



# CAUTIONclick

## National Campaign for Reform

March 2<sup>nd</sup>, 2015

Dear Sir/Madam,

Our organization, CAUTIONclick National Campaign for Reform (CCNCR) welcomes the opportunity to provide testimony to identify opportunities for criminal justice reform. We are dedicated to promoting public safety by working toward evidence-based policy reform of the federal sentencing guidelines and management practices for non-production child pornography (CP) offenders to ensure that sentences for these offenders, like all other offenders, are fair, just and consistent with the purpose of sentencing as defined in Chapter 18 U.S.C.

### **IMPACT OF FEDERAL PROSECUTION, GROWTH AND COST:**

Prosecution of CP cases is costly, to the government as well as taxpayers. According to Commission statistics, possession of underage pornography (non-production) represents only 2.4% of all federal felony and Class A Misdemeanor cases, **yet has one of the highest prison sentences on average.** Mandatory Minimum sentences are 10 years with enhancements for the use of a computer. Since United

States v. Booker, the federal government has spent nearly \$30 billion on incarceration. Of this, over 2 billion alone is spent incarcerating child pornography offenders. **What this translates into is that the cost per offender is much higher for non-production child pornography offenders than for any other major offense category.**

The overwhelming majority of current scientific and legal evidence supports the contention that those convicted of first-time non-production, nonviolent CP possession pose the least risk to public safety. Diversion programs offer the ideal win-win situation for the government, public and offender.

#### **SUGGESTIONS FOR REFORM/AVERT FURTHER GROWTH OF PRISON POPULATION:**

Implement a "Pretrial Diversion" program for low risk, first time CP offenders, which diverts this low risk group from the traditional criminal justice system into a community-based supervision and treatment program, similar to the one administered by the U.S. Probation Service. Participants who successfully complete the diversion program are either not charged, or, if they have already been charged, participants will have the charges against them dismissed. **This single remedy could potentially result in millions to billions of dollars saved.** Participants who are unsuccessful are

returned to court for prosecution. Diversion programs are intended to save prosecutorial and judicial resources for concentration on major cases and to provide, where appropriate, a vehicle for restitution to communities and victims of crime. The period of supervision should HAVE A RANGE OF 12-18 twelve months, but not to exceed eighteen months. The supervision may include employment, counseling, education, job training, mental health treatment, and case management. Diversion programs offer the ideal win-win situation for the government, public and offender. If the offender should fail, the government would still be able prosecute the offender and sentence him to imprisonment if warranted. **For all those who successfully complete the program, the government and tax payers will save both money and resources. Removing mandatory minimums will allow the judges to sentence based on the history of the defendant and severity of the offense.**

#### **IMPACT OF SUPERVISION POLICIES AND PRACTICES:**

Not only are CP offenders subjected to longer prison sentences, a growing number are also subjected **to lifetime supervised release which came into effect with the passing of the 2003 PROTECT ACT.** In response to well-publicized child abductions and murders committed by convicted sex offenders, jurisdictions all over the United States have enacted exclusionary zone laws prohibiting sex offenders

from residing within close proximity to a school, park, daycare center, or school bus stop. Since their enactment, housing restrictions have increased these buffer zones, often ranging from 1,000 to 2,500 feet. These sex offender zoning laws have essentially banned sex offenders from urban areas where schools, parks, and other prohibited zones overlap.

**Housing restrictions are also based on three other common misperceptions:** that (1) all sex offenders reoffend, (2) treatment does not work; and (3) children are sexually abused by strangers. As pointed out in the Commission's CP Report, according to the United States Department of Justice's Bureau of Justice Statistics, only 5.3 percent of sex offenders released from prison are rearrested for a new sex crime and only 3.3 percent of persons convicted of child molestation will be arrested for another sex crime against a child. What is supported by vast empirical research is that proper mental health treatment and supportive familial and social networks serve to significantly reduce future re-offense rates even further. Residency restrictions that force offenders to live on their own in rural and impoverished areas far from their communities or in socially-disorganized, economically depressed neighborhoods that have far fewer resources for mobilizing community strategies to deter crime and protect residents. Consequently, denying sex offenders residency

in metropolitan areas where treatment and community resources are readily available **inadvertently increases risk by aggravating stressors already known to contribute to recidivism.**

Additionally, residency restrictions inadvertently increase transiency and homelessness amongst sex offenders, thereby decreasing the ability of law enforcement authorities to keep track of offenders and probation officers to supervise offenders. A consistent factor in successful reentry programs is that of family support. Residency restrictions create untenable hardships on families who otherwise are wanting to maintain a unified support system.

What we do know, is our current policies are not working or preventing new offenses; **as 95% of all offenders are first time offenders, therefore not on the sex offender registry, 93+% are not strangers and the cost of current policies are fiscally unsustainable.** We are not protecting our children, communities and citizens. It's time we do.

Thank you for this opportunity to provide input.

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