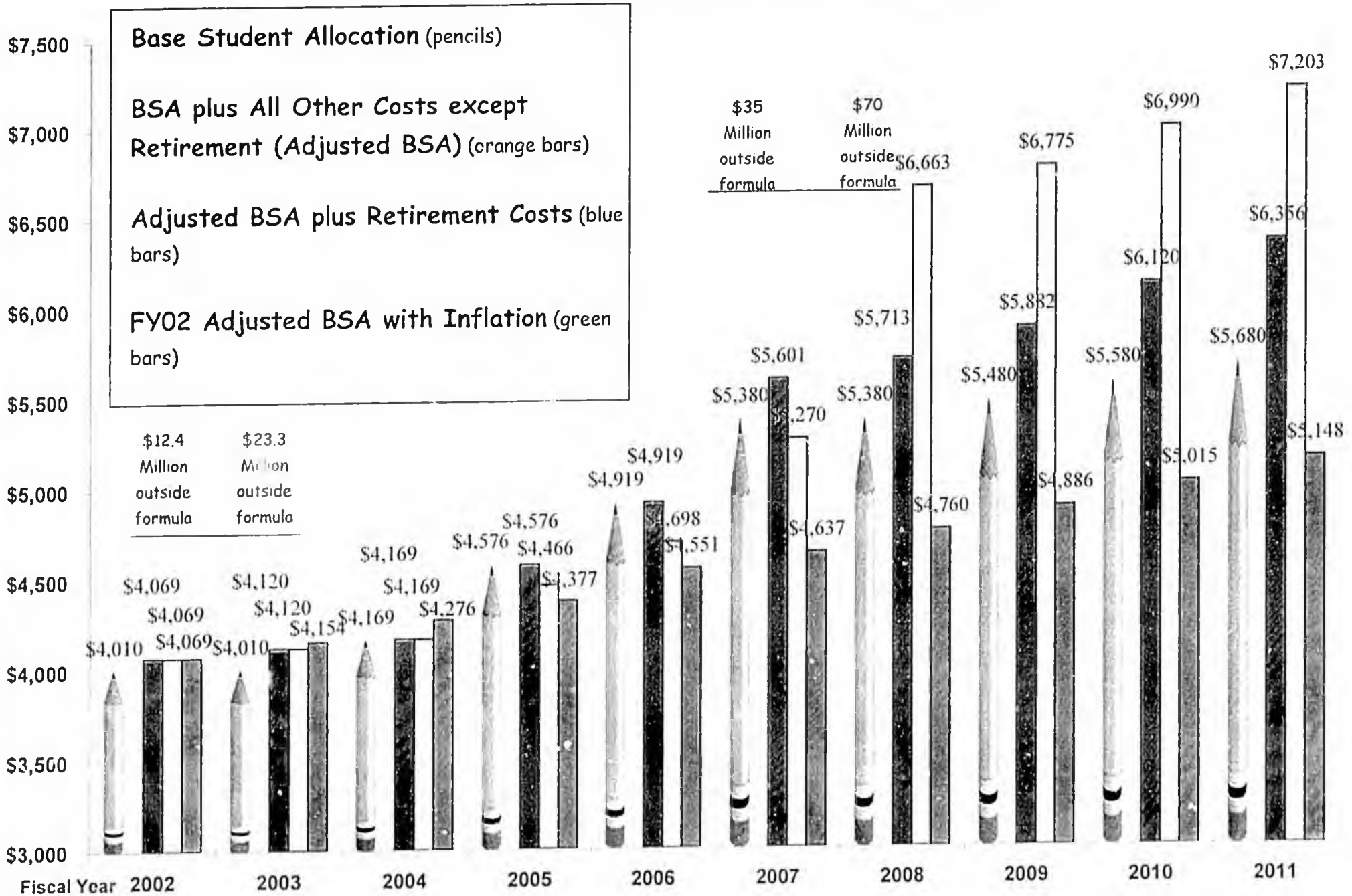
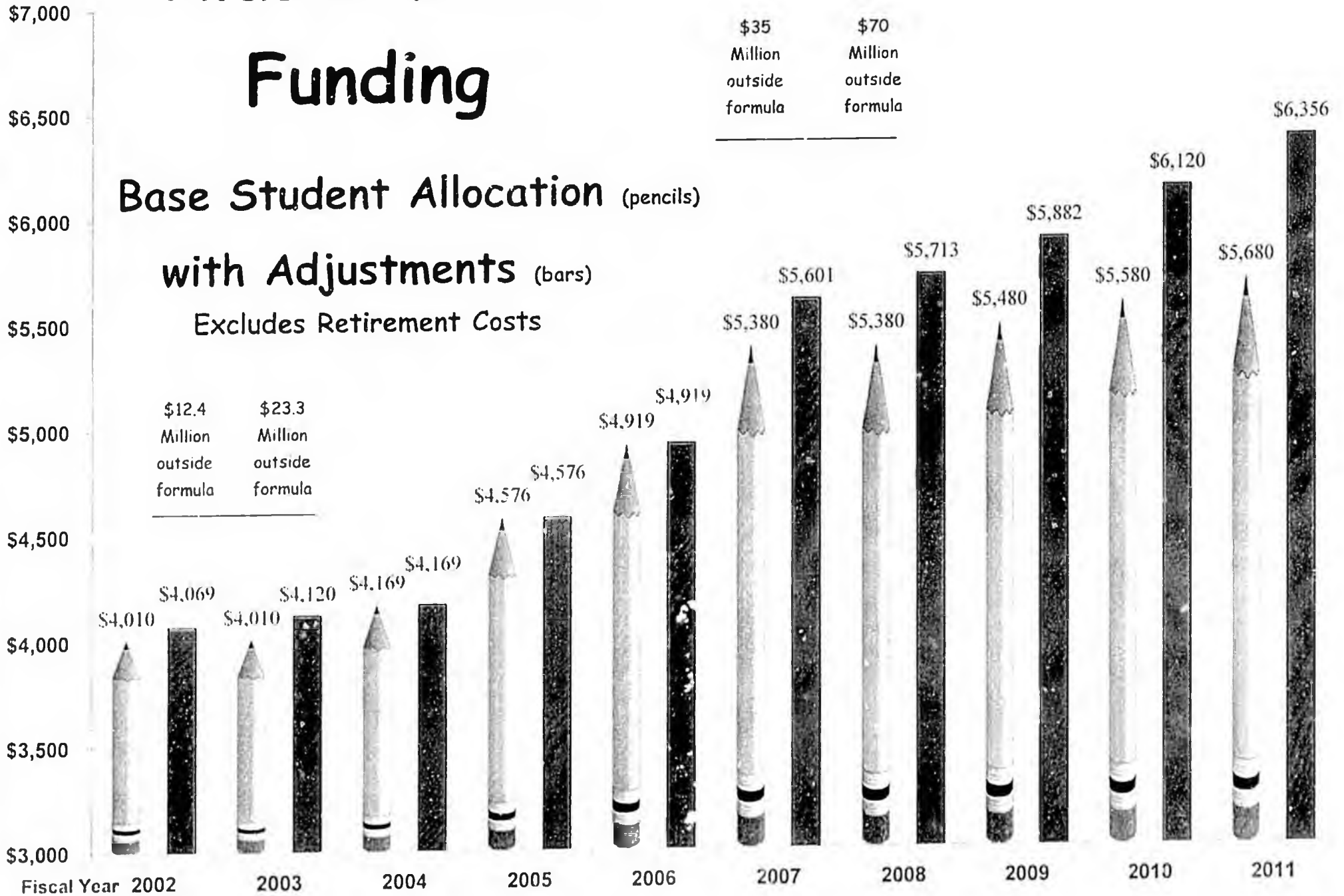


AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3235

Alaska K-12 Foundation Funding



Alaska K-12 Funding



K-12 Foundation Formula Funding--State of Alaska FY2002 through FY2011

Year	Base Student Allocation (BSA)	% change	Formula Additions Not in BSA	Formula Additions	BSA Increase	Cost of BSA Increase	Formula Additions as a % of BSA Increase	Additions Converted to BSA Equivalent	Adjusted BSA	Increase in Adjusted BSA since FY02	Percentage Increase in Adjusted BSA since FY02	Years since FY02	Increase in Adjusted BSA	Average Annual Increase in Adjusted BSA	Average Annual Increase in Adjusted BSA	CPI	Average Inflation Factor	Inflation since FY02	Retirement (Estimated)	Retirement as a % of BSA Increase	Retirement Converted to BSA Equivalent	Adjusted BSA (with Retirement)	cpi adj	Inflation Adjusted BSA
2002	\$ 4,010	0.0%	124	Learning Opportunity Grants	70	14.8	84%	59	\$ 4,069							156.8						\$ 4,069		\$ 4,069
2003	\$ 4,610	0.0%	233	Learning Opportunity Grants	70	14.8	157%	110	\$ 4,120	\$ 52	1%	1	1.01	1.012571	1.3%	160.1						\$ 4,120	1.00105	\$ 4,154
2004	\$ 4,169	4.0%							\$ 4,169	\$ 100	2%	2	1.02	1.012257	1.2%	164.8						\$ 4,169	1.02636	\$ 4,276
2005	\$ 4,576	14.1%							\$ 4,576	\$ 507	12%	3	1.12	1.030348	4.0%	168.7			-21	-24%	(110)	\$ 4,466	1.02367	\$ 4,377
2006	\$ 4,919	22.7%							\$ 4,919	\$ 850	21%	4	1.21	1.048592	4.9%	175.4			-46	-46%	(221)	\$ 4,698	1.03972	\$ 4,551
2007	\$ 5,380	34.2%	45	District Cost Factors (DCFs) and School Improvement Grants	481	99	48%	221	\$ 5,601	\$ 1,512	38%	5	1.38	1.06501	6.6%	178.7	1.026492		-69	-72%	(331)	\$ 5,270	1.01681	\$ 4,617
2008	\$ 5,380	34.2%	70	District Cost Factors (DCFs) and School Improvement Grants	461	97	72%	333	\$ 5,713	\$ 1,644	40%	6	1.40	1.05193	5.8%	173.434			200	200%	951	\$ 6,663	1.02649	\$ 4,760
2009	\$ 5,480	36.7%	90.1	DCF and Intensive Needs	200	44.8	201%	402	\$ 5,882	\$ 1,814	45%	7	1.45	1.054072	5.4%	188.294	1.0265%	20%	200	440%	893	\$ 6,775	1.02649	\$ 4,856
2010	\$ 5,580	39.2%	124.2	DCF and Intensive Needs	200	46	210%	540	\$ 6,120	\$ 2,051	50%								200	435%	870	\$ 6,990	1.02649	\$ 5,015
2011	\$ 5,680	41.8%	159.5	DCF and Intensive Needs	200	47.2	338%	676	\$ 6,356	\$ 2,287	56%								200	424%	847	\$ 7,203	1.02649	\$ 5,148
																31.4938 since FY02								
FY09 Additions to formula		90.1																						
FY09 Retirement Costs		216.4																						
Total		306.5																						

Question: How much has state spending for education increased since FY2002?

Method 1--Total Spending

643.2 FY02 GF spending for foundation
 1,214.0 FY02 GF (at Ed Task Force Recommendations plus retirement costs) no debt reimbursement
 570.8 increase
 89% percent increase in 7 years
 9.5% percent annual growth rate

on a per student basis

132,689.66 FY02 ADM
 128,575.39 FY09 ADM
 \$ 4,848 Per ADM in FY02
 \$ 9,442 Per ADM in FY09
 \$ 4,594 increase in per student funding
 95% increase in per student funding

Inflation adjusted

\$ 772 Inflation adjusted FY02 Spending
 \$ 5,622 Inflation adjusted spending per ADM in FY09
 \$ 3,629 inflation adjusted increase in per student funding
 62% increase in per student funding

Method 2--Increases in the BSA

(This method is shown on DEED's "pencil chart")
 The pencil chart has been modified to reflect the Education Task Force Recommended \$100 increase in the BSA
 The BSA alone does not reflect K-12 funding increases because significant funding has occurred outside the BSA
 After adjusting for "outside" funding, K-12 funding has increased 41% since FY02, for an annual growth rate of 5.4%
 Retirement contribution rates have changed since FY02, which affects effective funding in the intermediate years but does not affect the start-to-end funding rates of FY02 vs FY09--rates have been rolled back to FY02 levels
 Annual inflation since FY02 has averaged 2.85%, so K-12 funding has grown at twice the rate of inflation since FY02

Method 3--Include Retirement Costs

The above analysis is a "money in the classroom" view
 Money also went to cover the amount K-12 education costs the state
 The cost of education includes retirement costs which have been rolled since FY02
 but this money goes directly to retirement accounts and is excluded from the "classroom" analysis
 Large retirement contributions on behalf of school districts in FY09 is 3.7% more
 If that money were distributed to districts, the BSA would be 8,850
 This is a 88% increase in K-12 funding since FY02 (or 7.7% annually)

K-12 Foundation Formula Funding--State of Alaska FY2002 through FY2011

Year	Base Student Allocation (BSA)	% change	Formula Additions Not In BSA	Formula Additions	BSA Increase	Cost of BSA Increase	Formula Additions as a % of BSA Increase	Additions Converted to BSA Equivalent	Adjusted BSA	Increase In Adjusted BSA since FY02	Percentage Increase In Adjusted BSA since FY02	Years since FY02	Increase In Adjusted BSA	Average Annual Increase In Adjusted BSA	Average Annual Increase In Adjusted BSA	CPI	Average Inflation Factor	Inflation since FY02	Retirement (Estimated)	Retirement as a % of BSA Increase	Retirement Converted to BSA Equivalent	Adjusted BSA (with Retirement)	cpi adj	Inflation Adjusted BSA	
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2008	\$ 5,380	34.2%	70	District Cost Factors (DCF) and School Improvement Grants	481	97	72%	333	\$ 5,713	\$ 1,644	43%	6	1.40	1.058183	5.8%	183.434						200	\$ 6,663	1.02649	\$ 4,700
2009	\$ 5,480	38.7%	90.1	DCF and Intensive Needs	200	44.8	201%	402	\$ 5,882	\$ 1,814	45%	7	1.45	1.054072	5.4%	188.294	102.65%	20%				200	\$ 6,775	1.02649	\$ 4,886
2010	\$ 5,580	39.2%	124.2	DCF and Intensive Needs	200	46	270%	540	\$ 6,120	\$ 2,051	50%											200	\$ 6,990	1.02649	\$ 5,015
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 9.5% percent annual growth rate

on a per student basis

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Method 2--Increases in the BSA

(This method is shown on DEED's "pencil chart")
 The pencil chart has been modified to reflect the Education Task Force Recommended \$100 increase in the BSA

The BSA alone does not reflect K-12 funding increases because significant funding has occurred outside the BSA

After adjusting for "outside" funding, K-12 funding has increased 45% since FY02, for an annual growth rate of 7.4%

Retirement contribution rates have changed since FY02, which alters effective funding in the intermediate years but does not affect the "start-to-end" comparison of FY02 to FY09--rates have been rolled back to FY02 levels

Annual inflation since FY02 has averaged 2.65%, so K-12 funding has grown at twice the rate of inflation since FY02.

Method 3--Include Retirement Costs

The above analysis is a "money in the classroom" view. May also want to look at the amount K-12 education costs the state.

The cost of education includes retirement costs which have skyrocketed since FY02. But this money goes directly to retirement accounts and is excluded from the "classroom" analysis.

State retirement contributions on behalf of school districts in FY09 is \$216 million. If that money were distributed to districts, the BSA would be \$6,950. This is a 68% increase in K-12 funding since FY02 (or 7.7% annually).

ALASKA STATE LEGISLATURE



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Juneau, Alaska 99801-1182
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Fax (907) 465-3025

Senator..Lyda_Green@legis.state.ak.us

SENATOR LYDA GREEN
PRESIDENT OF THE SENATE

Toll Free: 1-877-465-6601

February 20, 2008

Representative Mike Hawker
Former Chairman
Joint Legislative Education Funding Task Force
Alaska State Capitol, Room 502
Juneau, Alaska 99801

RE: HB273

Dear Representative Hawker,

Thank you very much for considering our request to reevaluate and reconfirm the pupil transportation calculations included in HB273. Initially, our local school district raised concerns regarding the calculations, but throughout the day, those concerns were alleviated through further explanation and clarification by the Department of Education and Early Development.

Following several discussions today with Mat-Su Superintendent George Troxel and other staff from the Mat-Su School District and representatives from the Alaska Department of Education's School Finance and Facilities Section, Superintendent Troxel has informed us that he has decided *not* to contest the calculations contained in HB273.

Due to the decision of the Mat-Su School District to not contest the calculations, we no longer have questions regarding the pupil transportation numbers contained in HB273. Representative Hawker, we greatly appreciate your attention to detail and your willingness to accommodate our questions and our district's need for clarification.

Thank you for your immediate response to our concerns and for considering our request.

Sincerely,

A handwritten signature in cursive script that reads "Lyda Green".

Senator Lyda Green
President of the Senate

A handwritten signature in cursive script that reads "Charlie Huggins".

Senator Charlie Huggins
Chairman, Senate Resources Committee



Resolution of The State Board of Education & Early Development

Joint Legislative Education Funding Task Force

Resolution 01-2008

The Joint Legislative Education Funding Task Force, convening in the summer of 2007, diligently examined Alaska's school funding formula and related statutes and regulations; and

The Task Force recommended adjustments to the formula so that schools are funded fairly and adequately; and

The Task Force recommended an increase in the base student allocation in each of the next three years; and

The Task Force, recognizing that schools across the state face differing costs for the same goods and services, recommended phasing in of increases to the district cost factors; and

The Task Force, recognizing the costs to school districts of serving students with intensive needs, recommended a series of increases in intensive needs funding; and

The Task Force, recognizing school districts' increased costs in providing pupil transportation, recommended the state provide more grant funds for this purpose; and

The Task Force, recognizing the need for school districts to prepare their budgets in a timely manner, recommended that the Alaska State Legislature appropriate funds for education by the 60th legislative day; and

The Task Force -- recognizing that publicly funded charter schools, correspondence schools and home-schooling are integral to providing a broad spectrum of school alternatives -- recommended that legislative Standing Committees on Education make certain that those programs are fairly and adequately funded; so

THEREFORE, BE IT RESOLVED, the State Board of Education & Early Development hereby expresses deep appreciation for the efforts of the Joint Legislative Education Funding Task Force on behalf of Alaska's school children and strongly endorses the Task Force's recommendations and Governor Sarah Palin's proposal to implement it.

A handwritten signature in cursive script that reads "Esther J. Cox". The signature is written in black ink and is positioned above the typed name.

Esther Cox, Chair
On behalf of the State Board of Education
& Early Development

January 25, 2008

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

ASD MEMORANDUM # 38 (2007-2008)

September 10, 2007

TO: SCHOOL BOARD

FROM: OFFICE OF THE SUPERINTENDENT

SUBJECT: ASD RESOLUTION IN SUPPORT OF THE JOINT LEGISLATIVE
EDUCATION FUNDING TASK FORCE REPORT

*ASD GOAL: Ensure public accountability through effective communication with
students, staff, parents, community and government at all levels*

RECOMMENDATION:

It is the School Board Legislative Subcommittee's recommendation that the Anchorage School Board approve the attached resolution in support of the work and recommendations of the Joint Legislative Education Funding Task Force. It is further recommended that, once approved, the Superintendent transmit copies of this resolution to the Governor and to all members of the Alaska State Legislature.

PERTINENT FACTS:

The Joint Legislative Education Funding Task Force (JLETF) was established by Senate Concurrent Resolution 11 in the first session of the Twenty-fifth Alaska State Legislature for the purpose of examining school district cost differentials and the existing formula for distributing state aid for education. The JLETF was directed to submit a report of its findings and proposed legislative changes to the governor and the legislature by September 1, 2007 and was authorized to make any additional reports it considered advisable.

The JLETF met throughout the summer in a series of open meetings to examine the issues, hear public comment, and draft recommendations. The Anchorage School Board and the Administration were well represented at every meeting of the task force. The process was decidedly positive and was characterized by a respectful and candid sharing of ideas. Task force members listened attentively

to public comment as reflected by consistently thoughtful questions and by the reflection of districts' concerns in the final report and recommendations.

Key among these recommendations are the following: a substantial increase in the amount of intensive needs funding phased in over a period of years, the phasing in of the ISER cost differentials, the creation of standing education committees in the House and Senate to oversee and review education issues in the state, and an increase in the base student allocation set in statute for the next three years to provide some stability in funding for districts.

The Anchorage School District provided compelling testimony during the committee's public hearings that the minimum increase of \$100 per year in the base student allocation noted in the JLETF report would be approximately half of what the district would need to maintain existing programs, even with the proposed increases to the intensive needs multiplier, and requested an increase of \$200 per year to keep up with projected costs.

The Anchorage School District has seen steadily increasing student achievement for the past three years in every student subgroup in both language arts and math. Maintaining adequate funding is critical to our continued success in increasing student achievement and to meeting the ever-increasing requirements of the No Child Left Behind Act.

The Anchorage School District is appreciative of the work of the Joint Legislative Education Funding Task Force under the steady and responsive leadership of Chairman Mike Hawker and is pleased to offer this resolution in support of the work and recommendations of the task force.

Attachment

Prepared and Approved by: Carol Comeau, Superintendent

ANCHORAGE SCHOOL BOARD
ASDR 2007-2008-02

A RESOLUTION IN SUPPORT OF THE WORK AND THE
RECOMMENDATIONS OF THE JOINT LEGISLATIVE EDUCATION
FUNDING TASK FORCE REPORT

WHEREAS, The Joint Legislative Education Funding Task Force met regularly over the summer; and

WHEREAS, the Task Force accepted public testimony, and openly discussed and debated the merits of different changes to the education funding formula; and

WHEREAS, the Task Force has prepared a report to the Legislature and the Governor; and

WHEREAS, implementation of the Task Force recommendations will improve public education in the State of Alaska and provide local school districts with a more equitable and stable funding scheme; and

WHEREAS, in the creation of the report, compromises were made to reach a generally acceptable consensus; and

WHEREAS, the Task Force specifically discussed that the Base Student Allocation amount would be subject to further debate in the Legislature;

NOW THEREFORE BE IT RESOLVED that the Anchorage School Board supports the recommendations of the Task Force; and

BE IT FURTHER RESOLVED that the Anchorage School Board specifically finds the following recommendations to be of high importance:

- The passing by the Legislature of S.B. 125 (PERS/TRS cost sharing) in substantially the same form as it currently exists.
- The creation of standing Education Committees in the House and Senate to oversee and review all education issues in the state;
- The referral to the education committees of the various long term issues discussed in the Task Force report;
- The implementation of the ISER district cost factors, phased in to statute over time as set out in the Task Force recommendations, with appropriation of sufficient funds to avoid a negative impact to Anchorage;
- The creation of a blue ribbon commission or some other body to obtain a neutral, professional review of the district cost factors and recommend

changes to those cost factors if the ISER factors are found to be inaccurate, so that the cost factors in statute reflect as accurately as feasible the differences in the cost of educating students throughout Alaska;

- The phased increases in the Intensive Need funding with those increases set into statute;
- The recalibration of the transportation reimbursement rate based on the most recent actual audited costs; and
- An increasing Base Student Allocation amount, set in statute for Fiscal Years 2009, 2010, and 2011, at an amount that will keep pace with projected cost increases over those years;

BE IT FURTHER RESOLVED that the Anchorage School Board requests that the BSA be set in statute for FY 2009 at \$5580, for FY 2010 at \$5780, and for FY 2011 at \$5980.

PASSED AND APPROVED by the Anchorage School Board this 10th day of September, 2007.

Tim Steele, President

Jeff Friedman
Mary Marks
John Steiner

Crystal Kennedy
Macon Roberts
Chris Tuck

Carol Comeau, Superintendent

Unalaska City School District



Unalaska City School District Supporting Recommendations of the Joint Legislative Education Funding Task Force Report

WHEREAS, The Joint Legislative Education Funding Task Force met regularly over the summer; and

WHEREAS, the Task Force accepted public testimony, and openly discussed and debated the merits of various changes to the education funding formula; and

WHEREAS, the Task Force prepared a Report to the Legislature and the Governor with stated recommendations; and

WHEREAS, the implementation of the Task Force Recommendations will improve public education in Alaska and provide school districts with a more equitable and stable funding mechanism; and

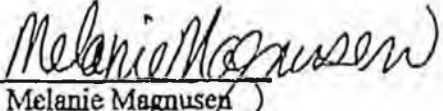
WHEREAS, the implementation of the Task Force Recommendations will directly benefit students in the Unalaska City School District;

NOW, THEREFORE, BE IT RESOLVED, that the Unalaska City School District Board of Education supports the Task Force Recommendations; and specifically finds the following recommendations of high importance:

- The passing by the Legislature of SB 125 (PERS/TRS cost sharing) in substantially the same form as it currently exists;
- The creation of standing Education Committees in the House and Senate to oversee and review all education issues in the state;
- The referral to the Education Committee of the various long-term issues discussed in the Task Force report;
- The implementation of the ISER district cost factor, phased in to statute over time as set out in the Task Force recommendations;
- The phased in increases in intensive needs funding with those increases set into statute;
- The recalibration of the transportation reimbursement rate based on the most recent actual audited costs; and
- An increasing Base Student Allocation amount set in statute for fiscal years 2009, 2010 and 2011, at an amount that will keep pace with projected cost increases over those years.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Unalaska City School District Board of Education specifically recommends that the Legislature adopt the Joint Legislative Education Funding Task Force recommendations within the first thirty (30) days of the legislative session.

ADOPTED this 24th day of January, 2008 by the Unalaska City School District Board of Education.

 Tammy Fowler-Pound President	 Sonia Handforth-Konie Clerk/Treasurer	 Melanie Magnusen Board Member
 Juanita Lewis Board Member	 Ruth Marquez Board Member	 Robyn Burt Student Representative

-----Original Message-----

From: Friedman_Jeff [mailto:Friedman_Jeff@asdk12.org]
Sent: Thursday, January 17, 2008 9:07 PM
To: Rep. Peggy Wilson; Rep. Bob Roses; Rep. Anna Fairclough;
representative_we_keller@legis.state.ak.us; Rep. Paul Seaton; Rep. Sharon Cissna;
Rep. Berta Gardner
Cc: Rep. Mike Hawker; Comeau_Carol; Steele_Tim
Subject: House Bill 273

Dear Representative Wilson and members of the HESS Committee:

I am writing to you as the chair of the Anchorage School Board's Legislative Committee. HB 273 will be heard by your committee next week, and I wish to express the Anchorage School Board's strong support for that bill.

The Joint Legislative Education Funding Task Force worked very hard last summer. The Task Force heard hours of testimony, and spent additional hours discussing ways to improve education funding in Alaska. The excellent process led to an excellent result. Clearly, the final recommendation contained compromises. At the same time, no vital interest was ignored. The Task Force's recommendations form a solid basis for improving academic achievement throughout Alaska.

I have attached a copy of a resolution passed unanimously by the Anchorage School Board. In addition, the Alaska Association of School Boards adopted a similar position in support of the Task Force recommendations.

HB 273 contains most of the Task Force recommendations (others have been proposed in companion bills). During it's deliberations, the Task Force initially thought not to make any recommendation as to the Base Student Allocation amount. After some discussion, it was decided that some increase to the BSA was needed, and that a minimum amount of \$100 additional per year would be included as a place holder. Both the discussion at that meeting and the language of the report indicate that this amount was not set in stone, but was intended solely as the minimum amount that should be considered. Based on current cost estimates, the Anchorage School Board, and AASB, support increases of \$200 per year over the next three years. Governor Palin used this same figure when she adopted the Task Force recommendations and filled in some of the details left open by the Task Force's report.

Anchorage supports phased increases to the District Cost Factors with the understanding that a new study will be completed to update those cost factors. The phased increases in intensive needs funding are extremely important to Anchorage, and are important to districts throughout the state since a single, expensive high need student could bankrupt a small district. Changes to the transportation reimbursement formula are also important.

Because of the phased increases to the District Cost Factors, much of the new money will not come to Anchorage. Anchorage still supports those increases, along with the entire package of Task Force recommendations because we believe that Anchorage benefits from strong districts throughout the state. I urge you to support HB 273 and include with it the BSA levels suggested by the Governor.

Please feel free to contact me if you have any questions.

Jeff Friedman
Anchorage School Board Member
1534 D Street
Anchorage, AK 99501
907-742-4699 (home)
Friedman_Jeff@asdk12.org

From: Comeau_Carol [mailto:Comeau_Carol@asdk12.org]

Sent: Monday, January 21, 2008 11:27 AM

To: Rep. Peggy Wilson; Rep. Bob Roses; Rep. Anna Fairclough; wes_keller@legis.state.ak.us; Rep. Sharon Cissna; Rep. Berta Gardner; Rep. Paul Seaton

Cc: Rep. Mike Hawker; Mary A. Francis, Executive Director; Friedman_Jeff; Steele_Tim; karen_rehfeld@gov.state.ak.us; mike_tibbles@gov.state.ak.us; Comeau_Carol

Subject: HB 273

Representative Wilson and members of HESS Committee:

I am unable to testify on Tuesday at 3:00 due to an already scheduled Anchorage School District budget hearing at the same time.

Legislative Chair, Jeff Friedman, has already transmitted his comments on behalf of the School Board and the District in support of HB 273 and the work of the Joint Legislative Education Funding Task Force Report. We are very grateful for the conscientious work of the Task Force and fully support their recommendations.

We feel that the Task Force delved into many important issues, and acknowledge that there are many other substantive issues still needing the full attention of the legislature. We applaud the fact that the House has already approved a separate standing committee for Education due to the complexity of these issues.

In addition to supporting the recommendations incorporated into HB 273, our School Board and administration support Governor Palin's plan of a three year Education Fund and the increase to \$200 per student on the BSA and the recalculation of the pupil transportation factor. Anchorage stands ready to share with you how we will use the additional revenue to enhance our instructional program in an effort to continue our academic progress and reducing the drop out rate. We are very much committed to supporting all of our students in their progress to gaining a high school diploma. In addition, we urge you to support Governor Palin's plan so we could do genuine forward planning for our instructional program. This will benefit every district in the state.

I thank you for your work on behalf of Alaskan children and school districts; I look forward to meeting with you when I come to Juneau February 9-11.

Thanks for considering my comments.

Carol Comeau

ASD Superintendent

Resolution 07-16
Support for the Joint Legislative
Education Funding Task Force

WHEREAS, there has always been division about how to conduct the State's business; and

WHEREAS, there is often disagreement about how to fund public education; and

WHEREAS, the Joint Legislative Education Funding Task Force included members of the Legislature with varying opinions and diverse views; and

WHEREAS, the process was open and transparent and all school districts and the public had opportunity to provide input through testimony; and

WHEREAS, the true costs of delivering education exceed the recommendations of the Task Force; and

WHEREAS, a proposed solution would be to use the Task Force recommendations for area cost differential and intensive needs multipliers, but phase-in over a three (3) year period, as well as a \$200 increase to the base student allocation per year; and

WHEREAS, the Council recognizes and is sensitive to the larger financial issues facing the State; and

WHEREAS, the results of the Task Force represent a best effort to date to solve long-term education issues; now

THEREFORE BE IT RESOLVED that the Alaska Council of School Administrators recognizes and appreciates the hard work, thorough deliberation, and the ability of the Joint Legislative Education Funding Task Force to make recommendations to the full Legislature and the Governor that favor Alaska's children, even in the midst of differences of opinion; and

BE IT FURTHER RESOLVED that the Alaska Council of School Administrators urges, at the minimum, full implementation of the Task Force recommendations during the current Legislative session.

Adopted by the Alaska Council of School Administrators
October and December 2007

Resolution 07-4
Funding for High Cost Special Education Services

WHEREAS, Alaska's public schools desire to meet their legal and educational responsibilities to provide effective education for all students, regardless of severity of disability or location in the State; and

WHEREAS, these responsibilities include the obligation to provide services in the least restrictive placement and manner appropriate to the child; and

WHEREAS, recognizing the much higher costs of educating children with extreme needs, the Alaska School Foundation Program has long provided Intensive Services funding to defray higher costs; and

WHEREAS, even where provided, Intensive Services funding has not reflected actual excess costs in comparison to other special education programs; and

WHEREAS, the federal Individual with Disabilities Education Improvement Act (IDEA) requires that public schools enroll students with disabilities at age three; and

WHEREAS, preschool students with intensive needs who enroll after the October count date, and after State funding has become fixed, incur costs to a district that are not typical of other students enrolling after the count date; and

WHEREAS, other students with intensive needs who move into a district after the October count date pose a similar financial challenge; now

THEREFORE BE IT RESOLVED that the Alaska Council of School Administrators urges the Alaska State Legislature to adequately fund services for students with intensive needs separate from the existing block grant program; and

BE IT FURTHER RESOLVED that the Alaska Council of School Administrators urges the Alaska State Legislature to both increase the multiplier used to allocate funding to students with intensive needs, and provide funding for all special education pre-school and K-12 students with intensive needs who enter a district past the count date.

Adopted by the Alaska Council of School Administrators
October and December 2007

**Resolution 07-3
Hold Harmless**

WHEREAS, school districts are negatively impacted by loss of funds due to decreased enrollment; and

WHEREAS, districts are not forward funded; and

WHEREAS, districts do not know actual State revenue until the first of November; and

WHEREAS, districts are required under current laws to notify tenured teachers of their contractual status by March 16; and

WHEREAS, districts are required under current laws to notify non-tenured teachers of their contractual status by the last day of the school term; and

WHEREAS, the loss of a school and/or decreased enrollment can have large, unexpected negative effects on the budget of the district; now

THEREFORE BE IT RESOLVED that the Alaska Council of School Administrators encourages the Legislature to establish hold harmless provisions similar to those previously in statute.

Adopted by the Alaska Council of School Administrators
October and December 2007

**Resolution 07-10
Pupil Transportation Funding**

WHEREAS, the pupil transportation costs for school districts have escalated to new, all-time highs; and

WHEREAS, the competition for transportation contracts continues to decrease; and

WHEREAS, pupil transportation is an important part of overall school funding; and

WHEREAS, getting students safely to and from school is a vital part of public education; and

WHEREAS, school districts need adequate funds to address increased pupil transportation costs to ensure that they are not forced to use instructional funding to meet the costs of these obligations; now

THEREFORE BE IT RESOLVED that the Alaska Council of School Administrators requests that the State of Alaska recalibrate the current formula for funding pupil transportation, and include an annual inflation factor.

Adopted by the Alaska Council of School Administrators
October and December 2007

HB

277

HFIN

FILE

ALASKA STATE LEGISLATURE

White Salmon
State Capitol
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REPRESENTATIVE BOB BUCH

Representative_Bob_Buch@legis.state.ak.us

Date: March 31, 2008

To: Representative Bill Stoltze
House Finance Committee

From: Representative Bob Buch

Re: HB 277

Dear Rep Stoltze:

This is to follow up on your questions this morning regarding HB 277, which will create a permanent absentee voting option for Alaskans.

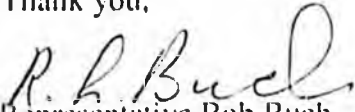
First, in regards to your question about choosing a ballot for the primary election, those procedures are established by statute, and not by regulation. Under the law, no one but the voter themselves is authorized to make a choice of primary ballot. This is not an area that can be changed via regulation. The statutory reference for this provision is AS 15.20.081 (a), which is attached.

Second, you expressed concern about the costs of the bill in general, and the costs of advertising the permanent absentee voting option in particular. Currently, the bill has a zero fiscal note. The Division of Elections expects that the permanent absentee ballot will actually save money, because it will reduce paperwork. As for advertising costs, the Division of Elections has no plans to advertise the permanent absentee voting option, as there is no need to do so. Information about the option will be available on the absentee ballot application form. (There will be a box to check on that form.) There will also be information available on line, and in the election pamphlet, a publication they are already printing.

As for your general concerns about fraud, there have been numerous studies on this very issue in the states where the permanent absentee voting option has been implemented. In every case, there has been no evidence of fraud. In fact, the opposite has been proven. The integrity of the vote is actually increased whenever absentee voting is used.

I hope that this addresses your questions. If you need additional information, don't hesitate to contact me.

Thank you,


Representative Bob Buch
Alaska State Legislature
House District 27

ballot in the secrecy sleeve, and place the secrecy sleeve in the envelope provided. The voter shall provide the information on the envelope that would be required for absentee voting if the voter voted in person. The voter shall sign the voter's certificate in the presence of the representative. The representative shall sign as attesting official and affix the voter's signature.

(e) The representative shall deliver the ballot and voter certificate to an election official not later than 8:00 p.m. Alaska time on election day.

(f) If a qualified voter's disability precludes the voter from performing any of the requirements of (d) of this section, the representative may perform those requirements except making the voting decision, on the voter's behalf.

(g) The voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union, may not act as a representative for the voter. A candidate for office at an election may not act as a representative for a voter in the election. (§ 59 ch 82 SLA 2000 am; § 4 ch 35 SLA 2001, am; § 11 ch 12 SLA 2006)

Effect of amendments. — The 2001 amendment, effective September 27, 2001, in subsection (b), in paragraph (2) deleted subparagraph A which read "The voter shall be accompanied by the representative under AS 15.20.018 (c) and" and deleted the subparagraph B description of (2) in paragraph (2) and substituted (b) after the 15th (a) before an election up to and

including the date of the election" (1) and (2) inserted the absentee voting station in operation."

The 2006 amendment, effective April 1, 2006, inserted "identification" near the end of subsection (g).

Effective dates. — Section 9, ch 82, SLA 2000 makes this section effective January 1, 2001.

Sec. 15.20.080. Date of application in person. [Repealed, § 231 ch 109 SLA 1980. For current law, see AS 15.20.061.]

~~Sec. 15.20.081. General rules for absentee voting.~~ (a) A qualified voter may apply in person, by mail, or by facsimile, scanning, or other electronic transmission to the director for an absentee ballot under this section. Another individual may apply for an absentee ballot on behalf of a qualified voter if that individual is designated to act on behalf of the voter in a written general power of attorney or a written special power of attorney that authorizes the other individual to apply for an absentee ballot on behalf of the voter. The application must include the address or, if the application requests delivery of an absentee ballot by electronic transmission, the telephone electronic transmission number to which the absentee ballot is to be returned, the applicant's full Alaska residence address, and the applicant's signature. However, a person residing outside the United States need not include an Alaska residence address in the application. A person may supply to a voter an absentee ballot application form with a political party or group affiliation indicated only if the voter is already registered as affiliated with the political party or group indicated. ~~Only the voter or the individual designated by the voter may exercise power of attorney under this subsection may make the voter's choice on any ballot on an application. A person supplying an absentee ballot application form may not design or mark the application in a manner that suggests choice of one ballot over another. No ballot may be listed on an application as authorized by the division. The application must be made on a form prescribed or approved by the director. The voter or registration official shall submit the application directly to the division of elections. For purposes of this subsection "directly to the division of elections" means that an application may not be submitted to any intermediary that could control or delay the submission of the application to the division or gather data on the applicant from the application form. However, nothing in this subsection is intended to prohibit a voter from giving a completed absentee ballot application to a friend, relative, or associate for transmission to the United States Postal Service or a private commercial delivery service for delivery to the division.~~

(b) An application requesting delivery of an absentee ballot to the applicant by mail must be received by the division of elections not less than 10 days before the election for

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REPRESENTATIVE BOB BUCH

Representative_Bob_Buch@legis.state.ak.us

HB 277

An Act establishing a permanent absentee voting option for qualified voters

HB 277 will streamline the absentee voting process for Alaskans by giving voters the option to register for permanent absentee voting status for state elections. Once a voter is on the permanent absentee voter roll, they won't have to fill out an absentee request form for each election cycle. Instead, an absentee ballot will be automatically sent to them by the Division of Elections.

HB 277 does not change anyone's voting rights. Voters can still request a one-time absentee ballot, just as they can now. Voters can still vote at their regular voting places if they so choose. HB 277 makes voting more convenient for voters. It also streamlines the administrative process for the Division of Elections.

HB 277 does not change any of the security or evaluation procedures that are already in place in Alaska statutes for handling absentee ballots; all of the provisions currently in place for absentee ballots would apply to permanent absentee ballots. HB 277 includes a provision for removal from the permanent absentee roll if the Division of Elections receives notice that mail sent to the voter's address is undeliverable.

HB 277 does not apply to local elections. It only applies only to primary, general and special elections, and any election for which the state has the responsibility for the conduct of the election.

HB 277 has an effective date of January 1, 2009 due to the implementation of a new voter registration system in May of 2009. The new system will be able to handle permanent absentee voting, according to the director of the Division of Elections.

Thank you for your consideration.

The logo for the American Postal Workers Union (APWU) is located in the top left corner. It consists of the letters 'APWU' in a bold, sans-serif font, with a diagonal line striking through the letters from the top left to the bottom right.

American Postal Workers Union, AFL-CIO**Midnight Sun Area Local 2756, PO Box 190485, Anchorage, Alaska 99519-0485**

January 18, 2008

Representative Bob Buch
Alaska State Legislature
716 West 4th Avenue
Anchorage, Alaska 99501

Dear Bob,

The American Postal Workers Union supports HB 277; we see this bill as a way to simplify the voter process and we believe that a greater return in votes cast would result.

Currently Alaskans can apply for an absentee ballot which is valid for one year. HB 277 would allow voters to receive an absentee ballot in perpetuity or until the voter fails to vote in one election cycle, at which point the voter would revert back to the original voter roll.

Permanent absentee vote by mail increases voter turn out and results in more citizens having a stake in their government, provides greater procedural integrity, favors neither of the major political parties, saves taxpayer money, and enhances the democratic process.

Receiving a ballot in the mail two weeks before an election reminds voters an election is imminent. Vote by mail allows voters to study and research candidates and issues and vote at their convenience instead of within the voting booth.

In Alaska weather conditions may cause voters to miss an election, with vote by mail voters will still be able to cast their votes.

With the transient nature of the state, permanent absentee vote by mail would be beneficial. Alaska has fishermen, miners, slope workers, shift workers and construction workers that would have a better opportunity to cast votes as a result of HB277. HB 277 would also be of benefit to the disabled, seniors and working families who face challenges in casting their vote at the polls.

A University of Oregon study shows that demographically young people aged 26-38 voted 44% more often, homemakers vote 51% more often, disabled and unable to work vote 48% more often, and across all demographics voters vote 29% more often.

In 2004, 40% of New Mexico voters used vote by mail, in 2006, nearly 90% of Washington State voters used vote by mail. Oregon passed vote by mail in 1998 with 69% for the initiative and by 2003 had an approval rate of 81%.

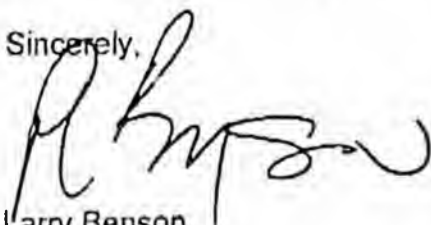
Voting by mail provides a paper trail for each vote cast unlike electronic voting machines which are susceptible to computer hackers and have no such safeguards. Vote by mail provides for accurate cleansing of registration rolls. When the ballot is returned because the voter has moved, their registration can be updated and a new ballot can be mailed to the new address.

County clerks in Oregon report that vote by mail elections cost about 30% less than traditional polling place elections

The sanctity of the ballot is paramount to the process. The United States Postal Service has been delivering vital documents for over two hundred years. The US Postal Service workforce is background checked; drug screened, and held to the US government code of conduct and ethics laws. Additionally the US Postal Service has internal enforcement agencies that work closely with the Federal Bureau of Investigations to protect the public from mail fraud. The US Postal Service is currently the only delivery service to handle absentee ballots and would like to continue as such.

For the above reasons the American Postal Workers Union supports HB 277.

Sincerely,



Larry Benson
President

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REPRESENTATIVE BOB BUCH

Representative_Bob_Buch@legis.state.ak.us

Sectional Analysis of HR 277

Section 1

Amends AS 15.07.127 by adding a new subsection (b) that requires the Director of the Division of Elections to make readily identifiable on the Master Register those people who have the status of permanent absentee voter.

Section 2

Amends AS 15.07.130 (e) by adding (B) which states that a voter who applies to the Division of Elections for a permanent absentee voter status qualifies as a voter who "appears to vote" under (b) and (d) of this section.

Section 3

Amends AS 15.20 by adding a new section (15.20.085) that:

- (a) enables Alaskan voters to apply to the Division of Elections for permanent absentee voting status;
- (b) allows a person to provide a voter with a permanent absentee voting application form with a political party or group affiliation only if that voter is already registered with the political party or group indicated. This paragraph also sets forth requirements that only the voter may mark the application form, indicate their choice of primary ballot and submit the application to the Division of Elections on a form prescribed by the Director of the Division of Elections;
- (c) requires the Division of Elections to send an absentee ballot to each voter designated as a permanent absentee voter for each state primary, general and special election and any other election for which the state has the responsibility for conducting the election;
- (d) requires the Director of the Division of Elections to make change of address forms available for permanent absentee voters;
- (e) allows the Director of the Division of Elections to not send an absentee ballot if the Division has received notice that mail sent to AN address is undeliverable;

(f) allows a permanent absent voter to cast the ballot under AS 15.20.081(d), which lists persons who are authorized to witness the casting of a ballot, and AS 15.20.081(e), which lists the dates by which the ballot must be cast and the means by which it must be returned to the Division of Elections;

(g) requires that ballots voted under this section be reviewed under the procedures that are established for the review of absentee ballots in AS 15.20.201 and AS 15.20.203;

(h) establishes that nothing in this section prohibits a person from voting early, or in person at a precinct, or in person before an absentee voting official, or by electronic submission as provided by AS 15.15.195, AS 15.15.198, AS 15.20.061, AS 15.20.064 and AS 15.20.066..

Section 4

Amends AS 15.56.030(a) by making the provisions that govern the unlawful interference with voting in the first degree apply to permanent absentee voting.

Section 5

Amends AS 15.56.035(a) by making the provisions that govern the unlawful interference with voting in the second degree apply to permanent absentee voting.

Section 6

Authorizes the Director of the Division of Elections to adopt regulations to implement the changes made in this act.

Section 7

Provides for an immediate effective date for section 6, which will allow the Division of Elections to adopt regulations to implement the changes made in this act.

Section 8

Provides for a January 1, 2009 effective date for all other provisions of this act.



Project Vote is the leading technical assistance and direct service provider to the voter engagement and civic participation community. Since its founding in 1982, Project Vote has provided professional training, management, evaluation and technical services on a broad continuum of key issues related to voter engagement and voter participation activities in low-income and minority communities.

YOUR BALLOT'S IN THE MAIL: VOTE BY MAIL AND ABSENTEE VOTING

Convenience voting, defined as access to voting at a time and place of the voter's choosing, has grown exponentially in the United States within the last two decades. A majority of states now permit "no-fault" or "no excuse" absentee voting, early in person voting, and vote-by-mail (VBM). This report will discuss the advantages and disadvantages of convenience voting in the form of no excuse absentee voting, permanent no excuse absentee voting, and VBM, all of which use the United States Postal Service as a central component. It will also discuss the concerns of proponents and opponents of mail balloting. Finally, it will suggest methods intended to address concerns about mail-in balloting expressed by legislators, administrators, election advocates, and scholars. Early in person voting, which may or may not include use of the mails as a component, is beyond the scope of this report.

As inevitably occurs with any significant change in a fundamental institution, the rapid expansion of voting outside the precinct polling place has been controversial. Proponents maintain that no excuse absentee and VBM systems increase turnout and may even expand political participation in previously under-represented demographic groups. Other supporters point out that convenience voting permits voters to study the ballot and issues more closely and make more informed choices. Opponents decry the greater opportunity for election fraud that may exist in a mail ballot system, fraudulent activities such as vote buying, coercion or undue influence on voters by family or political operatives, and, not least of all, the interception of ballots. Others raise valid concerns about the reliability of mail service in large urban areas.

Many opponents complain that mail-in balloting comes at the cost of losing the communal, civic aspect of voting at a neighborhood polling place. As Norman J. Ornstein of the American Enterprise Institute framed the argument: "[Voting] should be a meaningful experience, where citizens congregate with their neighbors and affirm their joint commitment to society... Reducing the vote to the equivalent of filling out a Publisher's Clearinghouse lottery cheapens the experience." On the other hand, proponents point out that mail-in balloting can be seen "kitchen table voting" which opens opportunities for political discourse among family and friends. The argument that mail-in balloting is detrimental to civic involvement, one researcher contends, "ignores the rich "togetherness" that can be achieved by voting at home," and fails to recognize "that there are positive benefits from the increased deliberative environment of vote by mail."

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Vote by Mail and Absentee Voting

Issues in Election Administration: Policy Brief Number 13

07.09.07

Regardless of the relative merits of the arguments for and against mail-in balloting, as far as the voting public is concerned, the train has left the station. Convenience, as history demonstrates, trumps tradition. Still, it may be wise to slow the train down and carefully consider where this particular train may take us. While voters have generally approved of mail-in balloting, states that have adopted some form of mail balloting have encountered significant problems unique to mail-in systems. In addition, the hoped for increase in voter turnout and expanded political participation by under-represented groups has not materialized.

Oregon voters overwhelmingly voice approval of the state's all VBM system. In California, which provides no excuse absentee voting and VBM elections, 46.9 percent of ballots cast in the 2006 Congressional election were absentee ballots.³ In Washington, 89 percent of voters voted by mail in the 2006 general election. Of Washington's 39 counties, 35 vote entirely by mail as of this writing. Of the four counties that maintain poll sites, 77 percent of the ballots in the 2006 General Election were cast by absentee voters.⁴

These usage and approval statistics do not in themselves demonstrate, however, that absentee and by mail voting are without significant problems. All that they reveal is that given the opportunity, a great many voters prefer the ease of mailing in or dropping off their ballot at their convenience to voting at a specified place and time. If, as the high level of voter approval suggests, mail-in balloting in some form is here to stay, the critical question then becomes not whether states should sanction mail-in balloting, (more than half already do) but how can states conduct mail-in ballot elections to ensure ballot integrity and unhindered access for voters, particularly urban, minority, and lower-income populations.⁵ Another crucial question is whether states with more dense, heterogeneous populations should follow Oregon's lead and adopt all VBM systems as opposed to hybrid vote-by-mail systems in which both VBM and traditional place voting are available.

Definitions

For the purposes of this discussion, convenience voting excludes traditional absentee voting in which a voter must be unable to get to the polls on election day because of disability, age or absence in order to be eligible to vote absentee. The categories of voting addressed include: (1) no-excuse absentee voting, in which a voter may request an absentee ballot without stating a reason, (2) permanent no-excuse absentee voting, in which a voter can request to be placed permanently on the absentee list without stating a reason, and (3) VBM systems in which mail ballots replace precinct polling places.

The distinction between no-fault absentee voting (especially no excuse permanent absentee voting) and VBM systems is often blurred, as both use the mail to send and receive ballots. In fact, several states have adopted legislation changing their terminology from absentee voting to more descriptive terms. In Kansas, for example, absentee ballots are now referred to as an "advance" ballots. To distinguish the two concepts, the term VBM as used in this report applies to elections in which all voters in a given jurisdiction receive mail-in ballots without requesting them and cast their votes by mailing or dropping off their ballots.⁶

The first section of the report covers the history of absentee voting, instances of absentee voting fraud and one state's legislative response to the need to increase ballot security. In the second section, we will explore the Oregon experience with a statewide all vote-by-mail elections as well as hybrid vote-by-mail election systems which combine tradition with VBM elections, such as those Washington, Colorado and California. In the last section we will examine the studies on the effect of VBM on voter turnout and expanding the composition of the electorate. We will conclude with a report on the pending legislation to adopt or modify absentee voting and VBM laws.

History of Absentee Balloting

Absentee ballots have a long and controversial history in the United States. As early as the 1700's land owners were permitted to vote by absentee ballot if their homes would be vulnerable to attack by Native Americans in their absence. Nevertheless, absentee balloting was rare before 1860. Only Oregon, interestingly, made it possible in 1857 for all men who were temporarily away from their homes to vote.⁷

During the Civil War, 19 of the 25 Union states and 7 of the 11 Confederate states passed laws permitting soldiers to vote by absentee ballot. This was done by having the soldiers deposit ballots into a box on a specified day in front of officers who were then responsible for sending the ballots to the soldiers' home precincts election authorities in the proper jurisdictions.⁸ Opponents of absentee voting at the time voiced the same primary concern that is raised today, the seemingly greater opportunity for fraud when votes are cast away from the control of a polling place.

After the Civil War ended, many of the military absentee practices were discontinued. In World War I, three million men were inducted into service, adding to the pressure to extend absentee balloting to military personnel. From 1914 to 1917 states with absentee voting laws grew from three to twenty-four of the then 48 states. These events helped to sever the ties between voting and physical presence. The concept of an intent to return to a particular location became, along with physical presence, a determinate of residence for purposes of voting.

The war and the increasing mobility of the United States work force compelled states to address the need for absentee balloting in certain situations. States grappled with absentee balloting provisions for students, persons in custodial confinement such as almshouses and sanatoriums, and people whose work required them to be away from home on Election Day. By 1918, nearly all states had a form of absentee balloting for men in the military. At the end of World War II, more than 20 states permitted absentee balloting for work-related reasons and a few allowed voters who would be absent for any reason to vote by absentee ballot. By 1924, all but three states had enacted some form of absentee voting.⁹

Currently, all states permit absentee balloting. Of the 50 states and the District of Columbia, 29 states permit no-excuse absentee balloting on request.¹⁰ Of these 29 states, eight permit voters to request permanent absentee ballot status, which means that they are placed on a list to receive absentee ballots automatically without having to request them in subsequent elections.¹¹

Election Fraud and Absentee Voting

Although there are many media reports on voter fraud, primarily based upon anecdotal evidence, little scientific or systematic research of the issue has been done.¹² Recent reports indicate that recurrent claims that voter fraud is a pervasive problem are not supported by the evidence.¹³ When fraud is found, however, absentee balloting is often implicated. Generally speaking, instances of absentee fraud arise most often in local county or community elections.

Absentee ballot fraud takes four general forms, (1) forging signatures or signing fictitious names; (2) coercing or influencing a vote; (3) vote buying; and (4) misappropriating absentee ballots. Absentee ballot fraud by members of both major political parties has been substantiated in several high-profile civil and criminal cases.

A 1997 Miami mayoral election was overturned by a Florida appeals court in a highly publicized case upon a finding that absentee ballots cast for Republican incumbent Xavier Suarez were tainted by fraud. The court installed Democratic candidate Joe Carollo as the winner of the mayoral race after throwing out all 4,740 absentee votes.¹⁴ As a result of the investigation, twenty-one Miami residents were accused of acting as false witnesses to absentee ballots.

A former Miami City Commissioner was later charged with covering up fraudulent absentee votes cast in that election by a Miami police officer and his wife, a former city hall secretary. In a similar case, a state judge nullified the results of a 1993 mayoral election in Hialeah and ordered a new vote. In response, Florida's legislature passed a law that prohibits providing or receiving payment for collecting absentee ballots in 1998.

In a blatant instance of vote buying, Democratic and Republican supporters of candidates in a Dodge County, Georgia sheriff's race were found guilty of paying voters for their absentee ballot votes, each bidding against the other and operating from tables on opposite ends of the courthouse hall.¹⁵ In a more recent case, two defendants in Tallahatchie County, Mississippi were convicted of absentee ballot fraud for providing money and beer to voters to get them to vote by absentee ballot.¹⁶

In a controversial 2005 Benton Harbor, Michigan, case, an African American community leader, Reverend Edward Pinkney, was accused of fraud for unlawfully possessing absentee ballots and attempting to influence absentee voters with payments in a recall election against a city commissioner. The recall was overturned and the commissioner reinstated. Reverend Pinkney's attorneys argued against Michigan's absentee fraud statute, which makes it a felony to possess absentee ballots regardless of intent. After a first trial ended in a hung jury, Reverend Pinkney was convicted by an all-white jury on March 21, 2007. This case illustrates the need, discussed below, for carefully drafted legislation on improper possession of absentee ballots cast by other voters.

Problems in Administration of Absentee Ballots

The 2004 Washington gubernatorial election stands as a case in which the administration and counting of absentee ballots played a large role. The election was the closest governor's race in United States history. After a mandatory recount, the margin between the two candidates was just forty-two votes. The subsequent hand recount requested by the state Democratic Party gave Democratic candidate Christine Gregoire the lead with 129 more votes than Republican Dino Rossi.¹⁷

Election contest litigation ensued which was ultimately resolved on June 6, 2005 when the case was dismissed. Plaintiffs in the case, *Borders v. King County*, pointed to absentee ballots as one source of the problems.¹⁸ There were discrepancies between the number of voters who were credited as having voted by absentee ballot and the number of absentee ballots counted. Before absentee ballots were sent out, the counties verified that the voters were registered and assigned a ballot identification number. When the ballots were returned this number was to be matched to the voters registration number and the voter "credited" with having voted.

The court in *Borders* found that the fact that voters received the absentee ballots was sufficient evidence that they were registered, the extra step of crediting the votes was not necessary to prove the fact of registration. The counties' failure to carry out the crediting procedure with some of the ballots was evidence of poor administration, but not malfeasance, on the part of officials.¹⁹

The Washington legislature took steps to improve absentee ballot administration, along with other aspects of election administration, with the passage of the Clarifying and Standardizing Various Election Procedures Act, Senate Bill 5743, 2005. The bill enacted the following safeguards for absentee ballots:

- Absentee ballots are to be distinguishable from other ballots;
- Measures preventing election staff from inserting absentee and provisional ballots into mechanical voting machines are to be instituted;

- Election officials must begin processing absentee ballots on receipt;
- Two audits of votes, including absentee votes, are required, one upon certification and one 30 days later.²⁰

VBM Elections Take Hold in Western States and Beyond

In VBM elections, all voters in the jurisdiction receive their ballots through the mail and must return them by mail or by dropping them off at a specified location. California conducted a VBM election for the first time in 1977. Oregon's statewide VBM system, which completely eliminates the use of polling places, is the result of nearly twenty years of testing and gradual expansion of VBM elections in the state.²¹ The process began in 1981 and 1983 with tests of local VBM elections. The legislature then passed a 1993 law that permitted the optional use of VBM for local and special elections. In the same year, the first statewide special VBM election was held. Forty-four percent of voters returned their mail ballots. In 1995, the majority Republican legislature passed a bill that provided for VBM elections in all primaries and general elections. The Democratic governor vetoed the bill on the grounds that VBM needed further study before it should be adopted statewide.

After the resignation of Senator Bob Parkwood in 1995 due to a personal scandal, special elections, primary and general, were needed to elect a successor. Because they were special elections, the Secretary of State, a Democrat and a supporter of VBM, was able to exercise the option to use the VBM system. In 1996, Oregon's presidential primary was conducted entirely as a VBM election. In 1997, two statewide special elections were held in by VBM. With these elections as tests of statewide VBM elections, in 1998 Oregon voters passed an initiative providing for all primary and general elections to be conducted by VBM in 1998.²²

Oregon citizens overwhelmingly approve of their VBM system. A survey was conducted five years after the initial implementation of the 1998 VBM law to determine if public opinion on VBM remained high and also to figure the levels of participation among Oregon voters. The survey indicated that about 81 percent of voters preferred VBM. In addition, Oregon's all-mail voting system (no polling place costs) was found to lower election costs. All mail elections cost a third to one half of the cost of polling place elections.²³

VBM has also taken root in other states, primarily, but no longer exclusively, Western states. North Dakota permits the boards of county commissioners to conduct mail ballot elections in primaries. Technically, the system is not an all VBM election because the state law requires voters to make an application for a mail ballot.²⁴ VBM elections have also been conducted in Alaska, California, Colorado, Kansas, Minnesota, Missouri, Montana,²⁵ Nebraska, Nevada, New Mexico, North Dakota, Utah, and Washington.

In Colorado, VBM elections may be conducted at the option of local jurisdictions, although they cannot be used for partisan candidate elections and elections held in conjunction with, or on the same day as, a primary or congressional vacancy election.²⁶ Moving South and North, VBM elections have been held in North Carolina, Florida, and New York. In general, early tests of VBM elections are made in special elections or at the option of local jurisdictions within the states. For example, in California, a state law permits county registrars to designate precincts with less than 250 registered voters as VBM precincts.²⁷ In the state of Washington almost all counties have chosen to adopt all VBM elections, although there is debate within the state on whether to adopt VBM statewide.

The following table provides an overview the adoption of mail in balloting on a state-by-state basis.

Traditional Absentee		No Fault Absentee		Permanent No Fault Absentee	Vote by Mail + Precinct	All Vote by Mail
Alabama	Mississippi	Alaska	Nevada	Arizona	Minnesota	Oregon
Connecticut	Missouri	Arizona	New Jersey	California	Missouri	
Delaware	New Hampshire	Arkansas	New Mexico	Colorado	New Jersey	
District of Columbia	New York	California	North Carolina	Maine	Colorado	
Illinois	Pennsylvania	Colorado	North Dakota	Montana	Georgia	
Indiana	Rhode Island	Florida	Ohio	Oregon (VBM)	Hawaii	
Kentucky	South Carolina	Georgia	Oklahoma	Utah	Kansas	
Louisiana	Tennessee	Hawaii	Oregon (VBM)	Washington	New Mexico	
Massachusetts	Texas	Idaho	South Dakota		North Dakota	
Michigan	Virginia	Iowa	Utah		California	
Minnesota	West Virginia	Kansas	Vermont		Montana	
		Maine	Washington		Washington	
		Maryland	Wisconsin		Wyoming	
		Montana	Wyoming		Arizona	
		Nebraska			Florida	

Advantages and Disadvantages of VBM Systems

Supporters of VBM systems point to savings in costs, greater counting accuracy, and voter satisfaction. Advocates also believe that VBM will increase overall voter turnout. The greater reliability of VBM systems and Oregon's reports of the absence of fraud in the state's all VBM elections are also touted as reasons to consider adopting VBM. Finally, some supporters believe that making voting easier may reduce socio-economic disparities in voter participation.

The lowering of costs, at least in elections that completely eliminate polling places and the resulting costs of staff and location has been clearly demonstrated in Oregon²⁸ and Washington. It remains to be seen if the cost benefits maintain in hybrid vote-by-mail systems in which the state incurs costs associated with operating polling places. As to voter fraud, studies have supported election officials' claims that Oregon's VBM system has been free of fraud.²⁹ Oregon, however, has been generally free of election fraud throughout its history. Empirical studies have also confirmed reports that early voting in general, including early-in-person, VBM and absentee balloting, results in a more accurate count.³⁰

This is not to say that VBM does not present an idiosyncratic set of administrative difficulties that can lead to disenfranchisement of voters. Chief among them is the need to rely heavily on the reliability of the United States Postal Service (USPS).

Financial issues and reductions in force have challenged USPS operations. The USPS 2006 Comprehensive Statement on Postal Operations reports that on-time delivery of first class mail has improved since 2000. Despite that improvement, the table below³¹ reveals a 2006 failure rate that cannot be tolerated in delivery of election ballots. In addition, the agency's performance goals for 2007 are to meet the essentially same unacceptable levels of on-time delivery.

Timely delivery is just one of the concerns raised by reliance on the mail for delivery of ballots. Misdelivery of mail is also a significant problem. A recent report by the Hawaii League of Women Voters echoes concerns over the reliability of postal service. The report points to the experience in Clark County, Nevada, where 10% of the ballots were undeliverable in a



VBM primary for the Republican Party. A letter from the Clark County Registrar of Voters to a Nevada official describes the problems encountered by administrators:

"There were no indications of fraudulent voting. However, ballots were delivered all over the County to former residents who did not fill out a change of address with the post office when they vacated their address of record; new residents automatically received the old residents' ballots. In addition, most of the people voting early and in the office on Election Day did so because they never received their ballots in the mail. Many of these voters' addresses were correct: the post office simply failed to properly deliver the ballot.

First class mail on-time delivery rates

Overnight First-Class Mail On-Time (External First-Class Measurement System)	95%
2-Day First-Class Mail On-Time (External First-Class Measurement System)	91%
3-Day First-Class Mail On-Time (External First-Class Measurement System)	90%

To whom were these ballots delivered? In numerous instances, some members of a household received their ballots while other members did not."³²

U.S. Postal Service officials relate that Chicago has the worst mail delivery of any major U.S. city. Most problems involve late or incorrectly delivered mail. One Chicagoan complained of receiving mail belonging to suburban residents. An elected official was outraged by the fact an alderman report that he sent in January did not reach citizens until February.³³

Even in less densely populated Oregon urban areas, delivery problems plague election administrators. Six percent of Multnomah County's VBM ballots were undeliverable in the 2004 Presidential election. In Benton County, over 7 percent of ballots were undeliverable.³⁴

Additionally, there are unique problems associated with the misdelivery of mail in large multi-unit residential buildings, which are commonly found in urban areas and on college campuses.

The USPS report and anecdotal experience from urban areas provide evidence in support of the concerns cited by individuals and groups that express caution about rushing to adopt all VBM systems. Concerns about the reliability of the mail service and about the use of VBM elections in an increasingly mobile society must be addressed as part of any careful assessment of the feasibility of using the VBM format in any jurisdiction.

The interaction of VBM elections with existing state laws is another important factor to consider when drafting legislation adopting VBM systems. Denver, Colorado provides a case in point in which existing state law and VBM combine to limit access to the polls. Denver officials will not be mailing ballots to approximately 117,000 voters in a May 2007 VBM election because the voters have been placed on an "inactive" list. According to state law,³⁵ if a voter does not vote in just one general election her status is changed to "inactive." In order to receive a mail ballot, inactive voters have to respond to a notice postcard confirming their residence or go to the county clerk's office to vote in person. Denver Secretary of State Mike Coffman supports the law and cautions against changing it, maintaining that the law is necessary to keep voter registration lists up to date.³⁶

Effect of VBM and Absentee Voting on Voter Turnout and Participation

When VBM was introduced in Oregon and other states, there was an expectation that it would significantly increase voter turnout and expand political participation by under-represented groups. Political scientists have studied the effects of mail-in ballot reforms with a primary focus on overall voter turnout and participation by under-represented groups. The following is a brief summary of some of the key studies, their methodologies and conclusions.

Priscilla L. Southwell, "Five Years Later: A Re-assessment of Oregon's Vote by Mail Electoral Process," Department of Political Science, University of Oregon, 2003.

This 2003 study is based on interviews of Oregon voters five years after the state began using an all VBM election system. Its function was to determine if voter opinion of VBM remained high and to assess the effect of VBM on voter turnout. The methodology used was to review data from the 2003 Oregon Annual Social Indicators Survey, which consisted of a random-digit-dialing survey of 1037 individuals in Oregon. Respondents were asked about their preferences in relation to VBM and about their voting behavior.³⁷

The study found that while 81% of the respondents preferred VBM elections, the majority (66.6%) reported that their voting frequency had not increased since VBM was implemented. A majority of all subcategories preferred VBM over precinct elections. Certain subgroups of the population, including women, the disabled, retirees and younger voters reported that they voted more often as a result of VBM, but the differences had a weak statistical significance. About 4 percent said they actually voted less often. The study concluded that neither political party "had much to lose or gain" from VBM.

Paul Gronke, Eva Galanes-Rosebaum, and Peter Miller, "Early Voting and Turnout," Early Voting Information Center (EVIC) at Reed College, 2007

This study reviewed existing research on the effect of early voting measure on voter turnout and presents the results of their own research model. The authors examined early-in-person voting, no-excuse absentee balloting, and VBM elections.

Their review of earlier literature on the subject concluded that the general consensus was that early voting methods increased turnout to a modest degree. Results varied from 10 percent in an Oregon study³⁸ to Professor Gronke's earlier research finding that VBM increased turnout by 4.7 percent in Oregon in presidential elections only.

Although the literature concluded that VBM had a positive effect on turnout, there was a consensus among social scientists that this was not achieved by recruiting new voters, but by retaining already active voters.

The consensus of the findings also supported assertions that VBM reduced costs and resulted in a more accurate count. Oregon, for example, saved an estimated 17% of the costs of elections by adopting a statewide VBM system.

The authors caution that earlier studies were based on limited historical data and were limited to Western states that differed geographically and demographically from their Midwest and Northeastern counterparts. Oregon, the leader in adopting VBM, was the primary subject of studies, followed by other Western states including Washington and California. The study notes that higher numbers of early voters are generally found in rural populations and among those voters that have long commutes. That finding tallies with another study on geographical effects on voter turnout, which concluded that suburban voters were impacted by distance.³⁹ Earlier reports, of necessity, do not consider political and administrative differences between elections since they were limited to a relatively few number of VBM elections in relatively few jurisdictions.

The methodology used in this study differed from earlier studies in that the authors estimated a model of early voting and turnout from 1980 to 2004. Starting with a turnout model and a data set produced in ballot initiative studies in 2001 and 2005, they added a series of variables based on early voting categories. The results supported previous studies finding that VBM increased turnout, but demonstrated that the increase in turnout was not only less than previously reported but that it was only shown in presidential elections in Oregon.

Despite the negligible increase in voter turnout, the authors note that the number of early voters is increasing annually. They also conclude that it "is no longer a question of whether early voting is a smart reform; the question now is what sort of early voting to allow and how to adjust to its impact."

Thad Kousser, University of California, San Diego; Megan Mullin, Temple University, Will Vote-by-Mail Elections Increase Participation? Evidence from California Counties, Project Sponsored by the John Randolph Haynes and Dora Haynes Foundation, 2007.

The above study's findings that VBM increased turnout to some degree are based primarily on reports of the Oregon experience. The reports contrast with a 2007 California study. In this study, the authors were able to take advantage of a California law that permits county registrars to designate any precinct with less than 250 voters as a mandatory VBM precinct. All precincts in the state's two smallest counties contained fewer than 250 voters and all were designated as VBM precincts. The study matched pairs of precincts, one VBM and one traditional, according to demographics and compared turnout in each matched pair, then averaged those differences across the number of treated precincts. This report differs from previous studies in that it was not based on self-reports or upon comparison of elections in precincts with different demographics or political elements. The demographics and the election characteristics were the same for each matched pair.

The goal of the study was to determine the effect of VBM on turnout compared to the matched polling place precincts. The authors concluded that VBM not only failed to increase turnout, it had a small negative effect. There was a statistically significant 2.6 percent reduction in the turnout for VBM precincts compared with similar polling place precincts in the 2000 general election and a 2.87 percent decrease in the 2002 general election.

Priscilla L. Southwell; Justin Burchett: "Does changing the rules change the players? The effect of all-mail elections on the composition of the electorate?" *Social Science Quarterly*, 2000, vol. 81, no. 3, pp. 837-845

Turning from the issue of overall turnout in VBM elections to their effect on the composition of the electorate we find fewer studies. This 2000 Oregon study examined the issue using the 1996 special election to replace Senator Bob Packwood after he resigned under a cloud of scandal. The authors conclude that this method of voting may increase turnout by retaining likely voters. They found that VBM voters in Oregon differed only slightly from voters who went to the polls in previous elections---they were older, more urban, and less partisan. VBM voters were as informed and educated as polling place voters. Additionally, VBM voters were demographically similar to registered non-voters but were better educated and politically informed. The conclusion was that in some manner, VBM elections provided a method of converting peripheral voters into core voters even in low-stimulus contests.⁴⁰

Adam J. Berinsky, *The Perverse Consequences of Electoral Reform in the United States*. *American Politics Research*, Vol. 33 No. 4, July 2005 471-491

This study ventures beyond a finding that VBM does nothing to expand political participation and posits the theory that reforms designed to make it easier to vote may actually increase existing socio-economic and demographic bias. The author bases his premise on results of studies showing that voting levels under early voting systems, including VBM and liberal absentee voting, are only effective at retaining habitual voters, not at recruiting new voters. Voters that moved in and out of the electorate, it was posited, were more likely to vote, i.e. stay in the electorate, if opportunities to vote were made more convenient, but registered non-voters were not more likely to begin voting. The author argues that, as a result, reforms that make voting easier simply magnify the existing socioeconomic bias.

The methodologies used by the studies cited to support this theory were varied, including cross-sectional designs, exit polls, validated voting records, and telephone surveys. They all concluded that voters who take advantage of early voting methods tend to be more politically involved, better educated and better paid than those who did not. Thus, the writer concludes, "voting reforms do not correct the biases in the electorate, and in some cases, reforms may even worsen these biases."

It is important to note in reading this study that none of the research cited gave direct empirical evidence that early voting reform had in fact changed the composition of electorate as a whole.

While research studies are effective in clarifying the effect of VBM on turnout and participation, they have not yet been able to control for all relevant factors, such as the demographics of the population under study, the level of interest in a particular election, the relative effectiveness of political campaigns on voter turnout and other factors. The data on VBM and no-fault absentee voting to date has been significantly limited as to time and place. Until more comprehensive data is available, it can not definitively be said that voter turnout may change under mail ballot election systems or that the reforms will exacerbate biases in the composition of the electorate.

One way in which VBM and other forms of early voting may ultimately increase turnout and expand the electorate is through the use of early Get-Out-the-Vote campaigns directed at voters who have received mail ballots. An experienced campaign consultant advises that "reaching people who vote by mail should be a more urgent concern than reaching people who vote early in person."¹¹

By obtaining lists of voters who have received mail-in ballots, political campaigns have more time and a greater opportunity to interest, inform and persuade voters to cast their ballots. At least one study has indicated that get out the vote campaigns targeted at early voters do have a positive effect on turnout. As one researcher concluded, "...scholars have ignored the important role of partisan campaign mobilization in linking early voting reform to overall turnout levels. That is, we find that early voting is associated with greater turnout when party elites use early voting as part of their campaign strategy."

Recommendations

Jurisdictions that have adopted VBM and absentee balloting by mail have employed various methods to ensure that each ballot gets to the right voter, that they are cast by that voter and that they are returned and accurately counted. For example, one extremely important element of protecting against voter fraud in mail-in elections is comparing signatures on the ballot with the voters' signatures on file. Other recommended steps to improve absentee ballot and VBM include:

1. Include a space for the voter's signature; and compare the voter's signature with the signature on file;
2. Use distinguishable absentee or mail ballots, by using a different through color or through other means;
3. Permit election officials to begin tabulating votes as soon as ballots are received to avoid delay in the election canvass;
4. Ensure that mail ballots can not be forwarded;¹²
5. Regulate "electioneering" in the presence of people who have mail ballots on their person.¹³

6. Establish close working relationships with the United States Postal Service and university or school administrations to co-ordinate efforts and efficiently provide for accurate and timely delivery of mail;¹⁴
7. Regulate who may take custody of a completed mail ballot;
8. Impose significant sanctions for misappropriation of a ballot, falsifying a signature or a voter's choice on a ballot, or failing to deliver a ballot lawfully entrusted to an agent;
9. Regulate delivery of mail-in or absentee ballots by partisan organizations. While it is important not to restrict family members and agents from returning a limited number of ballots, control of large numbers of completed ballots by third parties can lead to vote buying and misappropriation of ballots in local elections;
10. Require a minimum of two reconciliation audits;
11. Provide public access to lists of voters who have returned their ballots to facilitate Get-Out-the-Vote efforts.

Conclusion

The results of VBM and no-fault absentee election reforms have been mixed, but public acceptance of the changes is high. In view of voter enthusiasm for the reforms, it is likely the trend toward mail-in voting as an option will continue. We have seen that the effects of these reforms on turnout, however, have been minimal at best and the desired effect of expanding the composition of the electorate has not been realized. While the administrative costs are lowered significantly in all VBM elections, the cost reductions in hybrid elections are less significant. Lastly, the problems with mail delivery are likely to continue for absentee voters and VBM voters alike.

Jurisdictions contemplating the adoption of VBM in particular must approach the decision with caution. The system should not be adopted simply in an attempt to increase voter turn-out or expand political participation. It would be prudent for states to appoint a study commission consisting of election administrators, the state's chief election official, and community organizations before making a decision to adopt VBM elections. Initial trials of VBM are best implemented in small, local elections before they are attempted on a larger scale.

In short, go slow on VBM and mail-in balloting reforms. While convenient, they may create more problems than they are intended to resolve.

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- ¹⁹ Gronke, *Supra*, Gronke, n. 5.
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HB

278

HFIN

FILE

Alaska State Legislature

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Representative Bob Buch

Representative_Bob_Buch@legis.state.ak.us

CSHB 278 – Internet Identities of Sex Offenders and Child Kidnappers

HB 278 will require any person required to register as a sex offender or child kidnapper to also submit any electronic mail addresses, instant messaging addresses or other internet communication identifiers to the state.

Data generated under this bill will allow the Department of Public Safety to assist the public in keeping their families safe from online predators. By collecting this information, the Department will be able to tell those who ask if an email address or other online identifier belongs to a sex offender.

The bill will also protect the public by enabling the state to provide collected information to internet service providers and internet security firms. These providers can then use the information to prevent children from receiving messages from convicted sex offenders or warn parents of the sender's status. In order for these services to be utilized, states must take the first step and make the data available.

The Internet will likely never be a completely safe place, and parents will always be responsible for teaching their children to use the Internet responsibly. This includes teaching them how to react when asked for personal information, or if they find explicit material online. But, with HB 278 we have an opportunity to avoid a preventable tragedy.

Thank you for your consideration.

Alaska State Legislature

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Representative Bob Buch

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Sectional Analysis CSHB 278

"An Act relating to sex offenders and child kidnappers; and providing for an effective date."

Section 1:

Amends AS 11.56.840(a) by adding language to further define what qualifies as a failure to register. Sex offenders and child predators would now commit the crime of failure to register in the second degree if they do not also provide their online information and identities in their registration information.

Section 2:

Amends AS 12.63.010(b) by adding clarifying language and adds a new subsection (I) that requires sex offender and child kidnapper registration forms to include a place for sex offenders and child kidnappers to list their email address, instant messaging address, and other online information.

Section 3:

Amends AS 12.63.010(c) by adding language that specifies when the establishment of or changes to online information must be made. Sex offenders and child kidnappers would have one business day notify the Department of Public Safety in writing of changes to this information.

Section 4:

Amends AS 18.65.087 to allow the Department of Public Safety to use a federal software system that gives parents the ability to confirm or deny that an email address from anywhere in the country belongs to a registered sex offender. This program will not enable sex offenders to seek out and network with one another anonymously, a concern from the Department of Public Safety in the original version of the bill.

The section also allows the Commissioner of Public Safety to share sex offenders' online information with internet service providers or security firms to prevent children from receiving messages from convicted sex offenders or to warn the public of the sender's status.

Section 5:

This section gives the Department of Public Safety one year to get this program up and running. Starting in 2009, sex offenders must provide their online identifiers to the Department of Public Safety beginning when they are required renew their registration and within one working day of changes to their online information from that day forth. The very worst offenders will have to begin registering online identifiers no later than three months after the effective date of this bill.

Section 6:

Provides for an effective date.

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Representative Bob Buch

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MEMORANDUM

March 14, 2008

To: Representative Jay Ramras
From: Representative Bob Buch
Subject: Proactive Policy Actions to Prevent Online Sexual Predation

In the House Judiciary Committee, you asked if there exists a way to proactively address the problem of online sexual predation. Specifically, you wanted to know if it would be feasible to either prohibit all sex offenders from internet use or in some way mark all internet identifiers belonging to sex offenders so that all members of the public interacting with sex offenders online will know immediately that they are communicating with sex offenders.

I discussed these concerns with Legislative Legal Services and have attached their memo on this topic. Legislative Counsel does not recommend placing punitive provisions in a registration statute; these kinds of provisions are more appropriately handled in sentencing, probation or parole statutes. In addition, the US Supreme Court has ruled that registration laws cannot be "punitive" in nature; they must fall, instead, under the public safety category in order to avoid constitutional challenges. We will continue to research this issue to craft a bill that will pass constitutional muster.

I also called police departments around the state, and spoke to officers specializing in internet crimes. They pointed out that to label sex offenders in their email addresses or other handle-type monikers would provide a technological challenge, as well. Many internet sites provide specific requirements as to the format of such information. For example, some limit the number of letters allowed to be used in instant messenger names or email address while others require the use of a number or character in such names. Officers also raised concerns about an instance in which duplicate addresses exist. When creating a new email address, for example, most email providers will not allow a user to create a new email address that matches one already in use in the provider's system. So, while the idea may be an attractive one, it would be incredibly difficult, if not impossible, to implement.

Since the questions you raised are complicated, and will require additional legal research and technological problem-solving, we propose that we research these ideas during the interim and address them in separate piece of legislation next session. In the meantime, however, we do have the ability to give parents and children much-needed protection under CSHB278. We request that the Judiciary Committee pass the bill out in order to give law enforcement this additional tool to stop the sexual predation of our children.

Alaska State Legislature

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Representative Bob Buch

Representative Bob Buch@legis.state.ak.us

MEMORANDUM

To: Representative John Coghill
From: Representative Bob Buch
Date: March 14, 2008
Subject: Clarification of the term "Internet Communication Identifier"

In the House Judiciary Committee on March 13, 2008, you asked for a more complete definition of the term "Internet Communication Identifier." Specifically, you asked what online information this term encompasses and if this can be better defined in HB 278.

In researching how other states have addressed this issue, law enforcement officers suggested we consider Arizona's registration law. Their language addresses your concern. The law defines a required online identifier as "electronic email address information or instant message, chat, social networking or other similar internet communication name, but does not include social security number, date of birth, or pin number." We believe that this language contains a better description of the items we intended to include in our bill's language while leaving enough room for law enforcement and the Department of Public Safety to address the issues of new internet communication technology as it becomes available.

We would therefore enthusiastically offer or accept amended language similar to that included above to better describe the online information we believe sex offenders should be required to register.

CC: Members of the House Judiciary Committee

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM

March 13, 2008

SUBJECT: Sex Offenders and the Internet (CSHB 278() "E" Version)

TO: Representative Bob Buch
Attn: Elizabeth Outten

FROM: Gerald P. Luckhaupt *GLP*
Legislative Counsel

You have asked a couple of questions about CSHB 278(). First, you have asked if the legislature could bar a sex offender from using a computer or the Internet or using a computer or Internet for certain activities or from accessing certain sites. I believe that the legislature could do these things but not under the guise of sex offender registration. The legislature would have to amend the sentencing statutes and the parole and probation statutes to accomplish this. Restricting the use of a computer or the Internet, or restricting an offender's access or use of certain Internet sites appears to me to be more akin to punishment and would have to be imposed as part of the sentence imposed on the offender or, at a minimum, as part of the conditions of the probation or parole an offender might be serving.¹ New York was considering a proposal to require probation and parole conditions that restrict certain especially dangerous offenders from accessing certain sites and allowing the imposition of those conditions for other offenders.

You have also asked about the use of the term "Internet communication identifier" in the bill. When drafting the bill I was directed to utilize the Connecticut statute which had recently been adopted. The term is utilized in the Connecticut statute.² Federal law uses

¹ Indeed it may currently be possible for the Board of Parole to impose a condition restricting an offender from accessing Internet sites used by children or social networking sites provided they make a finding that it will aid the offender's reformation or supervision.

² The Connecticut Department of Public Safety has the following information on their sex offender registry website:

Public Act 07-4 from the June 2007 Special Session requires 'any person who is subject to registration under this section establishes or changes an electronic mail address, instant message address or other similar Internet communication identifier, such person shall, without undue delay, notify the Commissioner of Public Safety in writing of such identifier'

Representative Bob Buch
March 14, 2008
Page 2

the term Internet identifier.¹ Arizona creates and defines the term "online identifier"⁴ and requires a sex offender to register their required online identifier and the name of any website or internet communication service where the identifier is being used or is intended to be used.

GPL:lmb
08-057.lmb

¹ See the Adam Walsh Child Protection and Safety Act of 2006.

⁴ "Required online identifier" means any electronic e-mail address information or instant message, chat, social networking or other similar internet communication name, but does not include social security number, date of birth, or pin number."

LEGISLATIVE RESEARCH REPORT

FEBRUARY 29, 2008



REPORT NUMBER 08.145

CHILD EXPLOITATION VIA TECHNOLOGY ASSOCIATED WITH THE INTERNET

PREPARED FOR REPRESENTATIVE BOB BUCH

BY PATRICIA YOUNG, MANAGER

You asked for information on the prevalence of individuals using cyberspace for the sexual exploitation of children in Alaska and across the nation. You also wished to know where in Alaska such offenses are most frequently committed, how law enforcement currently addresses this situation, and whether requiring sex offenders to register their online identifiers would assist law enforcement in preventing or catching such predators. Additionally, you requested information on the emotional consequences for children exposed to and involved in child pornography.

As you are aware, the phenomenally rapid expansion of communication technology has wrought many societal changes, not all of them positive. Perhaps the most insidious aspect of cyberspace is its potential for sexual predation. Sexual predators use the Internet, cell phones, and other technologies as highly efficient and relatively anonymous tools for communicating with other offenders, for identifying and contacting children, and for memorializing and circulating movies and images of children being victimized.

DATA ON TRAFFIC IN CHILD PORNOGRAPHY

The most comprehensive data on the prevalence of predation facilitated by Internet-related technology comes from Flint Waters, special agent, Wyoming Attorney General Division of Criminal Investigation and lead special agent for the Wyoming Internet Crimes Against Children Task Force (ICAC). A recognized expert in the area of child exploitation via the Internet, Agent Waters developed the software currently used to track computers sharing child pornography through Peer to Peer (P2P) networks. He testified before the U.S. House of Representatives Committee on the Judiciary on October 17, 2007, and before the Alaska House Judiciary Committee on February 15, 2008. Much of our information comes from these presentations. Also providing information were Sgt. Derek DeGraaf, supervisor, Computer and Financial Crimes

Group, Alaska Bureau of Investigations, Division of State Troopers, and Detective Kevin Vandegriff, Cyber Crimes Unit, Anchorage Police Department.¹

Because of the widespread access to broadband, or high-speed, Internet, the U.S. leads the world in terms of volume of trafficking in child pornography. In terms of per capita prevalence, however, the U.S. is seventh among countries. Our sources notes that while the vast majority of offenders are male, members of all social and economic backgrounds and all professions count on the odds of Internet anonymity to engage in this behavior which is similar to a narcotic addiction in the intensity of focus, need, and justification of risk.

Among states, Alaska has the highest per capita Internet use. Although not ranked among the highest in terms of the number of individuals trafficking in child pornography, Alaska's numbers are high. File sharing of child pornography is occurring in virtually every community—both large and small—in Alaska. Nevertheless, the density of traffickers corresponds largely to population centers and broadband availability.

Prevalence of Peer to Peer Child Pornography Traffic in Alaska, 2004 - Present			
Year	IP Addresses Sharing Files	Unique IP Addressess	Unique Serial Numbers
2004	87	53	
2005	2,803	935	85
2006	4,545	1,507	491
2007	10,149	2,856	832
2008	843	327	108
Totals	18,427	5,678	1,516

NOTES: Tracking began during 2004 and reflects activity through mid-February 2008. The ability to track serial numbers was implemented in late 2005.

Numbers of IP addresses do not correlate closely with the number of individual computers or the number of individual users since many Internet Service Providers (ISP) assign a number randomly each time a user logs-on.

Experts consider the number of unique serial numbers to be low since they capture serial numbers in only about half of their operations. Furthermore, only Peer to Peer (P2P) network sharing of child pornography is reflected, similar activity conducted through the use of chatrooms, social networks, cell phones, or other Internet-related technologies is not here addressed.

SOURCE: The algorithm developed by Special Agent Flint Waters, Wyoming Attorney General Division of Criminal Investigation and lead special agent for the Wyoming Internet Crimes Against Children (ICAC) Task Force, presented to Alaska House Judiciary Committee, February 15, 2008.

As you can see from the table, the program developed to trace and identify P2P transactions of child pornography has identified more than 1,500 unique computer serial numbers in Alaska containing such material. This number is low, however, in that serial numbers are captured in only about 50 percent of investigative operations. Further, as each of our sources emphatically underscores, these numbers reflect such activity on only one small part of the Internet—only one of the burgeoning ways of sharing such images and movies. As noted by Agent Waters in his brief for the U.S House Judiciary Committee,

¹ Sgt. Derek DeGraaf can be reached at 907 271 3220. Detective Kevin Vandegriff can be reached at 907 786 2683. Attachment A is a brief prepared by Agent Waters for presentation to the U.S. House Judiciary Committee on October 17, 2007. In "Child Sex Crimes on the Internet," he documents the widespread use of Peer to Peer (P2P) networks to traffic in child pornography and describes the methodology being used in P2P investigations.

[The data] originate from a single P2P network, one of many used daily on the Internet. . . . [They apply] to one P2P system where child sexual abuse movies and images were presented to undercover law enforcement throughout the world. [They do] not include traders using email, chat, social networks [such as MySpace and Facebook], news servers or paid and free web sites. At most it can be seen as a bare minimum of the trafficking of child sexual exploitative materials.

During recent presentations, Agent Waters noted that two separate federal studies have concluded that 80 percent of offenders serving time on federal child *pornography* charges had themselves *molested* children. At sentencing, these offenders were known to have molested 210 children; the studies revealed that, in actuality, more than 3,000 children had been physically victimized by this group of perpetrators serving time for child pornography. A third study, conducted through the University of New Hampshire and funded by the National Center on Missing and Exploited Children and the U.S. Department of Justice, found that 40 percent of child pornography possession cases also included some form of hands-on child sexual victimization. Based on the findings of such studies, agent Waters concludes that at least 30 percent—but possibly between 40 and 80 percent—of individuals who possess and trade child pornography are also contact offenders.

Assuming that a unique serial number represents a single individual and that 30 percent of the 1,516 child pornographic collectors using P2P networks in Alaska engage in contact abuse, then more than 450 of those individuals would likely be hands-on abusers. Calculated at the 40 to 80 percent rates found in the studies noted above, the numbers would reflect approximately 600 to 1,200 persons actively preying on children. Again, these numbers reflect only a small portion of similar Internet-related activity.

As Agent Waters points out, although the software identifies traffickers in child pornography, law enforcement officials involved in this issue consider the investigative tools primarily as an *opportunity to get into the homes of potential predators*. Without doubt, these individuals are collecting and trading images; the tools, though, lead to "huge" numbers of children actively undergoing abuse and in need of rescue.

As some of the nation's most prominent and respected experts on child victimization have documented,

Although the stereotype of Internet crimes involves unknown adults meeting juvenile victims online, Internet use can also play a role in sexual crimes against minors by family members and acquaintances. Data were collected from a national sample of law enforcement agencies about arrests for Internet-related sex crimes against minors. Family and acquaintance offenders were nearly as numerous as offenders who used the Internet to meet victims online. They used the Internet in various ways to further their crimes including as a tool to seduce or groom, store or disseminate sexual images of victims, arrange meetings and communicate, reward victims, or advertise or sell victims.³

Sources agree that the problem—in both scope and enormity—is staggering.

³ Kimberly J. Mitchell, David Finkelhor, and Janis Wolak, University of New Hampshire, "The Internet and Family and Acquaintance Sexual Abuse," *Child Maltreatment*, Vol. 10, No. 1, February 2005, pp. 49-60. We include a copy of the article as Attachment B.

REGISTRATION OF ONLINE IDENTIFIERS

Although requiring sex offenders to register their online identifiers may present administrative challenges, the concept is supported by law enforcement personnel. These officials note that while many sexual predators using the Internet are increasingly sophisticated in eluding detection, many are not. If through any method, law enforcement apprehends a known sex offender who is exploiting children via cyberspace, and the online identifier is not among those registered, then there exists one more charge with which to possibly convict and incarcerate the offender.

TRAUMA

Researchers as well as parents, clinicians, and policy makers are concerned about the impact of child pornography circulating on the Internet. Concerns focus not only on the children who are victimized and whose images are circulated but also on children who are exposed to such material. The evolving nature of Internet-related technology continually allows for a more rapid and wide circulation of such images. As such, the trauma may be compounded as well. Research on the issue is relatively new, and authorities on child abuse note that important theoretical questions—for example, how Internet exposure may affect the formation of sexual interests—have yet to be answered.³

Among the studies we reviewed, we found high levels of distress, guilt, and fear often cited as reactions to unexpected and possibly extreme images presented through the close and intimate medium of a computer screen.⁴ Researchers have found that in cases of online sexual solicitation, the risk of distress is more common among younger children, among those who receive aggressive solicitations (that is, where the solicitor attempts or makes offline contact), and among those who are solicited on computers away from their own homes.⁵

For children whose abuse has been memorialized and circulated, children who may be bought and sold—even if such children are rescued, those children will always know that any computer may be storing or displaying the most horrific events of their lives at any time for anyone, anywhere to see—any current or future family member, any friend, colleague, or casual acquaintance. And as our sources point out, traders often collect and share images of specific children, identified by name. In many regards, this will be abuse that never stops.

Looking at the effects of sexual abuse in general—that is, *not specific to online abuse*—numerous studies document the high incidence of childhood sexual abuse among sex offenders. David Finkelhor, Ph.D., director of the Crimes Against Children Research Center, codirector of the Family Research Laboratory, and a professor of sociology at the University of New Hampshire is one of the country's leading experts on child sexual abuse. According to Dr. Finkelhor, studies generally show that between one third and one half of all offenders were, themselves, sexually

³ Mitchell, et al., "Inventory of Problematic Internet Experiences Encountered in Clinical Practice," p. 501

⁴ Kimberly J. Mitchell, Kathryn A. Becker-Blease, and David Finkelhor, University of New Hampshire, "Inventory of Problematic Internet Experiences Encountered in Clinical Practice," *Professional Psychology: Research and Practice*, 2005, Vol. 36, No. 5, pp. 498-509.

⁵ Kimberly J. Mitchell, David Finkelhor, and Janis Wolak, "Risk Factors for and Impact of Online Sexual Solicitation of Youth." (Reprinted) *JAMA*, June 20, 2001, Vol. 285, No. 23, pp. 3011-3014

abused as children.⁶ Studies also show that as many as 60 to 80 percent of adult sex offenders began offending as juveniles or adolescents; that sexually aggressive behavior escalates; and that by the time of apprehension, most offenders have committed numerous sexually abusive acts.

Data collected by Dr. Finkelhor and others suggest that the incidence of child sexual abuse, in general, is alarmingly high, and that boys are victimized nearly as frequently as girls: approximately one in four girls and one in five to seven boys are sexually victimized by age 18. Nevertheless, approximately 90 percent of the apprehended adult sex offenders are male. Thus, although many offenders have been victims, it is not likely that most victims become offenders.

Sharon Araji, Ph.D., professor of sociology, University of Alaska, Anchorage, and an authority on how sexual abuse in childhood affects adult development, stresses that although not everyone becomes a perpetrator, no one escapes the trauma of being victimized as a child. Dr. Araji and others agree that gender is significant in the manifestation of trauma associated with child sexual abuse: abused males have a far higher risk of becoming sex offenders than do females; females, on the other hand, tend to become lifelong victims—susceptible to rape, domestic violence, drug and alcohol addiction or other substance abuse.⁷ Furthermore, women who have been abused as children are generally less capable of preventing their own children from being sexually abused—thus perpetuating the cycle.

WHAT'S BEING DONE

In Alaska, while local police departments *respond* to reports of child pornography, most *proactive* efforts specifically directed at this particular issue are found within the Alaska State Troopers (AST) and the Anchorage Police Department (APD), where officers are trained in addressing this type of crime. The AST Computer and Financial Crimes Unit is comprised of one full time and two part-time investigators. The Cyber Crimes Unit with APD is made up of the supervisor, two online investigators, and three forensic investigators. Additionally, the University of Fairbanks has a part time investigator on campus, and U.S. Immigrations and Customs Enforcement (ICE) has two investigators.

In 1998, the Office of Juvenile Justice and Delinquency Prevention within the U.S. Department of Justice created the Internet Crimes Against Children (ICAC) Task Force Program to help law enforcement agencies develop ways to combat cybercrimes against children. Alaska belongs to one of at least 59 regional ICAC task forces. Federal participants include the Federal Bureau of Investigation (FBI), the Immigration and Customs Enforcement (ICE), the U.S. Postal Inspection Service, and U.S. Marshalls Service. Advocacy groups such as the National Center for Missing and Exploited Children participate, as do state and local law enforcement agencies. As noted previously, Agent Flint Waters is the lead special agent for the Wyoming ICAC task force, and he was in Alaska through ICAC funding for the Anchorage Police Department to train law

⁶ Some studies have shown much higher percentages. In "Victim to Victimizer," *Journal of Interpersonal Violence*, September 1989, p. 326. Gail Ryan of the Kempe National Center for Prevention and Treatment of Child Abuse and Neglect referred to studies showing that as many as 70 to 80 percent of adult sex offenders were sexually victimized as children (Groth and Freeman-Longo, 1979; Long, 1982; Kline, 1987). Fay H. Knapp commented in *Retraining Adult Sex Offenders: Methods and Models* (Orwell, VT: Sater Society Press, 1984), p. 53, that among sex offenders, sexual abuse during the development years is reported from a low of 20 percent to a high of 100 percent.

⁷ Numerous other problems including multiple personality disorders, depression, promiscuity, and a propensity for suicide have been documented as attributable, at least in part, to sexual abuse during childhood.

enforcement personnel in the use of the P2P tracking software and the tools that can convert computer serial numbers to physical locations. Because the tools can also reveal the frequency with which traders operate, law enforcement officers can prioritize their efforts to target the most serious offenders first. When the tools are coupled with an efficient process for obtaining search warrants, law enforcement officers can intervene, and because the evidence is present at the location, conviction is relatively straightforward.

According to Detective Sgt. Ron Tidler, supervisor of the APD Cyber Crimes Unit, the unit averages at least one arrest each week on this issue. But with the magnitude of the problem and the level of available resources, there is no possibility that law enforcement will be able to "arrest ourselves out of this problem."

GOOD NEWS AND BAD NEWS

The following are excerpts from Agent Flint Waters' comments before the U.S. House Judiciary Committee on October 17, 2007.

The good news is we know how to find these predators: they're just a subpoena away from arrest and prosecution.

The bad news is that while my task force and the ICAC network can tell you how to interdict tens of thousands of sex predators tomorrow, the vast majority of these leads will never be investigated. In fact less than two percent of these crimes we know about are investigated for sheer lack of resources. Most of these victims will not be rescued.

We are overwhelmed. We are underfunded, and we are drowning in a tidal wave of tragedy. We don't have the resources we need to save these children.

The price we pay for coming up short will be measured in children lost.

We hope this information is useful. Please contact us if you have questions or need additional information.

Attachment A

Flint Waters, "Child Sex Crimes on the Internet," Prepared for the U.S. House
Judiciary Committee, October 3, 2007



State of Wyoming Attorney General

Child Sex Crimes on the Internet

Prepared for: House Judiciary Committee

Prepared by: Flint Waters, Special Agent, Wyoming Attorney General Division of Criminal Investigation

October 3rd, 2007



State of Wyoming Attorney General

Summary

Overview

The statistics herein come from documented observations of one particular type of technology being used to facilitate child exploitation globally. Therefore, at most, the staggering numbers reported reflect a small portion of the severity of this problem given the growing form of predation facilitated by several types of technology associated with the Internet. Prior efforts to measure the use of technology in child exploitation have proven difficult due to the complexity of the systems leveraged by Internet predators. However, this report is able to provide some clear insight into the use of Peer to Peer networks in this type of crime.

Approach

Investigators deploying software written by the State of Wyoming have identified a vast network of traffickers who have distorted the original uses of Peer to Peer (P2P) networks to feed their own needs. The tactics being deployed by law enforcement have resulted in the identification of staggering numbers of individuals trading child sexual abuse movies and images.

Introduction

This report is presented by Flint Waters, Lead Special Agent for the Wyoming Internet Crimes Against Children Task Force, (ICAC). Agent Waters is the hands-on supervisor of a team of investigators tasked with interdicting child predators for the State of Wyoming. He carries a daily case load alongside state and federal agents in the Wyoming ICAC Task Force. Agent Waters is the author of the software used in Operation Peer Precision and has trained law enforcement from around the world. He has been recognized as an expert in Internet Child Exploitation in state and federal court and has previously testified before congress.

Estimates

The details you are about to review originate from a single P2P network, one of many used daily on the Internet. These details relate to just one small corner of the Internet. It applies only to one P2P system where child sexual abuse movies and images were presented to undercover law enforcement throughout the world. This data does not include traders using email, chat, social networks, news servers or paid and free web sites. At most it can be seen as a bare minimum of the trafficking of child sexual exploitative materials.



State of Wyoming Attorney General

Just One System

During undercover operations officers are presented with the same search results viewable by the predator using the system in their home. These results contain hundreds if not thousands of images of child sexual abuse and are a virtual menu of movies depicting the brutal rape of children as young as infants. Based on the preference of the user, downloads can focus on children being tied up, abused by adults, forced to have sex with animals or any combination thereof.

Investigators can download thirty minute movies complete with sound where an adult is forcibly penetrating a child. The user can listen to the child cry out for help as the video permanently memorializes each horrifying moment.

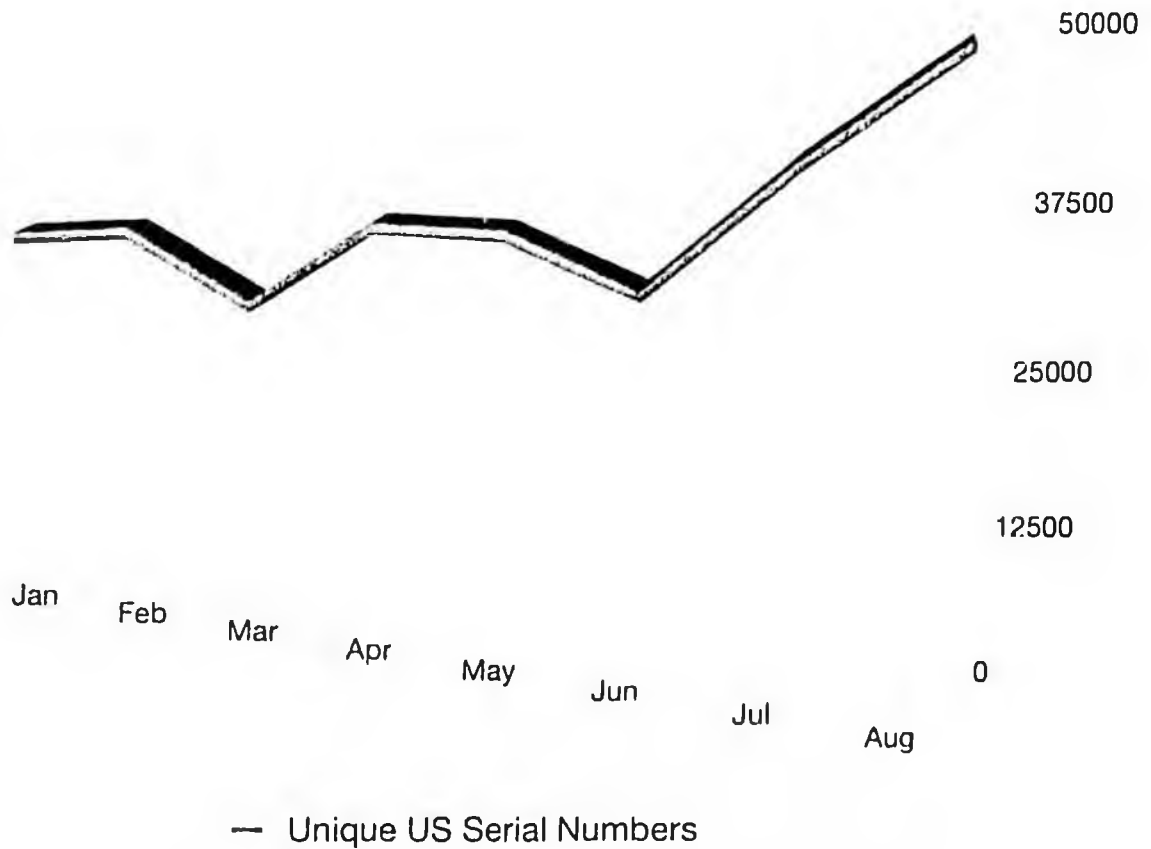
Problem Scope

The software used on this particular network maintains a unique serial number for each installed system. During undercover operations, investigators track these serial numbers to get a global perspective of individual users. Previously, investigators could only document the Internet Protocol addresses (IP) of these users, however, since IP addresses are dynamic and subject to frequent change, it is difficult to get a conclusive picture of the volume of individual trafficking.

With that in mind, the following chart represents the number of unique users identified trading child sexual abuse imagery in 2007. The numbers for each month represent one software application on one P2P network. These are only the U.S. offenders found by law enforcement during undercover operations.



Distinct P2P Use



	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>
Unique US Serial Numbers	30817	32017	26976	34167	34443	30803	41073	49554



Unique Traders

In the chart labeled Distinct P2P use we can see that over forty-nine thousand unique systems were found trading child sexual abuse imagery in August, 2007. That number represents the latest statistics available at the time of this report and we can see a continuing trend in the increase of this activity even though law-enforcement has been trying to disrupt this system for three years.

The monthly totals listed only depict unique use during that month. In most cases these users were also reflected in prior months. A review of the complete seven month period reveals 193,626 unique computers in the United States located by law enforcement trafficking child sexual abuse imagery. This ability to track serial numbers was implemented in late 2005. Since that time we have identified 377,044 unique serial numbers related to this activity.

We should note that individuals using two computers or who purchase a new computer will be reflected twice in these numbers. Simply upgrading the software does not change this serial number for the application reported. In Wyoming, we have seen only two cases out of over 100 search warrants served where an individual had two serial numbers associated with their activity.

Impact

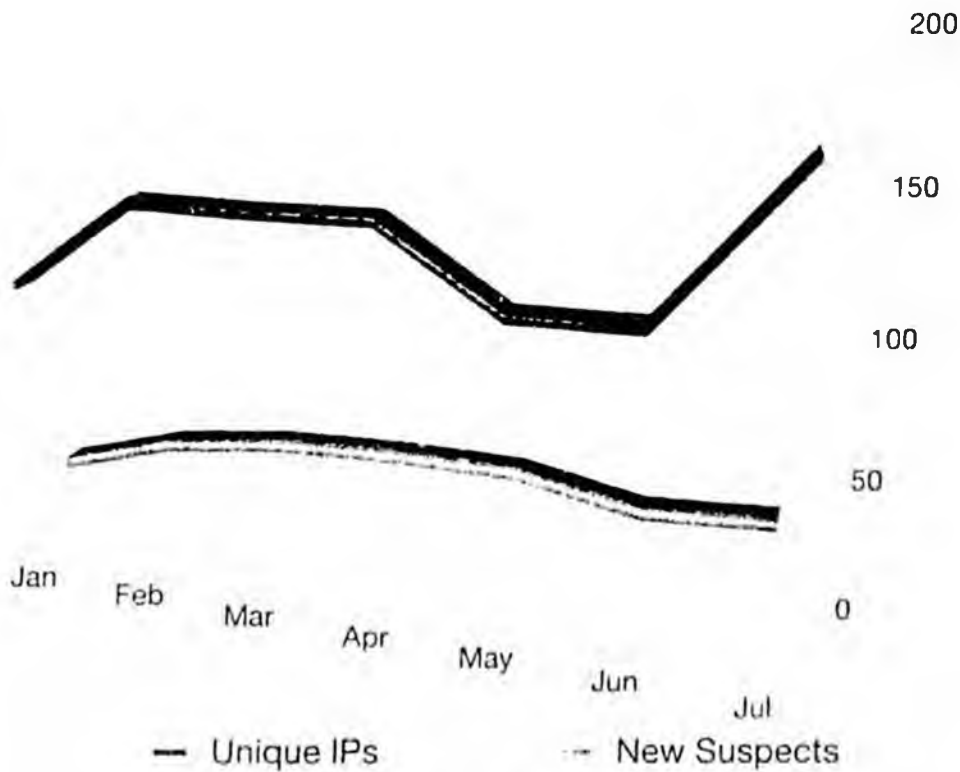
The impact of these traders on law enforcement's ability to respond has been catastrophic. This one small segment of the internet has caused the investigative and forensic infrastructure to be overwhelmed. In Wyoming alone we are behind over eight hundred (800) search warrants. With Wyoming being the smallest state by population, it is not difficult to imagine how these offenses have crippled much larger jurisdictions.



Growth

In Wyoming we send process on each IP address found during these undercover operations. Resulting records allow us to match the number of new IP addresses to the number of new individuals trading child sexual abuse material in Wyoming.

Wyoming growth



	Jan	Feb	Mar	Apr	May	Jun	Jul	Cumulative
Unique IPs	107	139	139	140	113	114	169	921
New Suspects	29	42	48	50	50	42	45	306
% of Unique IPs	27.1%	30.2%	34.5%	35.7%	44.2%	36.8%	26.6%	33.2%



The steady increase in Wyoming has continued to tax an already overwhelmed system. We have specific records that demonstrate how many IP addresses refer to specific individuals. Over the first six months of 2007 we were able to show that the nine hundred twenty one (921) unique addresses related to three hundred and six (306) individuals.

There have been 1,519,791 unique IP addresses identified in the United States. If the breakdown were constant with the results in Wyoming that would indicate 504,947 individuals identified throughout the United States in the last three years. This is a rough estimate but again, it only pertains to one of many P2P systems and does not include other methods of trading child sexual abuse material.

Methodology

Conducting the undercover portion of these P2P operations is fairly simple. Investigators use the search terms known to law enforcement to identify advertised child sexual abuse material. The investigator then initiates downloads and starts to identify IP addresses. By examining these addresses the investigator can see where an offender is located. This allows each investigator to focus their efforts within their own jurisdiction.

Once an offending computer has been identified in the local jurisdiction the investigator may download child pornography directly from the suspect computer. As this progresses the investigation is documented and memorialized through software applications. Investigators will also check the reported IP address for involvement in previous activities related to child sex crimes. Often records will be found associating the address with other investigations.

Once criminal conduct is confirmed the investigator sends process to the Internet Service Provider (ISP). This request will attempt to identify the physical address associated with the IP address. Most frequently this will match a residence or business with a paid internet account. If the ISP has records the investigator can continue the investigation.

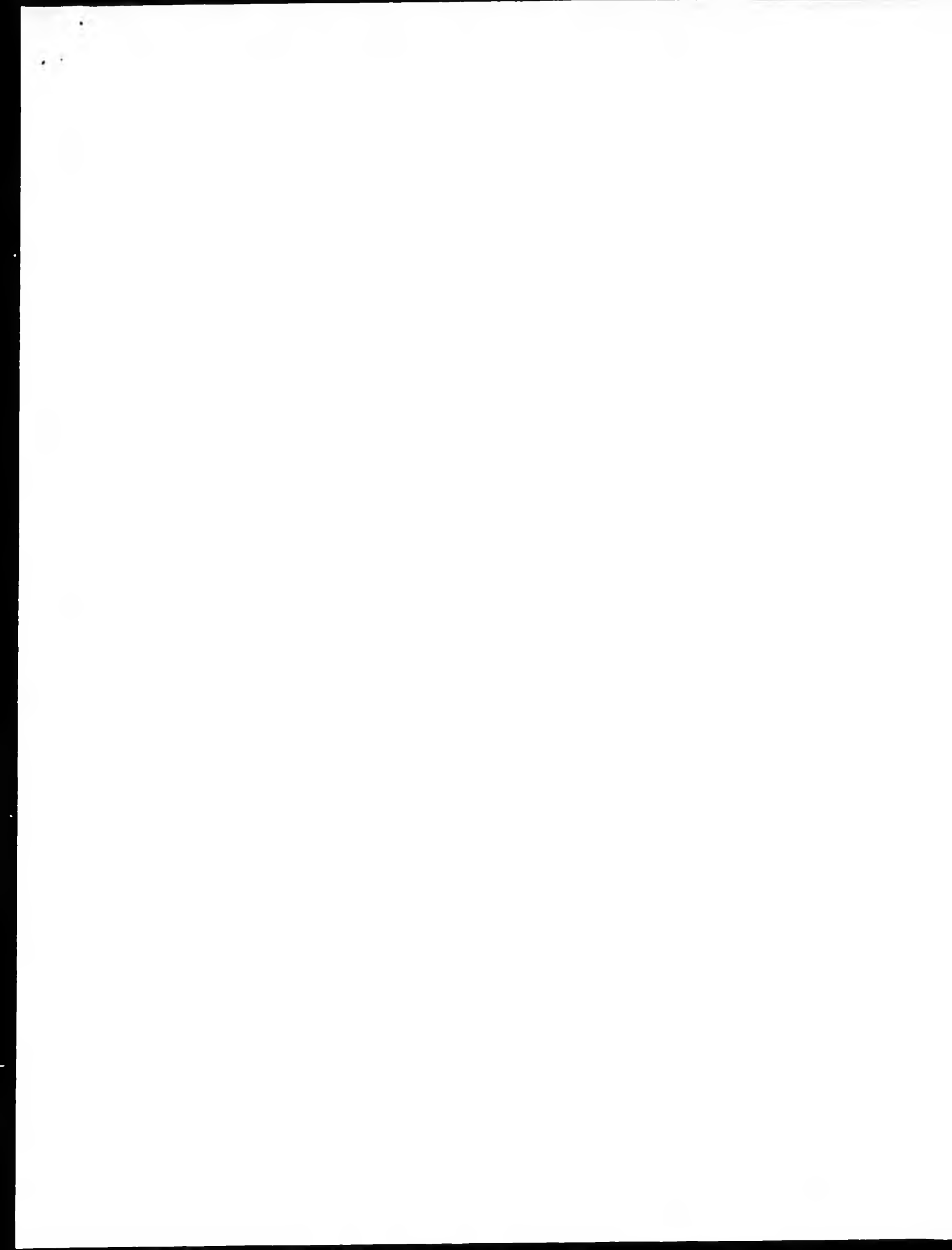
Investigators will then research the location provided. Investigators will attempt to identify the occupants as well as immediate risks to children. Criminal history information will be obtained if available to help establish the priority of the investigation.

Once all background material has been reviewed a decision to apply for a search warrant will be made. If a warrant is appropriate an application will be submitted to a local or federal prosecutor. If approved, the application then goes before the appropriate judge. If signed the investigators have a limited amount of time to execute the warrant and seize any evidence found.

Interviews may be conducted pursuant to the investigation. All digital evidence will be submitted for forensic examination. Depending on the evidence and the potential for risk to individuals an arrest may be made during the execution of the warrant.

Rescues

These P2P undercover investigations have resulted in the rescue of many children.



Attachment B

Kimberly J. Mitchell, David Finkelhor, and Janis Wolak, University of New Hampshire, "The Internet and Family and Acquaintance Sexual Abuse," *Child Maltreatment*, Vol. 10, No. 1, February 2005, pp. 49-60

The Internet and Family and Acquaintance Sexual Abuse

Kimberly J. Mitchell
David Finkelhor
Janis Wolak
University of New Hampshire

This article explores the dynamics of cases involving family and acquaintance sexual offenders who used the Internet to commit sex crimes against minors. Although the stereotype of Internet crimes involves unknown adults meeting juvenile victims online, Internet use can also play a role in sexual crimes against minors by family members and acquaintances. Data were collected from a national sample of law enforcement agencies about arrests for Internet-related sex crimes against minors. Family and acquaintance offenders were nearly as numerous as offenders who used the Internet to meet victims online. They used the Internet in various ways to further their crimes including as a tool to seduce or groom, store or disseminate sexual images of victims, arrange meetings and communicate, reward victims, or advertise or sell victims. Prevention messages and investigation approaches should be revised to incorporate awareness of such cases and their dynamics.

Keywords: *Internet; sexual abuse; offender; youth; family; acquaintance*

The Internet and its related technology is transforming many domains of social life, so there is every reason to believe that it will have an effect on child maltreatment as well. Thus far, the predominant concern about the Internet and child maltreatment has involved online meeting crimes in which, stereotypically, adult strangers have used the Internet to meet and develop abusive relationships with vulnerable youth

However, the Internet may have also affected the nature and dynamics of sexual abuse that occurs at the hands of nonstrangers including family and acquaintance sex offenders in a number of ways. First, the availability of digital photography and the market for child pornography on the Internet may have made the production and online distribution of child pornography a more frequent component of abuse by family and acquaintance offenders. Second, the availability and ease of online communications may allow some acquaintance offenders to bypass parents and other caretakers to develop abusive relationships with potential victims that they could not have achieved with face-to-face contact. Third, the Internet may provide new opportunities for family and acquaintance offenders to seduce children and adolescents for abuse, including new ways of bringing sexual topics into interactions and exposing children to sexual images and materials.

Family and Acquaintance Sex Offenders

Children and adolescents are more victimized than adults (Finkelhor, 1997; Hashima & Finkelhor, 1999). This is partly because of their dependency status that results in little choice as to whom they associate with. In other words, children who live in violent families or violent neighborhoods typically do not have the ability to leave these environments. Child victimization in the form of sexual abuse in particular has been an important focus of study for several

decades prior to the existence of the Internet. Most offenders in non-Internet, or conventional, child sexual abuse cases perpetrate their crimes against victims within their own families or with whom they are acquainted (Finkelhor, 1997). Children younger than the age of 12 are dependent on their caregivers, and, as such, most of the sexual abuse occurring in this age group is by family members. As children grow, they develop more connections with people outside of the family unit, and abuse at the hands of persons outside of the family, such as acquaintances and peers, increases.

Current Article

The current article will use a sample of acquaintance and family sex offenders identified in a study of Internet sex crimes against children to explore and illustrate how such offenders used the Internet. Specifically, this article will examine offender, victim, and case characteristics from a national sample of cases involving arrests made for Internet-related sex crimes against minors. Data will first address what proportion of arrests for Internet sex crimes against minors were committed by family and acquaintance offenders and compare this to the numbers of cases involving the more publicized online meeting crimes. Next, offender and victim characteristics will be examined between offender groups (i.e., family versus acquaintance offenders). Then, using a combination of qualitative and quantitative characteristics, we will explore the different ways the Internet is used by family and acquaintance offenders, the types of sexual assaults that occurred, and the aggravating features of the crimes contrasted between the two offender groups. Finally, case outcomes in terms of convictions of offenders and mental health referrals for victims will be examined across groups.

National Juvenile Online Victimization (NJOV) Study

The NJOV Study was undertaken to obtain a sense of the scope and types of law enforcement activity in this area and to serve as a baseline for monitoring the growth of Internet sex crimes against minors and related law enforcement activities.

Because Internet sex crimes against minors are a recent phenomenon, data about them have not been gathered in a national study. The NJOV Study is the first national research project to systematically collect data about the number and characteristics of arrests for Internet sex crimes against minors, and it had three goals

- to estimate a baseline number of arrests during a 1-year period so that the growth of these cases in the criminal justice system can be measured in the future,
- to provide a statistical portrait of the characteristics of Internet sex crimes against minors and a description of how they are handled within the criminal justice system, and
- to organize the variety of cases into a typology useful for tracking and analysis.

METHOD

NJOV Sample and Procedure

The NJOV study collected information from a national sample of law enforcement agencies about the characteristics of Internet sex crimes against minors and the numbers of arrests for these crimes during a 1-year period. The goals of the methodology were to construct a representative national sample of law enforcement agencies that would give an overall picture of these crimes in the United States, understand how these cases emerged and were handled in a diverse group of agencies, and obtain detailed data about the characteristics of these crimes from well-informed, reliable sources.

Law enforcement investigators were interviewed, because investigators have been in the forefront of identifying and combating these crimes and are the best sources of accessible, in-depth information about their nature. A focus was placed on cases that ended in arrests rather than crime reports or open investigations, because cases ending in arrests were more likely to involve actual crimes; had more complete information about the crimes, offenders, and victims; gave a clear standard for counting cases; and helped avoid interviewing multiple agencies about the same case.

First, a national sample of 2,574 state, county, and local law enforcement agencies was surveyed by mail asking them if they had made arrests in Internet-related child pornography or sexual exploitation cases. Detailed telephone interviews were then conducted with investigators who had such cases. The methodology was modeled after that used in the Second National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children (NISMA-2) to survey law enforcement agencies about child abduction cases (Sedlak, Finkelhor, Hammer, & Schultz, 2002).

Eighty-eight percent of the agencies ($n = 2,270$) responded to the mail surveys. Seventeen percent of the agencies ($n = 383$) that responded reported 1,723 arrests. To be eligible, cases had to (a) have victims younger than 18, (b) involve arrests between July 1, 2000, and June 30, 2001; and (c) be Internet-related

Cases were Internet related if any of the following criteria were met: (a) An offender-victim relationship was initiated online; (b) an offender who was a family member or acquaintance of a victim used the Internet to communicate with a victim to further a sexual victimization or otherwise exploit the victim; (c) a case involved an Internet-related, proactive investigation; (d) child pornography was received or distributed online or arrangements for receiving or distributing were made online; or (e) child pornography was found on a computer, on removable media such as floppy disks and compact disks, as computer printouts, or in a digital format.

We designed a sampling procedure for case-specific interviews that took into account the number of cases reported by an agency so that we would not unduly burden respondents in agencies with many cases. If an agency reported between 1 and 3 Internet-related cases, we conducted follow-up interviews for every case. Eighty-five percent of the responding agencies were in this group. For agencies that reported more than 3 cases, we conducted interviews for all cases that involved identified victims and sampled other cases. (The term *identified victims* denotes victims that were identified and contacted by law enforcement in the course of the investigation.) For agencies with between 4 and 15 cases, approximately half of the cases that did not have identified victims were randomly selected for follow-up interviews. In agencies that reported more than 15 cases, approximately one quarter of the cases with no identified victims were randomly selected. In some agencies, we could not find out which cases had identified victims, so we sampled from all cases, using the sampling procedure described above.

Of the 1,723 cases reported by law enforcement, 37% ($n = 646$) were not selected for the sample and 16% ($n = 281$) were ineligible thus resulting in 796 cases in the sample. Ineligible sampled cases were not replaced in the sample, because one study goal was to estimate annual numbers of arrests for which we used statistical weighting procedures that required non-replacement. Of these 796 cases, 79% ($n = 630$) of the telephone interviews were completed by six trained interviewers between October 2001 and July 2002. Of those not completed, 13% involved investigators that did not respond to requests for interviews, 3% involved respondents who refused to be interviewed, and 5% involved duplicate cases or cases that could not be identified. A total of 18 completed interviews were duplicate cases and thus dropped from the data set thereby resulting in 612 completed interviews. The present article examined a subsample of 126 arrests in which offenders had prior relationships

with their victims, either as a family member or an acquaintance.

Weighting Procedures and Prevalence Estimates

A statistical technique called *weighting* was used to estimate annual numbers of arrests involving Internet sex crimes against minors in a 1-year time frame within the United States. Weighting takes into account sampling procedures and nonresponse to allow use of the data to project estimated annual arrest totals with 95% confidence that the accurate number will fall within a specific range. Four weights were constructed to reflect the complex sample design. First, each case was given a sampling weight to account for the probability of selection to both the mail survey and telephone interview samples. The sampling weights were adjusted for agency nonresponse, case-level nonresponse, duplication of cases among agencies, and arrests by one federal agency that did not participate in case-level interviews. Second, primary sampling unit weights were created to account for clustering within each of the three sampling frames. Third, stratification weights were computed based on the different sampling strategies for each frame. Finally, finite population correction factors accounted for the sampling being conducted without replacing ineligible cases. (More detailed information about these weighting procedures is available at <http://www.unh.edu/ccrc/pdf/NJOVmeth.pdf>.)

Measures and Definitions

Cases involving family and acquaintance offenders arrested for Internet-related sex crimes against minors were defined as those in which the offenders were known to their victims as family members or face-to-face acquaintances prior to the crimes they committed (i.e., they did not first meet online) and who used the Internet in some capacity during their crime.

The victims described in this article were primary victims. In more than half of the cases (54%), they were the only victims involved in current crimes. Twenty five percent of the crimes had 2 victims, 14% had 3 to 5 victims, and 6% had 6 or more victims. In cases with multiple victims, the primary victim was chosen for follow-up based on the following hierarchical criteria: (a) the victim who used the Internet directly, (b) the victim who was the most seriously victimized, or (c) the victim who was the youngest.

Other variables used throughout this article were part of a survey developed for this study. Questions were developed through interviews and consultations with law enforcement. Completed surveys were also

pilot tested with police before the actual data collection began. These questions covered a number of different aspects of the case including how the case was initiated, specific case characteristics, offender characteristics, victim characteristics, and case outcomes.

RESULTS

Number of Arrests

An estimated 460 arrests (95% confidence interval: 435-485) were made in the United States for Internet-related sex crimes against minors involving family and acquaintance offenders in the 1-year period beginning July 1, 2000. This represents 18% of all arrests for Internet sex crimes against minors, which constituted approximately 2,577 arrests in the same time frame (Wolak, Mitchell, & Finkelhor, 2003). Arrests of family and acquaintance offenders represented approximately half of all Internet crimes against identified victims (39% of all arrests) with the other half representing offenders who used the Internet to initiate a relationship with the victim (i.e., Internet-initiated). Other Internet-related sex crimes against minors identified in this study included Internet solicitations to undercover law enforcement posing online as minors (25% of arrests) and Internet child pornography possession or distribution (36% of arrests; see Wolak, Finkelhor, & Mitchell, 2004, for more details on these other Internet-related sex crimes against minors).

Offender and Victim Characteristics Across Offender Groups

Offender demographics. All but 1% of offenders were male (see Table 1). Most offenders were 26 years of age or older (87%), and most were non-Hispanic Whites (95%). Fifty-one percent had annual household incomes between \$20,000 and \$50,000 with 19% having incomes greater than \$50,000. There was a range of highest education levels with 36% being high school graduates and 35% having at least some college experience. Twenty-four percent lived in suburban neighborhoods, and an additional 46% lived in small towns or rural areas. Thirty-three percent were single and never married, 35% were married, and 17% divorced. More than three quarters of offenders worked full time (78%) with 9% unemployed.

Some differences existed between family and acquaintance offenders on the above demographic characteristics. More family offenders were from small towns, whereas a greater proportion of acquaintances lived in urban locations. More acquaintance offenders had jobs that provided them with access to

TABLE 1: Offender Demographic Characteristics (Unweighted $N = 126$)

Demographic Characteristics	All Offenders (Unweighted $N = 126$)	Family Offenders (Unweighted ^a $n = 52$)	Acquaintance Offenders (Unweighted $n = 74$)
	% (n)	% (n)	% (n)
Gender			
Male	99 (123)	97 (49)	100 (74)
Female	1 (3)	3 (3)	0 (0)
Age			
Younger than 18 years old	5 (6)	0 (0)	9 (6)
18 to 25 years old	8 (8)	6 (2)	9 (6)
26 to 39 years old	43 (61)	48 (29)	39 (32)
40 years or older	44 (51)	46 (21)	43 (30)
Race/ethnicity			
Non-Hispanic White	95 (115)	97 (49)	93 (66)
Hispanic White	3 (7)	2 (2)	4 (5)
Non-Hispanic African American	1 (3)	1 (1)	2 (2)
Asian	1 (1)	0 (0)	1 (1)
Geographical location*			
Small town	35 (34)	45 (19)	27 (15)
Suburban	24 (31)	19 (12)	27 (19)
Urban	21 (31)	13 (8)	27 (23)
Rural	11 (14)	13 (7)	10 (7)
Large town	10 (16)	11 (6)	9 (10)
Highest education*			
Did not finish high school	9 (14)	4 (4)	12 (10)
High school graduate	36 (38)	45 (18)	29 (20)
Some college education	18 (28)	20 (12)	17 (16)
College graduate	12 (19)	6 (5)	17 (14)
Postcollege degree	5 (6)	0 (0)	10 (6)
Technical training	6 (5)	9 (3)	4 (2)
Don't know	14 (16)	17 (10)	12 (6)
Employment			
Full-time	78 (97)	72 (39)	83 (58)
Unemployed	9 (11)	13 (6)	5 (5)
In school	5 (7)	0 (0)	10 (7)
Part-time	6 (10)	6 (2)	6 (8)
Retired	5 (3)	11 (3)	0 (0)
Other (e.g., disabled, trust fund)	4 (6)	5 (2)	4 (4)
Don't know	1 (3)	3 (3)	0 (0)
Job provided access to children**	15 (22)	5 (3)	23 (19)
Household annual income^a			
Less than \$20,000	17 (27)	15 (11)	18 (16)
\$20,000 to \$50,000	51 (58)	57 (23)	46 (35)
\$50,000 to \$80,000	11 (20)	13 (9)	15 (11)
More than \$80,000	5 (6)	1 (1)	8 (5)
Don't know	13 (15)	14 (8)	12 (7)
Marital status***			
Single, never married	33 (41)	12 (6)	50 (38)
Married	35 (43)	38 (30)	18 (13)
Divorced	17 (22)	10 (5)	22 (15)
Living with a partner	6 (9)	8 (1)	5 (5)
Separated	3 (4)	6 (2)	2 (2)
Widowed	3 (3)	7 (3)	0 (0)
Don't know	2 (1)	0 (0)	1 (1)

NOTE: *n*s and percentages may not be proportional because results are weighted to reflect selection probabilities, and some cases have more influence than others. Some percentages may not add to 100% because of rounding.

a. Missing data represent more than 5%. A comparison dummy variable was examined and found to be nonsignificant.

* $p < .05$. ** $p < .01$. *** $p < .001$.

TABLE 2: Victim Demographic Characteristics (Unweighted N = 126)

Victim Characteristics	All Victims (Unweighted N = 126) % (n)	Family Victims (Unweighted n = 52) % (n)	Acquaintance Victims (Unweighted n = 74) % (n)
Relationship to offender			
Family member	44 (52)	100 (52)	
Adult relative (grandparent, uncle, aunt)	18 (14)	40 (14)	
Parent	9 (16)	21 (16)	
Stepparent	8 (11)	19 (11)	
Parent's intimate partner	8 (9)	18 (9)	
Juvenile relative	< 1 (1)	1 (1)	
Legal guardian	< 1 (1)	1 (1)	
Acquaintance	56 (74)		100 (74)
Neighbor or member of community	16 (17)		29 (17)
Friend or relative of juvenile friend	12 (11)		21 (11)
Teacher	9 (10)		16 (10)
Family friend or friend of parent	7 (10)		13 (10)
Leader or member of youth organization/athletics	4 (7)		7 (7)
Employer or co-worker of victim	2 (4)		4 (4)
Other youth known to victim	2 (1)		4 (4)
Boarder	1 (3)		2 (3)
Babysitter	1 (3)		2 (3)
Other	2 (5)		2 (5)
Demographics			
Gender***			
Female	70 (85)	93 (47)	51 (38)
Male	30 (44)	7 (5)	49 (36)
Age***			
3 years old or younger	2 (6)	4 (5)	1 (1)
3 to 5 years old	5 (9)	8 (6)	2 (3)
6 to 12 years old	45 (56)	70 (31)	25 (25)
13 to 17 years old	18 (35)	18 (10)	71 (45)
Race/ethnicity			
Non-Hispanic White	95 (116)	99 (51)	91 (65)
Hispanic White	3 (5)	0 (0)	5 (5)
Non-Hispanic African American	1 (2)	0 (0)	2 (2)
American Indian or Alaskan Native	1 (1)	0 (0)	1 (1)
Asian	< 1 (1)	1 (1)	0 (0)
Not ascertainable	1 (1)	0 (0)	1 (1)
Geographical location			
Small town	38 (33)	11 (18)	43 (15)
Suburban	20 (27)	16 (11)	21 (16)
Urban	19 (31)	16 (8)	21 (23)
Rural	11 (13)	9 (7)	12 (6)
Large town	10 (16)	11 (6)	9 (10)
Don't know/not ascertainable	3 (6)	1 (2)	1 (1)
Household annual income***			
Less than \$20,000	23 (27)	21 (12)	22 (15)
\$20,000 to \$50,000	42 (49)	52 (22)	31 (27)
\$50,000 to \$80,000	11 (17)	12 (7)	10 (10)
More than \$80,000	7 (9)	1 (1)	12 (8)

(continued)

TABLE 2 (continued)

Victim Characteristics	All Victims (Unweighted N = 126) % (n)	Family Victims (Unweighted n = 52) % (n)	Acquaintance Victims (Unweighted n = 74) % (n)
Don't know/not ascertainable	18 (24)	11 (10)	23 (14)
Who was victim living with*			
both biological parents	35 (48)	32 (16)	38 (32)
One biological parent only	39 (46)	35 (1 ^a)	42 (27)
One biological parent and a stepparent	19 (20)	30 (14)	11 (6)
Foster parent or other	5 (9)	2 (2)	7 (7)
Don't know/not ascertainable	1 (3)	1 (1)	2 (2)

NOTE: ns and percentages may not be proportional because results are weighted to reflect selection probabilities, and some cases have more influence than others. Some percentages may not add to 100% because of rounding.

a. Because missing data were greater than 5%, a dichotomous dummy variable was created to test missing versus other responses and found to be significant. As such, this variable includes the missing data in the comparisons.

*p < .05 **p < .01 ***p < .001.

children (23% vs. 5%). In terms of marital status, family offenders were more likely to be married (58% vs. 18%), whereas acquaintance offenders were more likely to be single and never married (50% vs. 12%) or divorced (22% vs. 10%).

Victim relationship with the offender. Of the family and acquaintance offenders, 44% were family members that encompassed a variety of relationships such as adult relatives (e.g., grandparent, aunt, or uncle), parents, stepparents, and parent's intimate partners (Table 2). Offenders who were acquaintances of victims constituted 56% of cases and consisted of neighbors, relatives of juvenile friends, teachers, family friends, and leaders or members of youth organizations, among others.

Victim demographics. The majority of victims were female (70%), 45% of all victims were between the ages of 6 and 12, and 48% were 13 to 17 years old (Table 2). Most victims were non-Hispanic Whites and lived in a variety of geographical areas (e.g., small towns, urban, suburban). The majority (65%) lived in households with annual incomes of \$50,000 or less. Thirty-five percent lived with both biological parents, 39% with one biological parent only, and 19% lived with a biological parent and a stepparent.

The most notable differences between the victims of family offenders and those of acquaintance offenders were gender and age. Almost all of the victims of

TABLE 3: Usage of the Internet in Family and Acquaintance Sexual Abuse Cases (Unweighted $N = 126$)

Use of Internet ^a	Description	Cases Cases (Unweighted N = 126) % (n)	Family Cases (Unweighted n = 52) % (n)	Acquaintance Cases (Unweighted n = 74) % (n)
Seduce or groom	Sexual conversations online and sending sexual pictures, fondling or holding child on lap while viewing pornography, illustrating how to perform sexual acts	67 (75)	70 (29)	65 (46)
Child pornography productions	Using Internet as a tool to distribute child pornography	43 (64)	49 (34)	39 (30)
Arrange meetings or other communication***	Set up time and locations for meetings	26 (31)	6 (2)	43 (29)
Reward*	Attracting victims to home with promises of Internet use	4 (5)	0 (0)	8 (5)
Advertise or sell	Advertising victims for prostitution, offering minors to other offenders	2 (6)	2 (3)	2 (3)

NOTE: ns and percentages may not be proportional because results are weighted to reflect selection probabilities, and some cases have more influence than others. Some percentages may not add to 100% because of rounding.

a. Overlap between different uses of the Internet possible.

* $p < .05$. *** $p < .001$.

family offenders were female (93%) and younger than the age of 12 (82%), whereas nearly half (49%) of the victims of acquaintance offenders were male and most were teenagers (71%). Also, victims of acquaintance offenders were more likely to live in households with slightly higher annual incomes, although there were significantly more missing data for victims of acquaintance offenders that might account for this difference. Victims of family offenders were more likely to live with stepparents (30% vs. 11%).

Use of the Internet

Through examining both qualitative narrative descriptions and quantitative data, we identified five primary ways the Internet was used in the commission of these crimes: (a) seduction or grooming, (b) child pornography production, (c) arranging meetings and other communication, (d) rewarding victims, and (e) advertising or selling victims (Table 3). Most offenders (61%) used the Internet in only a single one of these ways, but 30% used two and 9% used three ways.

Seduction or grooming. The most common way the Internet was used by family and acquaintance offenders was to seduce or groom victims through online sexual conversations, sending sexual pictures to victims, fondling or holding victims while jointly viewing child or adult pornography, and using online pornography to show victims how to perform sexual acts. Most family and acquaintance offenders (67% overall; 65% of all acquaintance offenders and 70% of all family offenders) used the Internet to seduce or

groom. For example, a high school teacher gradually introduced sexual conversations to a 14-year-old female student online. He wanted to have sex with her and showed her soft-core photos he had taken of other girls at the school. The victim's older sister insisted she report this to the police. In another case, a 43-year-old offender was fondling his 5-year-old neighbor while showing her pornography on the computer.

Child pornography, production. The Internet was used by almost half of the offenders (43% overall; 49% of all family offenders and 39% of all acquaintance offenders) to store or disseminate produced child pornography images to other offenders online. For example, a 27-year-old offender was putting sexual pictures of his 9-year-old half-sister on his computer. He had been taking photos of her while she was in the bathroom, in the shower, and while changing through use of a hidden camera and by going into the bathroom himself to take pictures. These images were stored on his computer. He tried to force a towel from her when she was covering herself with it. She told her mother who called the police. In another case, a 39-year-old offender sexually abused his daughter from the time she was 7 until she was 10. He sometimes took pornographic pictures of the abuse and e-mailed them to other people.

Arranging meetings and other communication. Another way the Internet was used was as a tool to arrange meeting times and communicate with victims. Twenty-six percent of offenders used the Internet this way (6% of all family offenders and 43% of all

acquaintance offenders; $p < .001$). For example, a teacher used the Internet to communicate with a 15-year-old student by using code words to arrange meetings. Their sexual encounters occurred after school and on weekends until the victim's parents found the e-mails and reported him to the police. In another case, the offender was a high school teacher. This offender and his female student started talking online. The victim became uncomfortable when the conversations became more sexual. He solicited her for sex and kept asking for nude pictures, but she refused. In the school, he would do things like grab her buttocks and make it look like an accident.

Rewarding victims. The Internet was also used as a reward to attract victims into the offender's home in 4% of all cases. These were all acquaintance offenders (8%). For example, 1 case involved 3 brothers who met the offender through their mother. The offender's hook was to teach the victims how to use the computer. On weekends, he would take the boys and his computer from his home to a beach cottage where he would show them child and adult pornography and sexually assault them. In another case, the offender had about 12 computers in his home, and he allowed kids to have their own computer and view adult pornography. He was also producing child pornography with 7 of these victims.

Advertising or selling victims. In a minority of cases (2% overall; 2% of family offenders and 2% of acquaintance offenders), offenders used the Internet to advertise victims in prostitution cases or sell minors to other offenders. For example, a 38-year-old offender posted an ad on the Internet for an escort service involving young girls. The victims were 5- and 9-year-old girls who were the daughters of the offender's girlfriend. Undercover agents contacted the offender, and he, in turn, sent them images of the girls that were sexual in nature. As another example, a 30-year-old man was selling sex with a 12-year-old boy online. This offender also took pornographic pictures and sexually molested this boy. An investigator went undercover online as an adult who wanted access to the minor. In another case, an investigator identified an online sex ring involving 6 offenders involved in exploiting at least 3 victims through a prostitution ring that was advertising underage girls online. One of these offenders, a 24-year-old man, was advertising a 13-year-old girl.

Types of Sexual Assault Crimes

Some form of sexual activity occurred in all cases. The sexual activity commonly involved intercourse or some other penetration (45%), noncontact victim-

ization such as child pornography production or transmitting pornography online to a victim (21%), fondling (15%), oral sex (8%), inappropriate touching (7%), or something else such as solicitation, attempted penetration, or having the victim touch the offender sexually (2%). The lengths of time the crimes continued before becoming known to police varied with no differences between the two types of offenders. For 23% of the cases, the crime continued for 1 month or less; for 19%, it went on for 1 to 6 months; for 23%, it went on for 6 months to 1 year; and for 24%, it went on for more than 1 year.

Other Aggravating Features of Sexual Assault

Police reported on a number of aggravating aspects of these sexual assaults (Table 4). Specifically, police said coercion was involved in almost half of the cases (45%) with more coercion by the family offenders (63% vs. 30%). They reported that some of the sexual activity was voluntary on the part of victim (37% of cases) but was more likely with victims of acquaintance offenders (55% vs. 15%). Also, a small percentage of offenders (11%) used violence or threats of violence to sexually assault victims, more often by family offenders (22% vs. 1%). Victims were offered or given illegal drugs or alcohol in 28% of these crimes, and in a smaller number of cases, victims were abducted (4%), illegally detained (5%), physically assaulted (6%), or physically injured (3%). Seven percent of victims committed crimes when they were with offenders. Child pornography production was involved in 54% of these crimes. Although adult pornography was offered or given to victims in half of these cases, this happened more often among family offenders (57% vs. 46%).

Case Outcomes for Offenders and Victims

Convictions. The majority of both family and acquaintance offenders pled guilty (71%) or were convicted at trial (15%) for the crimes they were charged with (Table 5). Family offenders were more likely to plead guilty (82% vs. 63%), whereas acquaintance offenders were more likely to be convicted at trial (22% vs. 7%). Only a small percentage of cases involved dropped or dismissed charges (2%). Some cases were still pending (11%) at the time of data collection. More than half of the offenders received some incarceration for their crimes (60%). More than one third (33%) received some probation. Almost all offenders were required to register as sex offenders (92%), but this was the case for significantly more family offenders (97% vs. 88%).

TABLE 4: Illegal Sexual Activity and Aggravating Features of Assault (Unweighted $N = 126$)

Characteristics	All Victims (Unweighted $N = 126$)	Family Victims (Unweighted $n = 52$)	Acquaintance Victims (Unweighted $n = 74$)
Illegal sexual activity			
Type			
Intercourse or other penetration	45 (50)	52 (24)	40 (26)
Noncontact	22 (31)	17 (11)	25 (20)
Fondling	15 (18)	17 (6)	14 (12)
Oral sex	8 (12)	3 (3)	15 (9)
Inappropriate touching	7 (8)	9 (5)	6 (3)
Something else	2 (5)	4 (3)	1 (2)
Don't know	1 (2)	0 (0)	1 (2)
Length of time crime continued before it became known to police^a			
1 month or less	23 (24)	19 (6)	27 (18)
1 month to 6 months	19 (21)	15 (7)	23 (14)
6 months to 1 year	23 (28)	29 (12)	17 (16)
More than 1 year	24 (39)	28 (19)	21 (20)
Don't know/not ascertainable	10 (14)	8 (8)	12 (6)
Aggravating features			
Child pornography production	54 (79)	61 (38)	49 (41)
Coercion ^{***d}	45 (51)	63 (28)	30 (23)
Voluntary ^{***h}	37 (42)	15 (8)	55 (34)
Use of violence or threats of violence ^{***d}	11 (11)	22 (9)	1 (2)
Offered or given illegal drugs or alcohol ^a	28 (34)	21 (9)	34 (25)
Abducted	4 (4)	7 (3)	1 (1)
Illegally detained	5 (6)	5 (1)	5 (5)
Physically assaulted	6 (14)	8 (7)	5 (7)
Physically injured	3 (6)	5 (4)	1 (2)
Victim committed crime when with offender	7 (7)	1 (2)	11 (5)
Offered or given adult pornography ^a	50 (62)	57 (27)	46 (35)

NOTE: ns and percentages may not be proportional because results are weighted to reflect selection probabilities, and some cases have more influence than others. Some percentages may not add to 100% because of rounding.

a. Missing data represent more than 5%. A comparison dummy variable was examined and found to be nonsignificant.

b. Because missing data were greater than 5%, a dichotomous dummy variable was created to test missing versus other responses and found to be significant. This variable includes the missing data in the comparisons.

* $p < .05$ *** $p < .001$.

Mental health referrals. Most of the victims in this study were referred to some type of mental health service (79%), although whether these services were utilized was not addressed in this study. Nearly one quarter (24%) of youth were referred to a child advocacy center, 15% to a victim advocate or victim service agency, and 15% to a sexual assault agency. Other re-

TABLE 5: Offender and Victim Case Outcomes (Unweighted $N = 126$)

Case Outcomes	All Victims (Unweighted % (n))	Family Victims (Unweighted % (n))	Acquaintance Victims (Unweighted % (n))
Offenders			
Guilty plea ^{***}	71 (84)	82 (37)	63 (47)
Convicted at trial ^{**}	15 (20)	7 (6)	22 (14)
Charges dropped or dismissed	2 (4)	1 (1)	3 (3)
Offender dead or missing	0 (0)	3 (2)	0 (0)
Case pending	11 (16)	8 (6)	13 (10)
Any incarceration	60 (79)	69 (36)	53 (43)
Any probation	33 (38)	30 (16)	36 (22)
Required to register as a sex offender ^{***}	92 (98)	97 (46)	88 (52)
Victims			
Any mental health referral	79 (103)	87 (44)	74 (59)
Victim advocate or victim service agency	15 (23)	21 (10)	11 (13)
Child advocacy center	24 (27)	25 (13)	23 (14)
Sexual assault support agency	15 (12)	10 (2)	18 (10)
Mental health agency	10 (10)	12 (4)	9 (6)
Child protective service agency	9 (15)	9 (9)	8 (6)
Other (medical, private services)	6 (11)	1 (1)	10 (10)

NOTE: ns and percentages may not be proportional because results are weighted to reflect selection probabilities, and some cases have more influence than others. Some percentages may not add to 100% because of rounding.

** $p < .01$ *** $p < .001$.

ferrals included mental health agencies, child protective services, and medical services.

DISCUSSION

Despite the media emphasis on Internet sex crimes against minors involving online meetings, the findings of this study reveal that some sex offenders use the Internet to exploit and abuse children who are family members or face-to-face acquaintances. Internet-related crimes committed by family and acquaintance offenders comprised almost one fifth of all arrests made for Internet sex crimes against minors in a 1-year time period. Yet these arrests still constitute a relatively small portion of arrests involving all sex crimes against minors. This is indicated by the author's estimate of 89,000 cases of sexual abuse substantiated by child protection agencies or an extrapolated estimate of 65,000 arrests in the year 2000 for all types of sex crimes against minors based on National Incident-Based Reporting System data (Wolak et al., 2003). Another important fact to remember when try-

ing to place these crimes into perspective is that most sex crimes against minors are never reported, and many crimes that are reported often do not end in arrests. Our findings apply only to cases ending in arrests, and we do not attempt to characterize or count the cases that do not end in arrest.

Another important point to consider is that given the current stereotype that Internet crimes involve online meetings, the possibility that family and acquaintance sex offenders used the Internet may not have been considered during investigations of conventional child sexual abuse cases. The Internet may be used in these crimes more often than we know. If law enforcement investigators routinely ask youth about all the ways the offender talked with them and about everything the offender showed them (including through the Internet), they may find evidence like e-mail correspondence and pictures that could strengthen cases and result in additional charges for crimes such as child pornography production. In turn, this evidence could lead to more successful prosecutions in cases involving family and acquaintance offenders given that corroborative evidence in the form of physical trauma and witnesses is rare in child sexual abuse cases (Brewer & Rowe, 1997; Furniss, 1992).

Offender and Victim Demographics

Some interesting findings were observed regarding the demographics of victims and offenders. Similar to conventional child sexual abuse cases, the relationships between the victim and offender changed with the children's age (Finkelhor, 1997). Specifically, abuse by a family member was more common with younger children, whereas adolescents were more likely to be abused by acquaintances. This is due, in part, to the dependent nature of young children on their caretakers and the greater time away from the family that occurs during adolescence. Likewise, conventional sexual abuse is more likely to occur in households with stepfathers, and victims are more typically females (Finkelhor, 1986)—findings that were replicated in the current article.

The current article also found that nearly half of the victims of acquaintance offenders were boys. This is a larger percentage than those associated with conventional sexual abuse cases in which the gender of victims of acquaintance offenders are about 23% boys (Finkelhor, 1984). In general, the research on boy victims of child sexual abuse is ambiguous and thought to be underreported due to expectations of masculinity, public stereotypes of girls as victims, and the social stigma attached to homosexuality. This raises some

interesting questions concerning the role of the Internet in the sexual abuse of children.

One question that needs to be explored is whether higher percentages of boys actually are victimized in Internet-related cases, and, if so, why? One explanation of this finding is the possibility that some of these boys may have been gay or bisexual. The Internet offers a vast amount of information and support that allows for the exploration and development of sexual identity through more private avenues. This may open up the possibility for exploitation by those professing an interest in helping these youth. But this finding of more boy victims in Internet-related cases may also be explained not by the sexual identity of boys but by their interest in pornographic material and its widespread availability on the Internet (Mitchell & Ybarra, 2004). This is further supported by data from the current study indicating boys were significantly more likely than girls to have exposure to both adult (63% vs. 29% of girls) and child pornography (58% vs. 33% of girls) during the crime. Offenders may have more success in initiating boys into sexual conversations and behavior through use of this material. This, combined with the relative anonymity and ease of access to pornography and sexual chat rooms, may play a role in these findings.

The Role of the Internet in Family and Acquaintance Sexual Abuse

There are several features of the Internet that may facilitate sex crimes by family and acquaintance offenders. Three specific features are access, affordability, and anonymity (Cooper, 1997). Access refers to the increasingly large numbers of people around the world who can conveniently access the Internet from such locations as their home, school, work, and libraries. This access allows for communication among people of all ages and may have increased the pool of victims for some sex offenders. The Internet and its associated technology have also become very affordable (Cooper, 1997) thereby allowing for a more diverse population of users. A certain level of anonymity also exists online that may allow for exploration of sexual interests and affect sexual expression. The Internet allows for private conversation with minors and private access to pornographic material that is often used in these crimes. These and certainly other features most likely laid the foundation for the use of the Internet in the current cases.

Offenders used the Internet in a variety of ways in these cases with the most common being to seduce or groom victims (both online and offline), store or disseminate sexual images of victims, and arrange meetings or otherwise communicate with victims. The

Internet was used to seduce or groom in a number of ways including through online communications that involved sexual conversations and requests online and sending sexual images to victims through e-mail. These findings parallel conventional child sex offenders who are said to often operate through seduction or grooming (Lanning, 2001). Seduction or grooming involves providing children with attention, affection, kindness, gifts, and money until their inhibitions are lowered. Once inhibitions are lowered, victims are likely to cooperate or consent to the sexual activity. The nature of the seduction varies based on the developmental age, needs, and vulnerabilities of the child. Those offenders who prefer younger children will often make sex a part of a game or horseplay, whereas those who prefer adolescents will often rely on techniques involving ease of sexual arousal, rebelliousness, and curiosity to manipulate the adolescent into having sex. These techniques may be easier with the Internet and the ability it allows for private conversations that would be more difficult to broach in person. Offenders also used the Internet as a grooming tool by showing victims adult and child pornography while fondling a child in their lap or as a way to visually show the victim the sexual act he wanted them to take part in. In this sense, the Internet appears to be more a tool of convenience with quick access to millions of sexual images of a wide variety of types.

The production of child pornography played a large role in these crimes, occurring in more than half of these cases. For some offenders, the computer may have been a convenient location to store digital images, much like a photo album but with a much larger storing capacity. Another benefit of this digital technology is that it allows producers access to images without the risk of having them developed at a commercial facility where their actions could be detected and reported to police. Other benefits or issues that may arise in cases involving child pornography production is their potential to aid in the identification of child sexual abuse victims, and they also increase the ability of law enforcement and prosecutors to apprehend and convict these offenders due to better evidence in the forms of these images. The presence of these sexual images could also further the abuse and negative impact of the experience for the victim in terms of their mental well-being—a possibility that mental health professionals could address during treatment.

This study did find that some family and acquaintance offenders were posting images on their computers and disseminating their produced images online to other offenders—a behavior that is important to acknowledge and address for criminal justice and

mental health professionals working with sex offenders. Prior to the Internet, the possession, dissemination, and production of child pornography was largely an underground phenomenon (Jenkins, 2001; Taylor & Quayle, 2003). With the Internet, offenders can communicate, trade, sell, or otherwise disseminate sexual images of children. This ability to communicate and exchange images allows them to rationalize and encourage their behavior among each other. Some offenders, primarily those who were acquaintances of their victims, used the Internet to arrange meetings or otherwise communicate with their victims. These other forms of communication generally involved seduction or grooming through sexual conversations or the sending of sexual images discussed above. It is unclear whether the sexual assault in these cases would have occurred without the presence of the Internet, but it certainly could aid the process thereby potentially accelerating its progression.

Although some offenders used the Internet to reward or draw minors into their homes, this use was not common, nor was advertising or selling minors to other offenders online. It is possible that these may be aspects of the Internet that are not being picked up by police in their investigations, or it may be that most offenders are not utilizing the Internet in these ways. Use of the Internet for these behaviors should be investigated in future studies in this area.

Case Outcomes

The outcomes of these cases were successful with most offenders pleading guilty or convicted at trial. Interestingly, more family offenders pled guilty whereas more acquaintance offenders were convicted at trial. Higher rates of guilty pleas for family members may be due to the complex nature of the relationships with their victims, the younger age of the victims, and the possibility of better evidence. Furthermore, there were very low rates of dismissed or dropped cases. Many offenders received some incarceration, and most were required to register as a sex offender. These findings all speak to the idea that the criminal justice system is taking these crimes seriously and successfully prosecuting these criminals.

Implications for Prevention and Law Enforcement Investigations

The findings of this article suggest a number of implications for prevention and law enforcement investigations. First, the notion of Internet victimization needs to be expanded to include situations where offenders are family members and acquaintances. The number of arrests involving these offenders was

nearly the same as the number of arrests for online meeting crimes in the same time frame (Wolak et al., 2003). Although victims who meet offenders online are an important population to focus on for prevention, it is equally important to address prevention messages toward situations involving sex crimes with family and acquaintance offenders. These children and adolescents typically have relationships with their offenders based on trust or power differentials, and they may be ensnared by offenders and do not know where to turn for help. Prevention should focus on letting children and adolescents know that adult family members and acquaintances who use the Internet to engage them in sexual conversations or send them sexual material are committing crimes and should be reported to a trusted adult, the police, or the CyberTipline at www.cybertipline.com. They should also be made aware of the potential benefits of the Internet as a means of seeking support and reporting these crimes.

Second, law enforcement should be encouraged to investigate the possibility of all means of communication between the victim and offender in the context of all child sexual abuse cases including through the Internet. Identifying an Internet component may result in better evidence in the forms of chat conversations or sexual images. This, in turn, could lead to better prosecution of these offenders given that corroborative evidence in the form of physical trauma and witnesses is rare in child sexual abuse cases (Brewer & Rowe, 1997; Furniss, 1992).

Third, mental health professionals should be asking about Internet involvement when working with victims and offenders involved in child sexual abuse cases. Gathering information about this may help professionals establish how the sexual assault was initiated and better understand any aggravating features of the crime that may be hindering recovery, such as knowledge of sexual pictures being taken and potentially disseminated online. A complete understanding of Internet involvement, if any, could aid in the development of more effective treatment and future prevention strategies for their clients.

Fourth, the data suggest the need for different prevention and intervention messages for youth of different ages. Some of the most notable differences between the two types of cases examined in this article—those with family offenders and those with acquaintance offenders—were the gender and age of the victims involved. Family offenders were more likely to have female victims younger than the age of 12, whereas acquaintance offenders were more likely to have male victims in their teens.

Limitations

Although this study has a number of strengths, a few limitations must be noted. First, because most sex crimes against minors are never reported to the police (Finkelhor & Dziuba-Leatherman, 1994; Finkelhor & Ormrod, 1999) and many of those known to law enforcement do not culminate in arrest (Finkelhor, Cross, & Cantor, *in press*), this sample cannot be said to represent the characteristics of all Internet-related victimizations that occurred during this period but only those that ended in the arrest of an offender.

Second, some errors and biases may have been introduced because the respondents were law enforcement investigators. Police were regarded as the best sources for in-depth information about the nature of Internet-related crimes because their professional responsibilities require them to gather intensive information about these cases. However, the information they provided could be biased by training, professional attitudes, or the adversarial nature of their roles in some of these cases.

Third, these numbers are estimates based on the sample of cases that were the subject of the interviews. Although the study was designed to yield a nationally representative sample of cases involving Internet-related sex crimes against minors, sometimes samples can be randomly skewed. The margin of error could be larger than calculated.

Fourth, the information in this study was gathered from law enforcement investigators, so the information about victims is based on their impression at the time of the crime. Gathering information from mental health and victim services professionals or victims themselves would provide much more insight into this victim population in terms of their mental well-being and both the short- and long-term impact of involvement in these crimes. Fifth, some of the unweighted cell sizes are small because of the low endorsement of certain behaviors in the commission of these crimes (e.g., abduction). As such, instability of some estimates is possible.

Conclusion

The findings of this article suggest a need to expand the notion of Internet victimization to include situations where offenders are family members and acquaintances. Although the Internet may only be involved in a small proportion of sexual abuse cases, law enforcement and mental health professionals should be asking about Internet involvement when working with victims and offenders. This may allow for better evidence in the form of sexual images and

chat room conversations and the development of more effective intervention strategies. Prevention messages and investigation approaches should be revised to incorporate awareness of such cases and their dynamics.

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LEGISLATIVE RESEARCH REPORT

FEBRUARY 5, 2008



REPORT NUMBER 08.137

SEX OFFENDER REGISTRATION AND INTERNET ACCESS

PREPARED FOR REPRESENTATIVE BOB BUCH

BY PATRICIA YOUNG, MANAGER

You asked for background information on efforts to protect children from sexual predators, particularly those exploiting minors through use of the Internet and other electronic communications devices. Specifically, you wished to know the number of sex offenders registered in Alaska and the number of those who are in compliance with registration requirements. You also asked for background information on related provisions of the federal Adam Walsh Child Protection and Safety Act of 2006, and you wished to know if any states have passed legislation requiring sex offenders to register their Internet identifiers in response to passage of the federal act.

Kathryn Monfreda, chief of the Criminal Records and Identification Bureau within the Department of Public Safety provided the following information on registered sex offenders in Alaska. These data are current as of December 31, 2007.

Table 1: Status of Sex Offenders Registered in Alaska

Registration Status	Number	Notes
In Compliance	3,112	Paperwork is in the mail for 28 offenders registered in outlying areas.
Out of Compliance	216	Covers a wide range of issues, including late paperwork
Moving Out of State	31	No notification from destination state; offender is out of compliance if still within Alaska
Location Unknown	98	Out of compliance if still within Alaska
Flagged	45	Listed since program inception but never registered; offenders may be out of state or deceased.
Out of Alaska	1,134	Registered in another state.
Incarcerated	764	
Total	5,420	

Notes: Data are current as of December 31, 2007. Alaska's sex offender registration law is more restrictive than that in some other states. If an offender goes to a state that does not require registration, Alaska cannot track that individual.

Source: Kathryn Monfreda, chief of the Criminal Records and Identification Bureau, Alaska Department of Public Safety, 907 269 5581.

Title I of the Adam Walsh Child Protection and Safety Act (AWA), known as the Sex Offender Registration and Notification Act (SORNA), is intended to establish a comprehensive national system for registering sex offenders.¹ To that end, the act sets minimum requirements for sex offender registration among all states and sets a deadline for substantial implementation by July 27, 2009. One element in substantial implementation is that states must require sex offenders to register their Internet identifiers. Failure on the part of states to implement AWA provisions by the deadline will result in a mandatory ten percent reduction in Byrne Grant funding for criminal justice, although extensions may be allowed (a maximum of two extensions, each for one-year) on a case by case basis.²

Table 2, on the following page, describes attempts by lawmakers in a number of states to address this requirement of the AWA. As you will see, nine states incorporate requirements that sex offenders register their Internet identifiers along with other information. Two states either explicitly grant courts the power to prohibit unapproved access to the Internet through sentencing provisions or explicitly allow special conditions of parole and probation to prohibit such activity. Another two states prohibit sex offenders from accessing or using the Internet without prior approval of the court or a treatment program.

Judges typically have discretion in crafting sentencing provisions that are appropriate for the particular crime. As such, courts would have the power to include a prohibition against access or use of the Internet. Likewise, such provisions can be included among the conditions of probation and parole.³ Sentences, though, don't last forever, and so these prohibitions would have a limited duration. As such, restrictions made through sentencing or conditions of parole or probation would likely not pass muster for AWA compliance.⁴

Requiring sex offenders to provide all Internet identifiers may prove useful since registries (in Alaska and in the AWA) extend from 15 years to an offender's lifetime, depending on the level of criminal activity.⁵ Such requirements would, it appears, represent substantial compliance on this element of the AWA. The glaring reality, however, is that creating a new Internet identifier is a matter of a moment's effort and costs nothing. A sex offender can create multiple identifiers every day—making such a provision problematic to implement and problematic to enforce.

Attached you will find a letter from Richard Svobodny, deputy attorney general, Criminal Division, Department of Law, to Senator Hollis French and Representative Jay Ramras, chairs of the Senate and House Judiciary Committees. In this letter, Mr. Svobodny provides specific details of concerns about implementation of certain AWA provisions.

¹ The Adam Walsh Child Protection and Safety Act (AWA) was signed on July 27, 2006, as Public Law 109-248.

² The Byrne Formula Grant Program was created by the Anti-Drug Abuse Act of 1988 (Public Law 100-690). Funds are used to improve the functioning of the criminal justice system—with an emphasis on violent crime and serious offenders—and to enforce state and local laws that establish offenses similar to those in the federal Controlled Substances Act (21 U.S.C. 802[6] et seq.).

³ Conditions of parole and probation in Alaska can include such prohibitions if relevant to the crime. Likewise, Alaska courts have discretion to craft sentences prohibiting offenders from accessing the Internet when appropriate to the crime.

⁴ We note however, that Oklahoma law specifies that the court may also require a sex offender to register Internet identifiers, and New Jersey law refers specifically to conditions of parole restricting use of Internet for life offenders.

⁵ Alaska law requires that a person convicted of a sexual offense must register for 15 years following completion of probation, repeat offenders, and those convicted for the first time of sexual assault in the first degree or sexual abuse of a minor in the first degree must register for life.