

October 14, 2005

The Honorable Arlen Specter, Chair  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

The Honorable Patrick Leahy  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman and Senator Leahy:

On behalf of the National Juvenile Justice Delinquency Prevention Coalition and the undersigned child advocacy and juvenile justice organizations and organizations representing mental health providers and individuals with mental disorders, we are writing to express our deep concern with S. 1086, the Sex Offender Registration and Notification Act. Specifically, we believe that juvenile offenders should be excluded from the National Sex Offender Registry to be maintained by the Attorney General.

While we appreciate that this legislation attempts to exclude juveniles adjudicated in the juvenile justice system from federal registry and notification requirements, we believe **Section 104(c)(1) will subject a broad range of juveniles to national reporting requirements, thereby compromising ostensible protections for youth adjudicated or convicted of sexual offenses.** According to this section, the National Registry “shall include information concerning each covered individual and *information concerning other persons who are required to register in the sex offender registry of any jurisdiction.*” According to a 2002 report, 38 states have sex offender registration laws that specifically include juvenile offenders. Other reports find that a number of states are silent on the inclusion of juveniles on sex offender registry and notification, a silence which could be interpreted either to include or exclude juveniles, thereby potentially subjecting even more young offenders to this national list.

There is no question that sexual offenses, particularly when committed against a minor, are devastating and must be handled appropriately. However, in creating policy around this issue, it is imperative that policymakers rely on the vast scientific literature distinguishing the behavior of juveniles and adults. **Research has consistently shown that youth who act out sexually differ significantly from adult sex offenders.** First, juvenile offenders who act out sexually do not tend to eroticize aggression, nor are they aroused by child sex stimuli as adult sex offenders are. Mental health professionals regard this juvenile behavior as much less dangerous. Indeed, when applying the American Psychiatric Association diagnostic criteria for pedophilia (abusive sexual uses of children) to the juvenile arrests included in the National Incident Based Reporting System, only 8% of these incidents would even be *considered* as evidence of a pedophilia disorder.

Furthermore, many of the juveniles who are included on sex offender registries are done so for behavior that certainly does not fit the profiles compelling such requirements. For example, under the Idaho Code, two fifteen year olds engaged in “heavy petting” would be guilty of a felony requiring them to register on the state’s sex offender list. Another youth who, under applicable state law, would be included on the proposed national registry became an all-state high-school soccer player, has overcome a learning disability, and recently entered college after winning multiple honors for community-service volunteering, including a laudatory proclamation from the local sheriff’s office.

**Not only is the re-arrest rate for youth charged with sexual crimes much lower than that for adults, but the subsequent arrests of these youth are primarily for non-sexual offenses.** A 2000 study by the Texas Youth Commission of 72 young offenders who were released from state correctional facilities for sexual offenses (their incarceration suggests that judges considered these youth as posing a greater risk) found a re-arrest rate of 4.2% for a sexual offense. A 1996 study found similarly low sex offense recidivism rates in Baltimore (3.3-4.2%), San Francisco (5.5%) and Lucas County, Ohio (3.2%).

From what we know about young sex offenders, it also becomes clear that those whom we seek to protect by this legislation may also become its victims. **Many young people who exhibit sexual behavior have been sexually abused themselves and/or exposed to pornography or other sex stimulation by someone older.** As a result of this victimization, they may have impaired social skills and may associate with younger children or may be desperate for companionship and incorrectly interpret subtle communication from others. By then placing these youth on the National Registry, we inadvertently continue to victimize them and limit their opportunities to become contributing, productive adults.

Federal and state justice systems have a long tradition of treating juvenile offenders differently than adult offenders. Given the scientific research over the past several decades revealing that the human brain takes much longer to mature than originally suspected, it is even more imperative that policy reflects these developmental differences between youth and adults.

Although this legislation prevents offenders under the age of 18 from being included on the internet, the National Registry would expose young offenders to a host of uncertainties and risks regarding their personal information, safety, and future opportunities. **Given the low risk that juvenile sex offenders will re-offend; the lack of safeguards to ensure confidentiality, correct errors, or remove individuals from this list; and the damage associated with being “blacklisted” for life for a youthful offense; public safety and good policy dictate that the national sex offender registry under section 104(c)(1) specifically exclude persons who committed an offense prior to having attained the age of 18 years.**

We appreciate your consideration of our concerns. If you have any questions, please do not hesitate to contact Elizabeth Gladden Kehoe at the National Juvenile Defender Center at 202.452.0010 x103 or [ekehoe@njdc.info](mailto:ekehoe@njdc.info) or Morna Murray at the Children's Defense Fund at 202.662.3577 or [mmurray@childrensdefense.org](http://mmurray@childrensdefense.org).

Sincerely,

National Organizations

American Academy of Child and Adolescent Psychiatry  
Child Welfare League of America  
Children and Adults with Attention-Deficit/Hyperactivity Disorder (CHADD)  
Children's Defense Fund  
Council of Juvenile Correctional Administrators  
Federation of Families for Children's Mental Health  
International Community Corrections Association  
Justice Policy Institute  
National Alliance on Mental Illness  
National Association of School Psychologists  
National Juvenile Defender Center  
National Juvenile Justice Network  
National Legal Aid & Defender Association  
National Mental Health Association  
National Network for Youth

State/Regional Organizations

Alaska Public Defender Agency  
Criminal and Juvenile Justice Project, Edwin F. Mandel Legal Aid Clinic, University of Chicago Law School  
Correctional Association of New York  
Davidson County, TN Public Defender's Office  
Franklin County, Ohio Public Defender's Office  
GMB, LLC  
Juvenile Justice Center of Suffolk University Law School  
Juvenile Justice Coalition of Ohio  
Lake County, IL Public Defender's Office  
Law Office of the Cook County, IL Public Defender  
Law Office of the Montgomery County, OH Public Defender, Juvenile Division  
Legal Aid Society of New York, Juvenile Rights Division  
Legal Services for Children  
Mid-Atlantic Juvenile Defender Center  
Mississippi Youth Justice Project  
Neighborhood Defender Service of Harlem  
New York Juvenile Justice Coalition  
Northeast Juvenile Defender Center  
Southern Poverty Law Center  
Southwest Juvenile Defender Center

cc: Senate Judiciary Committee