April 20, 2007

Dear Mr. Karp:

We are writing to voice our opposition concerning the interim rule, OAG Docket No. 117, which made the Adam Walsh Act retroactive. We oppose the interim rule for the same reasons we are opposed to the Adam Walsh Act. Our primary reason for opposing the interim rule is that there is no research data that supports the claim that it will further protect the public. People who have studied the available research realize the interim rule will add thousands of more names to a system that is already cumbersomely plagued with problems; the Adam Walsh Act is primarily based on a few highly sensationalized tragic cases involving a handful of high-risk men. People who have studied the available research realize that the majority of sex crimes are committed by first time offenders and not by "former" sex offenders who are registered on a public Internet site; the majority of sex crimes are committed by a family member, close relative or a family friend.

A second reason we oppose the interim rule is that it further adds to the mass hysteria, sensationalism, scare mongering, hatred and lack of accurate knowledge that is so prevalent in society with respect to former sex offenders. Former sex offenders have become the modern day lepers, the untouchables, the scarlet-lettered demons. Instead of having in place a system that is aimed at helping people solve and overcome their sexual and mental cognitions the present system imposes a second punishment sentence on former offenders which serves to further isolate, humiliate and dehumanize a segment of society. Many more thousands will be affected in the same way with the implementing of the interim rule.

Thirdly, implementing the interim rule will add many more casualties and traumatizing experiences for the family members of former sex offenders. People give voice to being concerned about children, but they apparently do not hold that same thought about the children of former sex offenders. Some children have cried because their "daddy" cannot live at home. Some children have been beat up at school and ostracized from former friends. Ms. Laura Ahearn, Executive Director of Parents For Megan's Law stated in a February issue of a newspaper, "It's unfortunate that that child is going to have to pay a price for his father's behavior." She made that statement is response to a father who was successfully volunteering at his son's school.

A fourth reason we are opposed to implementation of the interim rule is that it will only add to the already bludgeoning statistics of murders, suicides, harassment incidents, discriminatory statements and actions against former sex offenders. It will also send more former sex offenders underground and living in places where they should not be forced to live. (See Exhibit A)

The fifth reason we are opposed to the interim rule is that it appears the people involved in passing the laws and/or implementing the law have not studied the research or choose to ignore the research. People who have studied the available research realize that the

recidivism rate for sex crimes is extremely low, lower than for every crime except murder. (See Exhibit B)

A sixth reason we oppose the interim rule relates to the fact that most mental health professionals that treat and work with people who have sexual abuse problems "recognize sexual abuse as a public health issue," as does the Center For Disease Control. Their belief is that, "Through treatment, community support, and personal commitment, most persons who have sexually abused can become responsible members of society, and those at risk to sexually act out can successfully learn ways not to abuse."

In closing, we write this opposition letter knowing that nothing will change because it is political suicide for politicians, the media and most others to take a stance against a retributive and dehumanizing part of the justice system. We are reminded of what Thomas Jefferson once said, "The care of human life and happiness, and not their destruction, is the first and only object of good government."

Very sincerely,

Justine Landes

Larry Landes

Exhibit A

- November, 2006. A 40-year-old human being serving time in Washington State Penitentiary as a former sex offender was brutally beaten and killed in his cell at the hands of two other inmates.
- September, 2006. A 72-year-old former sex offender on the state registry was robbed and died from knife wounds and blunt trauma.
- April 16, 2006. Augusta, Maine. Two registered former sex offenders, one aged 57 and one aged 24, were shot to death in their homes. A 19-year-old man had taken their names and addresses off the state registry site. When he was cornered the 19-year-old killed himself with a gun. Sadly, three human beings died because of the (former) sex offender state registry site.
- 2005, Washington state. Two former sex offenders were murdered because a 35-year-old man found their names on a (former) sex offender website.

The above are six out of at least 55 murders, as of January 1, 2007, of former sex offenders during the past several years!

- January 4, 2007. Texas. An English teacher used a gun and committed suicide because of allegations of sexual impropriety with a student.
- January 4, 2007. Vermont. A 53 year-old man committed suicide after admitting to police to fondling two girls at his wife's in-home day care center.
- January 1, 2007. Michigan. An 18-year-old man on the Michigan (former) sex offender registry drove to a vacant lot and committed suicide with an assault rifle.
- November, 2006. A Harvard graduate New York lawyer, married with three children had been charged with rape. The lawyer committed suicide.

The above are examples of at least 160 stories, as of January 4, 2007, of former sex offender suicides that have taken place during the past several years!

- California. A former sex offender bought a plumbing business only to loose the business when people in the community found out he was a former sex offender!
- November, 2006. Washington. A former sex offender's house was broken into and he was beaten with a stick. Signs and posters had been put up pointing out where he lived.
- 2003. Tampa, Florida. A former sex offender was sentenced to 60 years in prison for violating his probation. He had been the subject of vigilantism by the mother of the victim. She essentially stalked him for several years, admitting she used the registry to find him every time he moved.
- New Jersey. The brother of a former sex offender was severely beaten with a baseball bat, almost to the point of death.
- One study, documenting 33 harassment incidents, indicated that about half of the harassment incidents involved family members. Protesters have rallied in front of former sex offenders homes, protesters have followed former sex offenders with posters, threatening phone calls have been made to homes of former sex offenders

and flyers have been posted by unknown individuals showing the former sex offender's picture and detailing the crime.

- Even public officials have been a part of harassment incidents. In 2001, a judge ordered 21 signs to be placed in the yards of former sex offenders stating there was a dangerous sex offender living at the residence. That same judge ordered 21 bumper stickers to be placed on each vehicle stating there was a dangerous sex offender in the vehicle.

The above harassment incidents, from across the country, are just a few of the documented and reported stories, as of January 1, 2007, told by former sex offenders or others!

- January, 2007. Wilmington, Delaware. A 27-year-old man fatally beat a 77-year-old man he believed molested his daughter. The judge sentenced the man to nine months, saying, "The circumstances surrounding this crime were taken into consideration..."
- November, 2006. Georgia. The House of Representatives majority leader stated, "My intent personally is to make it so onerous on those that are convicted of these offenses....they will want to move to another state."
- July, 2006. Nancy Grace Show. Senator Hatch said, "Well, the bill really puts the screws to those who are sexual predators...."
- April, 2006. Washington, D.C. The title of a published news release by the U.S. Marshals Operation Falcon II group states, "More Than 1,100 Sex Offender Arrests By U.S. Marshals' "Operation Falcon II" There were a total of 9,037 persons apprehended, but former sex offenders were singled out; the entire article discriminatorily focused on the 1,102, not on the other 7,935!
- California. Several years ago a state assemblyman, city officials and two mayors picketed outside an apartment where a registered former sex offender had moved to live with his relatives!
- 2002. California. A sheriff faced a lawsuit for having a former sex offender followed, spreading rumors and having his home searched illegally.

The above are biased, discriminatory statements and actions made by elected or appointed government officials!

- December, 2006. Nebraska. Eleven former sex offenders have been evicted from living in a mobile home park.
- December, 2006. New York Times article. "In Iowa, the number of registered (former) sex offenders who went missing soared after the state passed a law forbidding offenders to live within 2000 feet of a school or day care center."
- November, 2006. Iowa. A former sex offender shortly after 8:00 in the evening, "kisses his wife and three kids goodbye and leaves his home.....A half-hour later, he pulls up at an unfurnished rental....one of the few spots in the region where he can legally spend the night."
- Iowa. A former sex offender lives in his van at an Interstate rest stop because he has nowhere else to go after he was forced out of his house because of the 2000-foot law.

- March, 2006. Chicago Tribune article. "……About two years ago, more sex offenders began returning to prison for a parole violation because of the difficulty they face finding housing…."
- Tennessee. A counselor who has a business of counseling sex offenders must move his business out of town because the location of his business is a few feet from an elementary school and that puts him in violation of the law because part of the law says, "Sex offenders can not receive treatment within 1,000 feet of a school playground, daycare center and lots of other places."
- "Under the 7th street bridge," "truck near river," "rest area mile marker 149," "Flying J, in truck," "in tent, S side of I-80," "RV in old K-Mart parking lot," "I-35 rest area."
- Five former sex offenders are living under a bridge in Florida because the state has nowhere else to put them.

The above are just a few stories of the descriptions given as to where former sex offenders live or no longer live!

Exhibit B

There are research studies clearly showing the majority of sex crimes are committed by first-time offenders and the majority of people who commit sex offenses do not re-offend. Recidivism rates for released former sex offenders are between 3% - 13%, depending on the study. Recidivism rates differ, in part, depending on the offense and various characteristics of the offender.

1. One of the most extensive studies, a thirty-page document published in November, 2003, (NCJ 198281) details recidivism of former sex offenders in 1994. In that year a total of 272,111 persons released from prisons were tracked for three years in an effort to document recidivism in all areas of crime. That number represented two-thirds of all persons released from prisons that year. Out of the 272,111 persons released were 9,691 former male sex offenders, two-thirds of all released male former sex offenders. That translates into approximately 3.6% of all released people. During the following three years 3.5%, or 339 of the 9,691, were reconvicted for a sex crime. That compares to 1.3%, or 3328 persons, out of the 262,420 released persons, that recidivated with a sex crime. None of those 3328 persons would have been on an Internet registry. What this clearly indicates is that former non-sex offenders committed more new sex crimes than did former sex offenders, **six** times more sex crimes. One must also realize that most sex offenses are committed by people who do not even have a criminal record!

A Comparison of New Sex Crime Arrests for Sex Offenders and Non-Sex Offenders Within a Three-Year-Period

Released	Former Offenders	Rearrested for a New Sex Offense	New Sex Offenses	% of New Sex Offenses
9,691	Sex Offenders	5.3%	517	13%
262,420	Non-sex Offenders	1.3%	3328	87%
272,211	All released Offenders	1.4%	3845	100%

Source: U.S. Department of Justice, Recidivism of Sex Offenders Released from Prison in 1994, page 24
Published: November, 2003

2. New York - showed a 6% recidivism rate - time period was nine years (Department of Correctional Services (2002)
3. Rockville, Maryland - showed 7.7% - time period was three years (National Criminal Justice Reference Center (1997)
4. CJ - 193427 (2002) - showed 2.5% - time period was three years (Oregon Department of Rehabilitation and Correction report Recidivism of Prisoners Released in 1994)

5. State of Ohio - showed 8% - time period was ten years
(Department of Rehabilitation and Correction (2001)
6. Gibbons, Soothill, and Way [cited in Furby, Weinrott and Blackshaw, 1989]
Showed 4%

Source for the above: Sohopeful International, Inc. Portland, Oregon, page 16. Published: September, 2005

7. Michigan Parole Board recidivism statistics show, in an 11-year study (1990-2000), that former sex offenders average 1.65% recidivism rate for the same crime. This is considered to be an important study because it tracks before and after public registries and shows that the public registry has no effect on recidivism.

8. The Montana Sex Offender Treatment Association was founded in 1987. Its purpose was to develop a "state of the art network of evaluation and treatment of sexual abusers," according to Andy Hudak, a co-founder. In a letter he recently wrote that was published at dailyinterlake.com on January 3, 2007, he maintains that Montana's prison and out-patient programs have consistently demonstrated recidivism of less than one percent per year.

9. Sex Offenders: Flaws in the System and Effective Solutions, a document of approximately 300 pages, published by Sohopeful International, Inc. in Portland, Oregon, on page 16 states the following:

"In United States v. Mound, 157 F.3d 1153, 1154, (8th Cir. 1998((enbanc), four dissenting Judges cite Law Review articles citing statistics finding the **recidivism rate of released sex offenders is the second lowest rate of recidivism of all convicted felons.** In State v. Krueger, Case No. 76624 (December 19, 2000, Eighth Judicial District of Ohio, unreported, two female Judges reversed a Sexual Predator adjudication, finding the statute is based on a false assumption and in essence, an "old wives tale" of popular beliefs contradicted by empirical data." Clearly, **the judges in this case had studied the research about recidivism.**

From: no-reply@erulemaking.net
Sent: Friday, April 27, 2007 10:25 AM
To: OLPREGS
Subject: Public Submission

Follow Up Flag: Follow up
Flag Status: Completed

Please Do Not Reply This Email.

Public Comments on Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act:========

Title: Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act
FR Document Number: E7-03063
Legacy Document ID:
RIN: 1105-AB22
Publish Date: 02/28/2007 00:00:00
Submitter Info:

First Name: Michael
Last Name: Nam-Krane
Mailing Address: [redacted]
City: [redacted]
Country: United States
State or Province: MA
Postal Code: [redacted]
Organization Name: Committee for Publi Counsel Services

Comment Info: ==========

General Comment:There should be a date set for the reachback provision. Otherwise the law is
fundamentally unfair to the individual.

From: Jana Lantor [redacted]
Sent: Monday, April 16, 2007 7:53 AM
To: OLPREGS
Subject: OAG Docket #117

Follow Up Flag: Follow up
Flag Status: Completed
To Whom It My Concern:

NO Ex Post Facto punishment!!!

Sincerely,

Jana Lantor
Albuquerque, NM

From: [redacted]
Sent: Sunday, May 06, 2007 11:57 PM
To: OLPREGS
Subject: OAG Docket No. 117

Follow Up Flag: Follow up
Flag Status: Completed
Dear Mr. David J. Karp, Senior counsel
Office of Legal Policy, Room 4509
Main Justice Building
950 Pennsylvania Ave., NW
Washington, D C 20530

Dear Mr. Karp,
I should like to state that I have very serious objections concerning the Interim Rule issued as a result of the Adam Walsh Act, and SORNA, by Attorney General Gonzales. I believe that as a result of mass hysteria following each and every case of horrible sexual attacks on children, the hatred for such criminal acts generates unfounded condemnation upon every other person who has been classified as a sexual offender, whether said offender has been released from prison and gone on to rehabilitate themselves and rejoined society as a productive and reformed individual or else has found to be offensive just by not following every single one of the myriad rules imposed on every sex offender these days. There are so many restrictions being placed on released sexual offenders that it's totally ridiculous to think those "rules" will keep the offender from recidivism, and that they can never be "rehabilitated". That is absurd. There is no such thing as being rehabilitated by the state-run facilities, as such. They are useless in helping anyone except the tax-payer paid state employees working cream puff jobs! If the states' and the federal government want to toss tax-payers money out the window, at least throw some of it at some of the small grass root type groups of which there are legion, and let them "rehabilitate" and oversee the people classified as "sex offenders". There would be such a turn around and success of such magnitude that would astound the world if only our "rules" would be based on fairness and justice for each and every individual case and not on the witch hunts and the "burn-em-at-the-stake" crowd of hypocrites who write those stupid laws.
If there is justice left in America, please, let it shine through now. Sincerely, Mary Kravetz

From: Lynn Hughes [redacted]
Sent: Saturday, April 14, 2007 10:00 PM
To: OLPREGS
Subject: Re: OAG Docket No. 117

Follow Up Flag: Follow up
Flag Status: Completed

Subjec t: OAG Docket No. 117

Att: Mr. David J. Karp, Senior Counsel
Office of Legal Policy.

DEPARTMENT OF JUSTICE
28 CFR Part 72
[Docket No. OAG 117; A.G. Order No. 2868-2007]

RIN 1105-AB22

Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act
Department of Justice.
Interim rule with request for comments.

Dear Mr. Karp,

We respectfully submit our suggestions for rules in the implementation of the Adam Walsh Act. We speak for several convicted of a sex offense who are impacted by public registry. As you are aware last year two offenders in Maine and two in Washington state were murdered by killers who obtained their home addresses from the internet registry. This is not good. The spirit of vigilantism is growing. This is not what America is about.

Although some on the registry are dangerous **pedophiles whose primary sexual attraction is to children**, or **predators or seek to victimize, using weapons, violence, kidnapping**, etc., most are not. Please **reserve internet registry for them**. That is who people are afraid of. The others unfortunately are victimizing their own family members for the most part and no registry will prevent that.

Certainly we would like to see **those under age 21 with no prior felony convictions have their registry kept private.** Give them a second change after prison. Law enforcement knows where to find them, but the whole town doesn't need their home addresses.

Sincerely,

Marsha Hunt
[redacted]

From: Lynn Hughes [redacted]
Sent: Tuesday, April 10, 2007 10:52 PM
To: OLPREGS
Subject: OAG Docket No. 117

Follow Up Flag: Follow up
Flag Status: Completed
Att: Mr. David J. Karp, Senior Counsel
Office of Legal Policy.

DEPARTMENT OF JUSTICE
28 CFR Part 72
[Docket No. OAG 117; A.G. Order No. 2868-2007]

RIN 1105-AB22

Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act
Department of Justice.
Interim rule with request for comments.

Dear Mr. Karp,

We respectfully submit our suggestions for rules in the implementation of the Adam Walsh Act. We represent young **first offenders**, those ages 18-19, still teenagers, yet prosecuted as adults, for experimental sexual experiences.

1. We recommend that there be a tiered system allowing leniency for your first offenders -- those who are lowest risk of re-offending.

2. We recommend that juveniles and **first offenders** under age 20 at the time of offense be on a **private registry**, available only to law enforcement, thus not labeled and have their lives ruined.
Let them have a second chance.

3. Young offenders usually mature out of their unacceptable sexual behaviours. Most of the time their offenses do not involve weapons, true violence, abduction, etc. yet they are classed the same as true violent predators. A registry with several tiers dilutes it's usefulness.

4. Definitions such a predator, violent, etc. need to mean just that, and not casually used for young people who are experimenting with sexuality. Again, it dilutes the usefulness of the registry.

5. Massive education campaign to let kids know what the **legal consequences** of underage sex in their states. This is vital. Most kids haven't any idea what they are facing, legally.

6. There is no evidence registry does anything to prevent future crime. Thus any use, should be for only those who are dangerous, most likely to re-offend: Victims are boys, strangers, weapons are used, abduction involved, multiple offenses, etc.

7. Treatment works. The idea of "no cure' is only true for some mentally disordered folks who suffer from such things as pedophilia. Don't clutter up the registry with others.

8. It's more a function of parents, not government, to protect their children as nearly all sex offenses
against children are in the child's own home, or by someone close to the family. No registry or laws will stop this unfortunately.

Thank you.

Lynn Hughes

Director
Families for Fairness

[redacted]
Knoxville, [redacted]4
e[redacted]
we[redacted]
p[redacted]

From: Tara Andrews [redacted]
Sent: Thursday, April 26, 2007 2:38 PM
To: OLPREGS
Cc: 'Nancy Gannon Hornberger'
Subject: OAG Docket No. 117--Comments in Opposition to Interim Rule RIN 1.105--AB22

Follow Up Flag: Follow up
Flag Status: Completed
April 30, 2007

VIA ELECTRONIC AND FIRST-CLASS MAIL

David J. Karp, Senior Counsel
Office of Legal Policy, Room 4509
Main Justice Building
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Re: OAG Docket No. 117
Comments in Opposition to Interim Rule RIN 1.105--AB22

Dear Attorney General Gonzales:

Thank you for the opportunity to comment on the above-referenced rule.

For the reasons that follow, the Coalition for Juvenile Justice recommends that the interim rule be withdrawn. Further, the Coalition strongly urges the U.S. Department of Justice and Congress to revisit the Adam Walsh Child Protection and Safety Act of 2006 and work diligently to craft legislation that protects and defends all of our nation's children and youth, including those who are victims of sexual abuse and assault, as well as children and youth who are adjudicated for sexual offenses.

Introduction

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.

There is not just one but rather fifty-six different juvenile justice systems across the nation and the U.S. territories, each with its own structure, laws, policies and service-delivery models. To varying degrees, each jurisdiction has proactively taken steps to protect its citizens from repeat sexual offenders, and our members are eager to partner with the federal government to better hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. In the spirit of this partnership and per your invitation, we take this opportunity to comment on recent policies that we believe unnecessarily hinder the states, territories and federal government from achieving these goals together.

Our comments primarily address the Attorney General's interim determination that Title I of the Adam Walsh Child Protection and Safety Act of 2006 (the Act), also known as the Sex Offender Registration and Notification Act (SORNA), applies retroactively to all sex offenders as defined by the Act regardless of when they were convicted. We, however, also take this opportunity to express our grave concerns

with and opposition to the overall applicability of Title I to children and youth who have been adjudicated within the juvenile system and not convicted as adults.

SORNA Should Not Be Applied Retroactively to Children and Youth Adjudicated within the Juvenile Court System

In articulating his rationale for retroactivity, the Attorney General acknowledges that he is determining "the applicability of SORNA's requirements to *virtually the entire existing sex offender population . . . regardless of when they were convicted*" (emphasis added). Respectfully, the Attorney General greatly underestimates how difficult it would be for the states to apply the mandates of the Act retroactively. In order to comply, each state would first have to review thousands if not tens of thousands of case files to determine which children and youth fall under the mandates of the Act. Given that many states either still lack the information technology to store these files electronically or only recently obtained this ability, taking this first step towards compliance would mean conducting a paper review of thousands if not tens of thousands of case files.

Next, each state would have to locate and notify each child still living in that state, which presents its own set of difficulties. Poor and low-income children and youth are disproportionately represented in our nation's juvenile justice systems, and a constant challenge for poor and low-income families is frequent relocation of their residence. Case managers have a difficult time monitoring children and youth who are currently juvenile justice-involved, let alone children and youth who have been discharged and no longer required to report to the agency.

Moreover, retroactivity does not take into account those children and youth who have moved out-of-state. Currently, state juvenile databases are not linked to nor do they communicate with juvenile databases in other states. Thus, a likely scenario could include a child who was adjudicated in one state, but has subsequently moved to another. It is unlikely that the first state has a forwarding address for the child, and equally unlikely that the second state is aware that the child is now in its jurisdiction.

Finally, despite the Attorney General's determination that retroactive applicability of the Act does not violate the ex post facto protections of the U.S. Constitution, CJJ asserts the retroactivity runs afoul of fundamental fairness. At the time of disposition, neither the judge nor the juvenile nor the prosecuting or defending attorney were proceeding with the expectation that the child's adjudication would trigger the additional sanction of registering for 25 years to life as a sex offender.

Based on such reasons, CJJ asserts that it is impractical and burdensome for the states to comply with SORNA retroactively. In addition, for states to attempt to manage such a burden, they will be forced to take on additional costs—or to consider use of federal juvenile justice appropriations in a manner would be entirely at odds with the core prevention, early intervention and system improvement goals for federal appropriations to states and localities under current federal juvenile justice laws.

SORNA Should Not Be Applied to Children and Youth Adjudicated Within the Juvenile Court System

Practical considerations and burdens stated, CJJ also asserts that it is bad public policy for SORNA to be applied to children and youth adjudicated within the juvenile system, retroactively, or otherwise.

First, SORNA as applied to children and 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 certain children to adult offenders. Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adult offenders who are still inclined to offend will be able to access the registry via the Internet and identify adjudicated children and youth in any and every community. Moreover, the young person's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these children and 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 unlawful actions much easier for those adult offenders who are so inclined to target vulnerable children and youth.

Second, SORNA as applied to children and youth assumes a clear distinction between the children who are abused and children who abuse, which is not always the case. It is common knowledge among juvenile experts and practitioners that children who commit sexual abuse against others are far more

likely than the general population to have been physically, sexually, or otherwise abused themselves. Research cites that between 40% and 80% of sexually abusive youth have themselves been sexually abused, and that 20% to 50% have been physically abused (Center for Sex Offender Management, 1999). These facts are critical to consider when policy decisions are made regarding a national sex offender registry. To be clear, CJJ strongly agrees that children who abuse others sexually must be held accountable for their actions and closely attended to, in order to ensure that they do not re-offend and that they receive the treatment they need to heal and overcome these harmful proclivities. Exposing such children and youth through a public registry, however, is counterproductive.

Third, research does not support the application of SORNA to children. According to the National Center of Sexual Behavior of Youth, a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect, University of Oklahoma Health Sciences Center, 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%). The Center also found that juvenile sex offenders are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, children whose conduct involves sexual abuse and acting out—even when assaultive—do not pose the same threat in terms of duration or severity to public safety as do adults. Children and youth, therefore, do not need to be subjected to the same restrictions.

Fourth, the research does not support the application of SORNA to children and youth. According to the National Center of Sexual Behavior of Youth, a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect, University of Oklahoma Health Sciences Center, the recidivism rate among children and youth who commit sexual abuse 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%). The Center also found that children and youth who commit sexual abuse are more responsive to treatment than adults and that they are less likely than adults to re-offend when provided with appropriate treatment. In other words, children and youth do not pose the same threat to public safety as adults and do not need to be subjected to the same restrictions.

Fifth, SORNA as applied to juveniles flies in the face of some of 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. This stripping away of confidentiality as it applies to children under the age of 18 cannot be taken lightly. It cannot be too strongly emphasized that children and 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.

Sixth, SORNA as applied to children and youth will disrupt families and communities across the nation because SORNA does not just stigmatize the child; it stigmatizes the entire family, including the parents and other children in the home. Similarly, the mandates and restrictions associated with SORNA impact not only the child, 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.

Seventh, SORNA as applied to children and youth could have a chilling effect on the identification and

proper treatment of children and youth who exhibit inappropriate sexual behavior in that families will be more inclined to hide problems and not seek help for a troubled child or youth if they are aware of the potential long-term consequences of their child being not only labeled but also being required to register for life as a sex offender.

Finally, as a due process matter, the Act does not make clear exactly who should be held accountable and sanctioned if a child under the age of 18 does not comply. Minors, even those adjudicated delinquent, are still dependent upon adults, and children subject to SORNA would be dependent on adults to help them comply with the Act. Neither the interim rule nor the Act speak to how the state is supposed to respond, i.e., who the state is supposed to arrest, prosecute and punish, when a child's parent or guardian fails to or refuses to provide the child with the assistance s/he needs to comply with the Act.

For all of these reasons, CJJ asserts that it is bad public policy for SORNA to be applied to children and youth adjudicated within the juvenile system and strongly urges the U.S. Department of Justice and Congress to revisit the Adam Walsh Child Protection and Safety Act of 2006 and work diligently to strike a more compassionate and productive balance between victims of sexual abuse, particularly children, and child victims of sexual abuse who sadly exhibit abusive behaviors.

Conclusion

In closing, we reiterate the eagerness of the states to partner with the federal government to hold offenders accountable, protect vulnerable population and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we believe that the Act and the interim rule unnecessarily hinder us from achieving these goals together. We therefore urge the Attorney General to withdraw the interim rule, or alternatively, to exclude juveniles in its application.

We thank you for the opportunity to comment on the Interim Rule for the Applicability of the Sex Offender Registration and Notification Act of 2006 and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,

Nancy Gannon Hornberger
Executive Director
Coalition for Juvenile Justice
1710 Rhode Island Avenue, NW, 10th Floor
Washington, D.C. 20036
[redacted]

Acting for the whole of the organization and its Board.

The Coalition for Juvenile Justice was incorporated in 1985 as a national association of state juvenile advisory groups.

From: [redacted]
Sent: Sunday, April 29, 2007 8:40 PM
To: OLPREGS
Subject: OAG Docket No. 117

Follow Up Flag: Follow up
Flag Status: Completed

Attachments: My Response to OAG Docket No 117.doc
April 28, 2007

David J. Karp, Senior Counsel, Office of Legal Policy
Room 4509 Main Justice Building
950 Pennsylvania Ave. N.W.
Washington, D.C. 20530

OAG Docket No. 117

As a long time juvenile advocate, I would like to share with you my concerns regarding the interim decision by the U.S. Attorney General on the retroactivity of the Adam Walsh Act (AWA), as well as my concerns about the juvenile component, and the punitive effects of the SORNA.

Should Not Retroactively Include Those Not Previously Required to Register Per the Jacob Wetterling Act

The interim decision states:

> "The current rulemaking serves the narrower, immediately necessary purpose of foreclosing any dispute as to whether SORNA is applicable where the conviction for the predicate offense occurred prior to the enactment of SORNA. This issue is of fundamental importance to the initial operation of SORNA, and to its practical scope for many years, since it determines the applicability of SORNA's requirements to virtually the entire existing sex offender population."

Differentiation needs to be made however between those that previously were required to register per the Jacob Wetterling Act, and those that did not. **The AWA should NOT be retroactively applied to those that were not required to register per the Wetterling Act.** It should only be applied retroactively to those that met the definition in the Wetterling Act, including those currently released into the community, and those incarcerated, at the time the AWA took effect. **The Attorney General's decision is not one that should be "all or none". It requires differentiation.** One cannot assume, nor should that imply that if the AWA is not made retroactive to all past offenders that the entire existing sex offender population would not be subject to the AWA. Instead, the Attorney General needs greater differentiation, so that those that previously were required to per the definition in the Wetterling Act would continue to do so as part of the requirements of the AWA; but those that did not, would not be subject to the AWA. Moving forward, obviously, all new offenders that meet the definition of sex offender as defined in the AWA would be included.

There are many important reasons why this should be the case:

1. Some individuals were determined by a judge to not be deemed a sexual offender, and were not required to register. There are several states that make this a judicious decision. (Which is a much more appropriate method of labeling than a categorical offense based

decision.)
2. Some have already completed their term of registration
3. Some have had their offenses expunged or pardoned.
4. Some were not required to register by law, including the Jacob Wetterling Act. This is especially significant because many states do not place persons < 18 years of age at the time of the offense on the sex offender registry.
5. Some were allowed by law to petition the court for removal from the registry, and that request was successfully granted after judicious review by the court.

The interim decision on retroactivity will pose the following implementation problems within states, and may even jeopardize its implementation:

1. How will states find those persons above that either did not have to register, or no longer have to register?
2. How will these individuals be notified of their new requirements under the AWA?
3. Lengthy and time consuming processes way have to be implemented to review past cases to determine if an individual meets the new definition for a sexual offender per the AWA. This decision could not be done without proper representation of the offender, and the ability to challenge any decision
4. Increased costs to states to determine who retroactively meets the definition in the new law
5. Increased costs to the states to locate and notify those individual who retroactively meet the definition in the law.

AWA Should Not Include Juveniles

The AWA never should have been applied to juveniles. As a long-time advocate for juveniles, and particularly those with learning disabilities, I am disappointed that any juveniles are included in the definition of a sexual offender per the AWA. I am not alone; many professional organizations oppose the inclusion of juveniles on a sexual offender registry (SOR). It is important to consider that the members of these organizations work with both victims and offenders; they understand the developmental differences of juveniles; they know the distinct differences in the nature of sexual contact by a juvenile versus that of an adult; and they know the impact to a victim when juvenile to juvenile contact has taken place is significantly different than when contact is done by an adult. Below are just some of the organizations that wrote letters or positions statements opposing the inclusion of juveniles on a sexual offender registry, when the AWA was still a bill.

1. American Psychological Association
2. Clinical Social Work Federation.
3. National Association of Social Workers
4. National Association of School Psychologists
5. School Social Work Association of America
6. Society for Research in Child Development
7. Association for the Treatment of Sexual Abusers
8. National Mental Health Association
9. American Academy of Child and Adolescent Psychiatry
10. Federation of Families for Children's Mental Health
11. National Juvenile Justice and Delinquency Prevention Coalition
12. National Consortium for Child and Adolescent Mental Health Services

If you would like copies of any of these position statements, please feel free to contact me, and I will

assure that you get it.

Given the rehabilitative nature of our juvenile court system; the fact that these individuals do not have a conviction on their record; the fact that effective intervention and treatment is the basis of our juvenile court system; that fact that state laws and court decisions chose to address an individual's issues as a juvenile; and the fact that confidentiality in juvenile matters should be maintained, **juveniles should not be subjected to the stigma and unintended consequences that accompanying being labeled a sexual offender.**

Punitive Effects of the SORNA

Having worked closely with individuals that have been placed on the SOR, I can tell you this label is definitely punitive. These individuals lose jobs, housing, schooling and scholarship opportunities, and normal socialization opportunities. It fractures the family, and places them at risk for divorce, suicide and depression. Registration requirements are "not just an inconvenience" - they are detrimentally life altering. I know of 2 that have committed suicide because they could not live with a label that inappropriately defined them. Both were 14 – 18 at the time of the offense. Sadly, a few states already place juveniles on their registry. It is heartbreaking to see the negative impact to their life for offenses that sometimes occurred when they were as young as 10 years old. I work with states to change such irrational laws. Regardless, as any juvenile moves into adulthood, their offense is treated in the same manner as an adult offender when it comes to the SOR. The impact on these young offenders is devastating (and I consider young as 21 years old or less because late adolescence isn't complete until approximately 21 or 22). Research shows us this labeling is rarely justified. A juvenile court judge from Kent County Michigan said it best. "It should be reserved for only those juveniles that commit the most heinous of crimes, and show no remorse, and no response to intervention".

It's disheartening to think that 14 – 18 year olds will be subject to the AWA because of the acts of Joshua Wade, the offender in the Amy Zyla case. Joshua Wade stands apart from most juveniles because he refused to participate in his therapy and treatment program. When discharged from the state, it was known that he did not respond to intervention. Something that set him apart from other juvenile offenders. Sadly, so many other juveniles are being wrongly labeled because of him, and will be subjected to the unintended punitive effects of being labeled a "sexual offender". If you think the SORNA is not punitive, I challenge you to live a few days in the life of someone that bears the label of sex offender – even that of a young person. You will be shocked to see the negative impacts of such a label. That's why over-inclusion is a problem. It doesn't make society safer, and at the same time these punitive effects will incur even greater financial burden to society.

Thank you for this opportunity to be heard as the Attorney General considers this important decision. Please feel free to contact me at any time if you would like further information, or have any questions.

Sharon Denniston
Juvenile Advocate
[redacted]

From: no-reply@erulemaking.net
Sent: Wednesday, March 07, 2007 4:27 PM
To: OLPREGS
Subject: Public Submission

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Public Comments on Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act:========

Title: Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act
FR Document Number: E7-03063
Legacy Document ID:
RIN: 1105-AB22
Publish Date: 02/28/2007 00:00:00
Submitter Info:

First Name: Tim
Last Name: P
Mailing Address: [redacted]
City: [redacted]
Country: United States
State or Province: MI
Postal Code: [redacted]
Organization Name: Self

Comment Info: ==========

General Comment:As a retired Police officer of over 25 years service I am against the Adam Walsh
Act being retro active. The reason is that given that the US Dept. Of Justice Bureau of Justice Statistics on Recidivism puts the recidivism rate at 3.5. Futhermore the US Supereme Court when ruling that Sex Offender Registerys are ok used the Prentky study C. As it turns out that study was used wrong as it was a study of offenders that already had many arrest for sexual assault. Also given that most sexual assault (90%) are commited by a person known and trusted by the victim. Given the above and the effect these SOR laws are having on the public, giving false sence of security. The cost of these laws on Law Enforcement is so high that the return is not worth the investment. I do not want to see one child hurt, but we need to educate the public about who the real danger is. Thank You Tim P.

From: no-reply@erulemaking.net
Sent: Wednesday, March 28, 2007 3:56 PM
To: OLPREGS
Subject: Public Submission

Follow Up Flag: Follow up
Flag Status: Completed

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Public Comments on Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act:========

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FR Document Number: E7-03063
Legacy Document ID:
RIN: 1105-AB22
Publish Date: 02/28/2007 00:00:00
Submitter Info:

First Name: Tim
Last Name: P.
Mailing Address: [redacted]
City: [redacted]
Country: United States
State or Province: MI
Postal Code: [redacted]
Organization Name: self

Comment Info: ==========

General Comment:Subject: OAG Docket no 117

As a retired Police officer with over 25 years service I write to you today to ask that you NOT make the Adam Walsh act retro active. My reasoning is that for the most part these sex offender laws are not the answer to the problem. You are in fact giving the public a false sense of security. Over 90% of sexual assualts are commited by a person well known and trusted by the victim. Futher more The U. S. Dept of Justice Bureau of Justice Statistics Recidivism show that sex offenders are one of the lowest group of repeat offenders at 3.5%. The problem is that if we want this type of crime to be lower then we have to do things that will let these criminals work thier way back into the general public and a citizen paying taxes. Under the sex offender laws as they are now we have put all sex offenders on the Sex Offender Registry. I am not saying that all should not be on the SOR. I feel that those that are the biggest danger to the public should be posted. If you make the AWA retro active this will only make the problem larger. Address those who are of the greatest danger and not one sweeping law to fix it all. Thank You Tim P.

From: Tim Poxson [redacted]
Sent: Wednesday, June 20, 2007 1:55 PM
To: OLPREGS
Subject: OAG Docket No 117

I suggesting that Sec III (2) - (4) Classification of Sex Offenders be changed to require each state to set up a tier system to classify sex offenders. This classification shall be a tiered approach to identify HIGH RISK offenders and shall be based on empirically based risk factors.

The reasoning is that if a tiered system is not used the SORNA will be so broad that law enforcement will be hampered in its effort to protect the public from high risk offenders. Law enforcement will be forced to use precious resources to track low risk offender rather than monitoring high risk predators. Further the public will have a hard time picking out the offenders that are the most risk to re-offend and are dangerous to the public. The public will not have confidence in the SNORA if all sex offenders are on it. Also the United States Supreme Court declared that the registry was never intended to be used as a punishment for low - risk offenders. (Smith V. Doe (01-729) 538 US 84 (2003)

[redacted]i.txt

From: no-reply@erulemaking.net
Sent: Wednesday, March 07, 2007 12:21 PM
To: OLPREGS
Subject: Public Submission

Follow Up Flag: Follow up
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Public Comments on Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act:========

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FR Document Number: E7-03063
Legacy Document ID:
RIN: 1105-AB22
Publish Date: 02/28/2007 00:00:00
Submitter Info:

First Name: [redacted]
Last Name: [redacted]
Mailing Address:
City:
Country: United States
State or Province: CA
Postal Code:
Organization Name:

Comment Info: ==========

General Comment:The decision by the AG to make this law retroactive is the wrong thing to do. My
nephew under California law is only required to register once a year and can be found in the Megan's Law website by zip code. California law requires this because he is a first time offender and the conviction isn't considered extremely violent. If he has to comply to your new regulations his constitutional rights will be violated. The rights of his wife and children will also be violated. The safety of his wife and children will be jeopardy. You have taken a nonsensical approach to this issue. California was the first state ever, since the 1950's, to require sex offenders to register. My nephew since his release from prison in 1999 has registered every year like he is required to. This whole new set of laws, that does not use a valid tool of evaluation, will put his life and the life of his family at risk. Before you enact any of these new laws you must first look to see how many former offenders are married and have children. No one is thinking about them and the ramifications this new law will have on them personally. In one more year my nephew's oldest child will be attending preschool. What will staff think about him because they received notice that his dad is a registered sex offender. I beg you to please reconsider your decision to make this law retroactive. California already requires him to register for life.

From: no-reply@erulemaking.net
Sent: Wednesday, March 07, 2007 11:35 AM
To: OLPREGS
Subject: Public Submission

Follow Up Flag: Follow up
Flag Status: Completed

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Public Comments on Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act:========

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Submitter Info:

First Name: S
Last Name: S
Mailing Address:
City:
Country: United States
State or Province:
Postal Code:
Organization Name: OAG Docket No. 117

Comment Info: ==========

General Comment:OAG Docket No. 117

I decline to give my full name because the former victim lives at the same home addresss and is entitled to privacy. We were reunited by the court after several years of intense individual and family therapy as the unification was desired by the

former victim. Unfortunately, there are no laws on the books addressing cases where the offending parent/stepparent and the victim are "reunited" in the home by the courts, and the continual adverse impact the registration and notification laws have on the victim who is trying to leave the past behind. The victim's home address should not be made available for public access on the World Wide Web, nor should the first-time offending parent/stepparent be posted especially when the offense did NOT involve violence or force. I believe it is unethical to continue to
further punish a former victim by increasing the registration and notification requirements of the individual's parent/stepparent who lives at the same address. Though politicians hide behind the guise of "public safety" to get theirs law passed

and upheld by the courts, it doesn't take a rocket scientist to understand that most of these laws are politically motivated and driven by the threat of loss of funds to the states. How can a law be 'civil' in nature yet provide for increased 'criminal sanctions'? The money the states might lose does not compare to the mental and emotional trauma a former victim suffers as a result of the registration/notification laws the parent/stepparent is subject to. To make the

AWA retroactive is, in my firm opinion, subject to Constitutional challenges regardless of how worthless others think this cherished piece of paper is.