

**TESTIMONY OF**

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**for the**

**UNITED STATES SENATE**

**COMMITTEE ON THE JUDICIARY**

**“Helping Law Enforcement Find Missing Children”**

**March 2, 2011**

Mr. Chairman and members of the Committee, I welcome this opportunity to appear before you to discuss the use of Internal Revenue Service data by law enforcement to locate children. Chairman Leahy, we are deeply grateful for your long history of advocacy for children and for your leadership on these issues.

As you know, the National Center for Missing & Exploited Children is a not-for-profit corporation, authorized by Congress and working in partnership with the U.S. Department of Justice. NCMEC is a public-private partnership, funded in part by Congress and in part by the private sector. For 26 years NCMEC has operated under Congressional authority to serve as the national resource center and clearinghouse on missing and exploited children. This statutory authorization (see 42 U.S.C. §5773) includes 19 specific operational functions, among which are:

- operating a national 24-hour toll-free hotline, 1-800-THE-LOST® (1-800-843-5678), to intake reports of missing children and receive leads about ongoing cases;
- operating the CyberTipline, the “9-1-1 for the Internet,” that the public and electronic service providers may use to report Internet-related child sexual exploitation;
- providing technical assistance and training to individuals and law enforcement agencies in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children;
- tracking the incidence of attempted child abductions;
- providing forensic technical assistance to law enforcement;
- facilitating the deployment of the National Emergency Child Locator Center during periods of national disasters;
- working with law enforcement and the private sector to reduce the distribution of child pornography over the Internet;
- operating a child victim identification program to assist law enforcement in identifying victims of child pornography;
- developing and disseminating programs and information about Internet safety and the prevention of child abduction and sexual exploitation; and
- providing technical assistance and training to law enforcement in identifying and locating non-compliant sex offenders.

Our longest-running program to help prevent the sexual exploitation of children is the CyberTipline, the national clearinghouse for leads and tips regarding crimes against children on the Internet. It is operated in partnership with the Federal Bureau of Investigation (“FBI”), the Department of Homeland Security’s Bureau of Immigration and Customs Enforcement (“ICE”), the U.S. Postal Inspection Service, the U.S. Secret Service, the Military Criminal Investigative Organizations (“MCIO”), the Internet Crimes Against Children Task Forces (“ICAC”), the U.S. Department of Justice’s Child Exploitation and Obscenity Section, as well as other state and local law enforcement. We receive reports in eight categories of crimes against children:

- possession, manufacture and distribution of child pornography;
- online enticement of children for sexual acts;
- child prostitution;
- sex tourism involving children;
- extrafamilial child sexual molestation;
- unsolicited obscene material sent to a child;
- misleading domain names; and
- misleading words or digital images on the Internet.

These reports are made by both the public and by Electronic Service Providers (“ESPs”), who are required by law to report apparent child pornography to law enforcement via the CyberTipline (18 U.S.C. §2258A). The leads are reviewed by NCMEC analysts, who examine and evaluate the content, add related information that would be useful to law enforcement, use publicly-available search tools to determine the geographic location of the apparent criminal act, and provide all information to the appropriate law enforcement agency for investigation. These reports are triaged continuously to ensure that children in imminent danger get first priority.

The FBI, ICE, Postal Inspection Service and the MCIOs have direct and immediate access to all CyberTipline reports, and assign agents and analysts to work at NCMEC. In the 13 years since the CyberTipline began, NCMEC has received and processed more than 1 million reports. ESPs have reported to the CyberTipline more than 8 million images/videos of apparent child pornography. To date, more than 44 million images and videos have been reviewed by the analysts in our Child Victim

Identification Program (“CVIP”), which assists prosecutors to secure convictions for crimes involving identified child victims and helps law enforcement to locate and rescue child victims who have not yet been identified.

NCMEC’s Case Analysis Division provides analytical support to law enforcement agencies to assist in their efforts to recover missing and abducted children, track attempted abductions and locate noncompliant registered sex offenders. NCMEC receives information from a variety of governmental data sources, such as the FBI’s National Crime Information Center (NCIC), the Federal Parent Locator Service and the U.S. Department of Housing and Urban Development. Private companies including Appriss, LexisNexis, Thomson Reuters, and TLO donate their commercial data sources to NCMEC, and we provide this information to law enforcement for free.

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A family abduction occurs when a child’s relative takes or keeps the child in violation of the legal rights of the child’s custodial parent or guardian. In the vast majority of cases, the child is abducted by one or both of the child’s biological parents who do not have legal custody of the child. However, family abductions also include cases where a child is abducted by a grandparent, aunt, uncle, or other relative.

Family-abducted children are a subset of all the children who are missing under a variety of circumstances. These children have been abducted but often their whereabouts are known or suspected. Sometimes the custodial parent knows where the child is physically located, but the abducting parent refuses to return the child or allow the child to see the custodial parent, in violation of law.

There is a common misconception that family abductions are merely custody disputes. On the contrary, these abductions are criminalized under federal law and the laws of all 50 states and D.C. Congress recognized the severity of these crimes when it passed the Parental Kidnapping Prevention Act of 1980. This law, codified at 28 USC §1738A, requires every state to enforce child custody orders issued in another state in order to keep abducting parents from obtaining a different custody order. Congress found that the effects of this crime demanded a federal response in order to prevent “harm to the welfare of children and their parents and other custodians.”<sup>1</sup> Congress made international parental kidnapping a

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<sup>1</sup> P.L. 96-611.

federal offense in 1993, noting “these parental kidnappings seriously affect both the children and the parents deprived of rightful custody. Some child psychologists believe that the trauma children suffer from these abductions is one of the worst forms of child abuse.”<sup>2</sup>

Family-abducted children suffer extreme emotional abuse, ranging from lack of identity to grief over the loss of a parent. In many instances the abductor tells the child that the left-behind-parent is dead or no longer wants the child. Abductors frequently move the child from city to city, or take the child to another country, making it difficult for law enforcement and the searching parent to locate and recover the child, and inflicting emotional harm on the child. In addition, in an effort to evade detection, abductors may change the child’s name, teach the child to lie to authorities, or not enroll the child in school. All of these cause incalculable harm to the abducted child. Because of the unique nature of this crime and the damage inflicted on family-abducted children, a group of former abducted children founded the non-profit organization Take Root ([www.takeroot.org](http://www.takeroot.org)) to provide peer support to other family-abducted children.

NCMEC case data demonstrates that family abducted children are also at risk of physical harm. Young children are at an even higher risk. An in-depth analysis of children who died at the hands of their parents shows that 96% of these children were under the age of 10.<sup>3</sup>

Most of the AMBER Alerts in the last four years were issued for children who were abducted by family members. Although each state sets its own guidelines specifying when an AMBER Alert may be issued, AMBER Alerts are always used in only the most serious child-abduction cases. I would like to share two examples.

April 25, 2009 AMBER Alert (Passaic, NJ). A man abducted his three-year-old niece in Passaic, New Jersey, after having an argument with the child’s mother. The suspect grabbed the child, told relatives to “watch the six o’clock news,” and fled the residence. The suspect’s vehicle was located a short time later, abandoned in the middle of a bridge. As the AMBER Alert was being issued, the child’s body was recovered in the Passaic River.

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<sup>2</sup> House Report 103-390.

<sup>3</sup> Analysis conducted of missing children intaked by NCMEC and subsequently recovered deceased; children last seen between October 15, 1975 and May 24, 2002.

November 9, 2009 AMBER Alert (Sanford, ME). A 2-year-old girl was abducted by her non-custodial father after he broke into her home. He physically and sexually assaulted the child's mother at knife point, stole her cellular phone, and stated that he had nothing to live for. An AMBER Alert was quickly issued. A hunter heard the AMBER Alert, memorized the vehicle and registration number of the truck, and found the abductor and the child inside the abductor's truck on a tote road in the woods. The little girl was safely rescued.

What is the scope of the problem of family abduction? In 2002 the Department of Justice published the second National Incidence Studies of Missing, Abducted, Runaway and Thrownaway Children. This survey of a one-year period found that an estimated 203,000 children are the victims of a family abduction each year. Of these children, almost half are younger than age 6. Approximately 78% are abducted by their biological father or mother.<sup>4</sup> Of the family-abduction cases surveyed by the Justice Department, 15,000 involved the use of force and 2,700 of them involved the use of a weapon.<sup>5</sup>

NCMEC assigns missing-child cases into five different categories, including Family Abduction.<sup>6</sup> We have intaked the cases of more than 32,000 children abducted by family members. Of these, 1,486 children are still missing. Based on NCMEC data, family-abducted children remain missing longer than children in any other missing-child category. Approximately 20% of our family abduction victims were

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<sup>4</sup> Hammer, Heather, Finkelhor, David and Sedlak, Andrea J., *National Incidence Studies of Missing, Abducted, Runaway and Thrownaway Children*, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, October 2002.

<sup>5</sup> *Ibid.*

<sup>6</sup> NCMEC's missing-child categories are as follows:

**ERU (Endangered Runaway)** - Any missing individual between 11 and 17 years of age, who goes missing on their own accord, without permission from their parent or legal guardian.

**FA (Family Abduction)** – A family abduction is defined as the taking, retention, or concealment of a child or children, younger than 18 years of age, by a parent, other family member, or his or her agent, in derogation of the custody rights, including visitation rights, of another parent or family member.

**LIM (Lost, Injured or Otherwise Missing)** – Lost, Injured, or Otherwise Missing is defined as any missing child younger than the age of 18 where there are insufficient facts to determine the cause of the child's disappearance or any child 10 years of age or younger who is missing on his or her own accord. These children are also referred to as "Endangered Missing."

**NFA (Nonfamily Abduction)** - A nonfamily abduction is defined as the coerced and unauthorized taking of a child younger than the age of 18 or the luring of a child for the purpose of committing another crime by someone not related to the child by blood or marriage.

**5779 (Section 5779)** – A Section 5779 case, derived from 42 U.S.C. § 5779, is designated for the classification of missing persons reported to NCMEC by a law-enforcement agency when the individual is 18 years of age or older but younger than the age of 21.

still missing after one year. Approximately 1,000 children were still missing after five years, including children whom we are still searching for.

As the nation's resource center on missing and exploited children, NCMEC has partnered with a number of private-sector companies to develop tools and resources that can help law enforcement locate missing children. We are proud to report that of the missing child cases reported to NCMEC, 97.5% have been resolved.

First, NCMEC operates a 24-hour, toll-free missing child hotline, 1-800-THE-LOST. In 27 years, NCMEC has received more than 290,000 calls from individuals reporting "sightings" of missing children. This information is forwarded to the NCMEC Case Manager assigned to the case who refers the information to the relevant law enforcement agency for investigation.

Second, since 1984 we have worked with private-sector partners to distribute more than 519,000 photographs of missing children. More than 4,100 children are known to have been recovered by law enforcement as a direct result of this photo distribution program.

Third, we have access to donated private commercial databases as well as governmental data sources and we provide all of this information to law enforcement at no cost. To date, 808 missing children have been located as a direct result of information gained from various governmental and commercial data sources.

All of these tools have proven effective in helping to find children. The Internal Revenue Service (IRS) database is yet another resource that could provide key information to help law enforcement locate and rescue missing and exploited children.

In 2007, the Treasury Inspector General for Tax Administration (TIGTA) conducted a study using a subset of NCMEC family abduction cases to determine whether the IRS database contained useful address information.<sup>7</sup> TIGTA analyzed those NCMEC cases that contained Social Security Numbers for the missing children and/or the alleged abductors in order to identify new addresses – that is, addresses

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<sup>7</sup> Treasury Inspector General for Tax Administration Report Number 2007-40-029.

that were different from those where the children and/or alleged abductors lived at the time of the abductions. New addresses were found for 46% of the missing children (237 out of 520) and 34% of the alleged abductors (104 out of 305). TIGTA asked NCMEC to inform the FBI of these results immediately so they could request disclosure of the new addresses under 26 U.S.C. § 6103 and recover these abducted children. To our knowledge, these new addresses in the IRS database have not been disclosed to law enforcement.

Of course, maintaining the confidentiality of information stored by the IRS is of critical importance. However, exceptions to non-disclosure have been carved out over the years when it became apparent that IRS information could be useful in certain cases – for example, cases involving child support or determination of federal benefits. It has now clearly become apparent that IRS information could help law enforcement investigating cases involving missing and exploited children. We believe a clarification in the law is necessary to ensure the disclosure of IRS data that could lead to the recovery of a missing child.

The IRS law already permits disclosure to federal law enforcement investigating violations of federal law. However, this exception has proven to be of limited use for missing child cases. Federal law enforcement investigating missing child cases face significant and often insurmountable hurdles in trying to use this exception to access to IRS information. Also, perhaps more significantly, most family abduction cases are investigated by state and local law enforcement.

Although it may seem irrational, parents who break the law by stealing their children will nonetheless often comply with the IRS laws and file a federal tax return each year. This is a golden opportunity for an investigating officer, especially in cases where the trail has gone cold.

Some of the abductors in the TIGTA study are the subjects of felony warrants – fugitives from justice. The details provided by these fugitives on their tax returns, such as a home address or work history, could provide the key to finding the children they abducted. Congress must now examine the question of which is more important: a fugitive's privacy or a child's safety?

Moreover, the disclosure of IRS data could help law enforcement rescue other child victims. Although not typical missing-child cases, some child pornography victims are “missing” in the sense that they



have not told anyone about their abuse and, as a result, they have little chance of being identified and rescued. Experts estimate that of the children who are sexually victimized, just 1 in 3 will tell anybody about it.<sup>8</sup> NCMEC's Child Victim Identification Program was created to help law enforcement identify and rescue these child pornography victims who otherwise would remain in their abusive situations. More than 3,400 child victims have been identified by law enforcement. The majority of them have been abused by a parent or someone with similarly legitimate access to them.<sup>9</sup> We believe that there are thousands of sexually exploited children who are unknown and who will continue to suffer until they are located. IRS information can be the key to helping law enforcement identify and rescue these victims of child pornography.

NCMEC believes that law enforcement should have access to any information that could lead to the recovery of a missing or exploited child. The TIGTA study confirmed that the IRS database contains information that would help law enforcement investigating these cases. The law must allow for the disclosure of this information to law enforcement in missing and exploited child cases. Doing so will help bring children home.

Thank you.

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<sup>8</sup> David Finkelhor, *Current Information on the Scope and Nature of Child Sexual Abuse.* "The Future of Children: Sexual Abuse of Children, 1994, Volume 4.

<sup>9</sup> 66% of identified child victims were abused by a parent, guardian, other relative, neighbor, family friend, guardian's partner, babysitter or coach. Abuser data based upon victim information submitted to NCMEC by law enforcement, as of December 31, 2010. The data represent the known relationships from 3,341 identified victims.