularly in terms of where the family is permitted to live, e.g., prohibitions against living within so many feet of a school or a park.

States that create and maintain juvenile registries such as the one described above should
be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

I support efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, I believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short-and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways outlined above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and I trust that my comments will be given serious and thoughtful consideration. If I can answer any further questions, please contact me at 410-879-2470.

With regards,

Carol A. Deel, MS, LCPC, LCMFT
Director

[1] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency

Prevention, (2001). Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report; available at <http://www.ojjdp.ncjrs.org/>http://www.ojjdp.ncjrs.org/.

[2] Zimring, F.E. (2004). An American Travesty. University of Chicago Press.

[3] Freeman-Longo, R.E. (2000). Pg. 9. Revisiting Megan's Law and Sex Offender Registration: Prevention or Problem. American Probation and Parole Association. <http://www.appa-net.org/revisitingmegan.pdf

[4] Garfinkle, E., Comment, 2003. Coming of Age in America: The Misapplication of Sex-Offender Registration and Community Notification Laws to Juveniles. 91 California Law Review 163.

[5] Ibid.

[6] This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Monday, August 06, 2007 10:52 AM
To: Rosengarten, Clark
Subject: FW: OAG docket # 121

Attachments: SORNA.doc

SORNA.doc (36 KB)

-----Original Message-----
From: Gary Hook [redacted]
Sent: Tuesday, July 31, 2007 5:15 PM
To: GetSMART
Subject: Re: OAG docket # 121

To: Laura Rogers

See attached letter regarding comments on proposal to implement SORNA.

Gary Hook
[redacted]

July 31, 2007

Laura L. Rogers, Director
SMART Office-Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), I would like to express my general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and my particular concerns with the current Proposed Guidelines.

Application of the Guidelines to Youth is contrary to current research, including research sponsored by the U.S. Department of Justice, which does not support the application of SORNA to youth. According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior. In addition, the recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%), and substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even though the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior-even when assaultive-do not pose the same threat in terms of duration or severity to public safety as do adults.

All of the above competently argues against the inclusion of youth in public sex offender registries for 25 years to life.

It cannot too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states' legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment. It would make more sense to ensure that appropriate treatment was available regardless of where the child or juvenile lives.

SORNA as applied to youth will have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate children, parents will be more inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender. This clearly is counter intuitive to promoting community safety.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out. The stigma that arises from community notification serves to "exacerbate" the "poor social skills" many juvenile offenders possess, destroying the social networks necessary for rehabilitation. Clearly this is not in the best interest of community safety.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

The Guidelines Should Waive Public Registration and Community Notification Requirements for Youth Adjudicated within the Juvenile Court System

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but not by the general public, and should allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

Similarly, the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

I support efforts to hold offenders accountable, protect vulnerable populations, promote victim's rights and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, I believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the

short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways articulated above. Research has shown that over supervision of lower risk abusers only makes the situation worse not better. We become part of the problem not part of the solution.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,

Gary Hook
[redacted]

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Tuesday, July 31, 2007 11:01 AM
Rosengarten, Clark
ect: FW: OAG Docket No. 121 Comments on Proposed Guidelines to Interpret and Implement the Sex Offender Registration and Notification ACT (SORNA) regarding juveniles

-----Original Message-----
From: Richard B. Krueger, M.D. [redacted]
Sent: Monday, July 30, 2007 4:28 PM
To: GetSMART
Cc: Alisa Klein; Meg Kaplan; Richard Krueger
Subject: Re: OAG Docket No. 121 Comments on Proposed Guidelines to Interpret and Implement the Sex Offender Registration and Notification ACT (SORNA) regarding juveniles

Dear Ms. Rogers:

As the United States Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA) we would like to take this opportunity to express our general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current proposed guidelines.

We have worked with juvenile offenders for over 20 and 15 years, respectively, conducting research, evaluations, and treatment.

Research does not support the application of SORNA to youth. The recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%) and substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event.

Application of the guidelines to youth will interfere with effective treatment and rehabilitation, as it removes confidentiality and a rehabilitative emphasis.

Youth implicated by this act have not been convicted of a criminal offense. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment.

The guidelines should allow for judicial discretion in cases of youth adjudicated as juveniles.

If the Attorney General insists that SORNA be applied to youth adjudicated within the juvenile court system, the department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

The guidelines should waive public registration and community notification requirements for youth adjudicated within the juvenile court system.

Alternatively, the guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma, and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

We support efforts to hold offenders accountable, protect vulnerable populations, and improve the overall public safety for communities access the nation.

However, we believe that the guidelines as currently written negatively impact the short- long-term rehabilitation of youth adjudicated within the juvenile court system. We the Attorney General to limit the application of these guidelines to juveniles, as set forth above.

Sincerely,

Reg S. Kaplan, Ph.D.

Director

Associate Clinical Professor of Psychology in Psychiatry Columbia University, Department of Psychiatry College of Physicians and Surgeons

[redacted]

Richard B. Krueger, M.D.

Medical Director
Sexual Behavior Clinic
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Associate Clinical Professor of Psychiatry Columbia University, Department of Psychiatry
College of Physicians and Surgeons

Associate Attending Psychiatrist
Department of Psychiatry
New York-Presbyterian Hospital

[redacted]

E DO NOT EVEN IN THE LEAST KNOW THE FINAL CAUSE OF SEXUALITY. THE WHOLE SUBJECT IS IDDEN IN DARKNESS--CHARLES DARWIN 1862.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Thursday, July 26, 2007 3:53 PM
To: Rosengarten, Clark
Subject: FW: OAG Docket No. 121 - SORNA Comments
Attachments: SORNA comments.doc

From: Deaett, Mary [mailto:Mary.Deaett@state.vt.us]
Sent: Thursday, July 26, 2007 7:38 AM
To: GetSMART
Subject: OAG Docket No. 121 - SORNA Comments

Comments also send by First Class Mail.

Robert Sheil, Esq.
Juvenile Defender
Office of the Defender General
6 Baldwin Street, 4th Floor
Montpelier, VT 05633-3301
(802) 828-3168
(802) 828-3163 (fax)
Bob.Sheil@state.vt.us

July 26, 2007

VIA ELECTRONIC AND FIRST-CLASS MAIL

Laura L. Rogers, Director
SMART Office—Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

My name is Robert Sheil and I am the supervising attorney in the Vermont Office of the Juvenile Defender. Our office would like to take this opportunity to comment on the Proposed Guidelines that the U.S. Department of Justice is considering with regard to how best interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA). Our office, for the policy reasons set forth below, is opposed in general to the application of SORNA to youth who are under the jurisdiction of the juvenile court system. We are also particularly concerned with certain aspects of the Proposed Guidelines as noted below.

The Vermont Office of the Juvenile Defender is an office within the Office of the Defender General. The Office of the Defender General is the entity in Vermont that provides public defender representation. The Office of the Juvenile Defender provides ongoing post-dispositional legal representation to children and youth who were the subject of petitions filed in juvenile court alleging that they were delinquent, abused, neglected, abandoned, or unmanageable and who were placed in the custody of the Commissioner of the Department for Families and Children as a result of those proceedings. Our office also provides representation to children who are placed in Vermont's sole detention center, provides training to Guardians ad Litem, and offers testimony before the Legislature on proposed legislation relating to juvenile justice and child welfare issues. I, personally, sit on a number of standing committees that address juvenile justice issues.

Research , Including that Sponsored by the U. S. Department of Justice, Indicates that Inclusion of Youth in the Application of the Proposed Guidelines is Contrary to the Basic Tenets of the American Juvenile Justice System

The application of SORNA to youth is contraindicated by a large body of research, including research sponsored by the U.S. Department of Justice.

According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact over 90% of youth arrested for a sex offense are never rearrested for another

sex offense, even though the youth may be arrested for other non-sex offenses typically related to juvenile delinquency.[2]

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior—even when assaultive—do not pose the same threat in terms of duration or severity to public safety as do adults.

For these reasons it is not good public policy to include in public sex offender registries for periods of 25 years to life youth adjudicated in juvenile court.

The Effective Treatment and Rehabilitation of Youth will be Compromised by the Application of the Proposed Guidelines to Them

The application of SORNA to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It is imperative to keep in mind that youth implicated by the Act have not been convicted of any criminal offense. States' legislatures and prosecuting authorities have affirmatively acted to distinguish juveniles committing delinquent acts from adults committing criminal acts. These children have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior without being subjected to both the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will have a chilling effect on the identification, adjudication and proper treatment of youth who exhibit inappropriate sexual behavior. Parents, rather than recognizing the value to their child of holding him or her accountable, will be more inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the treatment and rehabilitation of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out.[3] The stigma that arises from community notification serves to "exacerbate" the "poor social skills" many juvenile offenders possess[4] destroying the social networks necessary for rehabilitation.[5]

The Guidelines, if Applied to Youth, Will Place Youth in Harm's Way and Pose a Much Greater Risk of Exploitation

If SORNA is applied to youth it will expose those youth to adult predators who are untreated or have not been rehabilitated by treatment. This is in direct conflict with the Act's

public safety objective of "protect[ing] the public from sex offenders and offenders against children."

Pedophiles and other adult sex offenders, who exploit and abuse youth will be much more likely than the general public, to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

At a Bare Minimum the Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If the Attorney General persists in his belief that SORNA be applied to youth adjudicated solely within the juvenile court system, the Department should allow judges to exercise discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders in adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or 17-year-olds to adult courts.[6]

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has taken or retained jurisdiction argues against mandated and indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender.

Those states that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Public Registration and Community Notification Requirements Should not be Required for Youth Adjudicated within the Juvenile Court System

In the event that the Attorney General continues to insist that youth adjudicated within the juvenile court system be required to register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry. Access to such a registry by the relevant authorities but not by the general public would be sufficient to protect the public safety and victims. This type of registry would allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA if applied to delinquent youth will disrupt families and communities across the nation because SORNA stigmatizes not only the youth, but the youth's entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth will be required to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth will be required to provide will be the registration information for any vehicle owned by one or both of the youth's parents.

For like reasons the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

It is essential that the federal government must be vigilant in its efforts not to promulgate public policy that unnecessarily creates or exacerbates tensions within the family home. This is critical in supporting families and their importance in creating strong communities. It is counterproductive to formulate public policy that foments tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment.

Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

When the Vermont Legislature discussed and debated proposed legislation in 1996 that eventually established a sex offender registry in Vermont there was a decision made by the legislature to exclude from required registration those youth who were adjudicated delinquent of a sexual offense in juvenile court as opposed to convicted in adult (criminal) court. However, any individual, including all children, against whom an allegation of sexual abuse has been substantiated after investigation have their names placed on a child abuse registry even if a delinquency is not filed in juvenile court or a criminal charge is not filed in adult court.

This registry is accessible to prosecutors, the attorney general, certain department commissioners and to employers if such information is used to determine whether to hire or retain a specific individual providing care, custody, treatment, or supervision of children or vulnerable adults. The employer may submit a request concerning a current employee, volunteer, or contractor or an individual to whom the employer has given a conditional offer of a contract,

volunteer position, or employment. The request shall be accompanied by a release signed by the current or prospective employee, volunteer, or contractor.

In addition, there are another two separate statutory provisions in Vermont law that specifically provide notice regarding delinquent youth who have been adjudicated for any delinquent act that involved any sort of sexual abuse, and these, provide protection for the public. Under 33 V.S.A. §5529g(4) a victim of a sexual offense may request to be notified by the agency having custody of the delinquent child before he or she is discharged from a secure or staff-secured residential facility.

There is also an exception to the confidentiality of juvenile court records, found in 33 V.S.A.§ 5536(b) and (c) which mandates the family (juvenile) court to provide written notice within seven days of a delinquency adjudication involving sexual abuse as well as certain other listed crimes, to the superintendent of schools for the public school in which the child is enrolled or, in the event the child is enrolled in an independent school, the school's headmaster. This notice is required to contain a description of the delinquent act found by the court. 33 V.S.A. § 5536a(d).

Both of these statutory schemes provide the type of public safety protections that are the focus of SORNA and comply with the essence of the act.

States that create and maintain child abuse registries such as the one described above should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

The Vermont Office of the Juvenile Defender has always supported and will continue to support efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for all communities and their citizens. However, for all of the reasons stated above, we believe that the Proposed Guidelines that have, at present, been promulgated by the Attorney General fail to take into account the inherent differences between adolescents and adults and fail to recognize the growing body of knowledge regarding recent discoveries in the area of adolescent brain development. The Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways discussed above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration. May we thank you in advance for your kind consideration and attention to this matter.

Respectfully,

Robert Sheil, Esq.

Vermont Juvenile Defender

[1] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). *Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report; a*vailable at http://www.ojjdp.ncjrs.org/.

[2] Zimring, F.E. (2004). An American Travesty. University of Chicago Press.

[3] Freeman-Longo, R.E. (2000). Pg. 9. *Revisiting Megan's Law and Sex Offender Registration: Prevention or Problem.* American Probation and Parole Association. http://www.appa-net.org/revisitingmegan.pdf.

[4] Garfinkle, E., Comment, 2003. *Coming of Age in America: The Misapplication of Sex-Offender Registration and Community Notification Laws to Juveniles.* 91 California Law Review 163.

5 Ibid

[6] This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.