



CRS Issue Statement on Missing or Sexually Exploited Individuals

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Congress has long been concerned with the well-being of individuals, particularly children, who are vulnerable to going missing. Individuals may go missing for a variety of reasons, including personal choice, an abduction by a family member or others, foul play, a mental or physical disability, or a natural catastrophe, among other reasons. Certain adults are vulnerable to missing episodes, such as individuals with cognitive impairments like Alzheimer’s disease. Adults who engage in certain high-risk behaviors, including gang involvement or drug use, among other circumstances, are also vulnerable.

As a policy issue, missing children are often included in discussions of sexual victimization. Some children—regardless of whether they are missing—can be vulnerable to child sexual exploitation (CSE). CSE is often characterized as the use of a child for the sexual gratification of an adult. Among the various forms of CSE are extrafamilial child sexual molestation; enticement of children for sexual acts over the Internet; obscene material sent to a child; possession, manufacture, and distribution of child pornography; sex tourism involving children; and sex trafficking, which involves the use of a commercial sex act induced by force, fraud, or coercion. These acts can take place domestically or internationally. International incidents can involve victims who are brought to the United States and individuals who are victimized by U.S. citizens abroad. Adults may also be sexually exploited through rape, sex trafficking, and other scenarios. (Unlike missing children, missing adult issues are not considered alongside sexual exploitation. Nonetheless, adults who go missing may be subject to sexual and other forms of exploitation.) As part of the U.S. response to sexual exploitation, the federal government has increasingly targeted sex offenders.

The following discusses the key policy issues Congress faces related to missing and exploited children, sex offenders, and missing adults.

Missing or Sexually Exploited Children

Missing children and exploited children are distinct but overlapping populations. The term “missing child” is defined under the Missing Children’s Assistance Act as an individual under age 18 whose whereabouts are unknown to the child’s legal custodian. Although the term “sexually exploitation” is not formally defined in law, several sexually exploitative acts against children are classified in the federal criminal code as illegal, including child pornography and online enticement of children for sexual acts.

The current number of missing or exploited children is not fully known. The definition of “missing” or “exploitation” can influence the number of children who fall into one or both of these categories. A study using data from 1999 indicates that of the 1.3 million children who went missing that year, most had run away from home or were forced to leave their home (i.e., throwaways), and nearly all were returned to their caretakers. Thousands of children had also been abducted, either by a stranger or family member, within the United States or taken to another country. Stereotypical kidnapping—in which a stranger or slight acquaintance took the child and detained him or her for ransom or to kill the child—were rare. Separately, the same study also found that about 300,000 children were sexually assaulted—including rape, attempted rape, unwanted sexual contact, and attempted unwanted sexual contact—in 1999. A growing body of research demonstrates that certain children, particularly runaways and throwaways, are vulnerable to sex trafficking, which includes forced prostitution and other forms of exploitation.

Local and state law enforcement agencies are often the first responders in cases involving children who have gone missing and/or may be the victims of CSE. The federal government has

used a variety of strategies to support law enforcement agencies in their response efforts, including programs that work to recover these children and increasingly harsher penalties for violations of federal laws involving CSE. In considering the role of the federal government in addressing CSE, Congress has recently sought to better coordinate resources among various federal agencies with programs on missing and exploited children. The recently enacted PROTECT Our Children Act of 2008 (P.L. 110-401) requires the Department of Justice (DOJ) to develop and implement a “National Strategy for Child Exploitation and Prevention.” P.L. 110-401 includes specific provisions about DOJ meeting targets for reducing child exploitation and coordinating with other agencies around prevention, investigation, and apprehension of individuals exploiting children. Related to this, the law directs DOJ to establish a data sharing system to facilitate online law enforcement investigations of CSE. These provisions represent broad changes to current policy, and Congress will likely want to monitor and review how they are implemented.

Although efforts are underway to develop a national strategy, they may be complicated by the multiple federal agencies with oversight of CSE and missing children issues. Within DOJ alone, this oversight is carried out by the Child Exploitation and Obscenity Section (CEOS) in the Criminal Division, which prosecutes crimes against children; Innocent Images National Initiative (IINI) and Crimes Against Children Unit (CACU) in the Federal Bureau of Investigation (FBI), which investigate crimes against children facilitated through technology as well as other crimes that include child abduction without ransom and international and domestic parental abduction of children; and Project Safe Childhood, an initiative to increase prosecution of child exploitation cases in each U.S. Attorney’s Office. In addition, the Missing and Exploited Children’s (MEC) program in DOJ’s Office of Justice Programs (OJP) supports several initiatives related to combating CSE and recovering missing children. The program funds the National Center for Missing and Exploited Children (NCMEC), a non-profit organization that serves as a national clearinghouse on missing and exploited children’s issues; training and technical assistance to states on developing and disseminating alerts for missing children known as AMBER Alerts; and the Internet Crimes Against Children (ICAC) Task Force program, which funds federal, state, and local law enforcement agencies that respond to crimes against children that are committed on the Internet.

Other federal agencies also have jurisdiction to address select aspects of child exploitation, including the U.S. Secret Service (USSS) and the Cyber Crime Center (C3) at the Immigration and Customs Enforcement (ICE) agency, both under the Department of Homeland Security (DHS). The USSS provides forensic services to NCMEC. C3 investigates large-scale producers and distributors of CSE images and individuals who travel abroad for the purpose of engaging in sex with minors. Further, the Department of State works closely with NCMEC on behalf of American children abducted overseas, as well as rarer instances of children abducted to the United States. The Department of State, along with other federal agencies, also reports on and provides assistance to victims who have been trafficked, domestically and internationally, for sexually exploitative and other purposes. The national strategy may help to inform how each of these agencies can better coordinate to combat CSE.

In addition to developing the national strategy, DOJ will, for the first time, house a data management system for law enforcement agencies and ICAC task forces that investigate and prosecute CSE cases involving the Internet. Congress is concerned about the role of the Internet in facilitating crimes against children. Of the reports made to NCMEC’s tipline for online child sexual exploitation, nearly all involve child pornography. About 40% of child pornography reports are substantiated. The number of substantiated reports has increased in recent years, due

likely to heightened public awareness about child exploitation and better reporting by Internet providers. The economic stimulus package enacted in February 2009, known as the American Recovery and Reinvestment Act (ARRA, P.L. 111-5), provides funding for the database, known as the National ICAC Data System (NIDS). Lawmakers will likely want to oversee how effectively these efforts address, as well as reduce the number of, CSE cases.

Sex Offenders

The Center for Sex Offender Management (CSOM), a federally-funded resource center, defines sexual abuse or assault of children or adults as: sexual contact between an adult and a minor; unwanted sexual contact initiated by a youth toward an adult; unwanted sexual contact between two or more adults or two or more minors; or sexual contact involving two minors whose ages differ significantly. Sex crimes include physical (unwanted sexual touching) or no physical contact (use of the Internet). According to CSOM, about 67% of all victims of reported sexual abuse are below the age of 18 and more than half of these victims are below the age of 12. An estimated one in every five girls and one in every seven boys is sexually abused by the time they reach adulthood. Further, one in six adult women and one in every 33 adult men are subject to sexual abuse in their lifetime.

Although sexual abuse as defined by CSOM appears to be widespread, sex offenses represent less than 1% of all arrests. The Federal Bureau of Investigation reports that in 2004, law enforcement agencies made 26,000 arrests for forcible rape and nearly 91,000 arrests for other sexual crimes in the U.S., of which males accounted for about 95% of the arrests. According to CSOM, there is no “typical” profile of a sex offender, as they can be of various ages and education levels; be married or single; have weak or strong ties to their communities and families; and may not necessarily have previous criminal records. In the case of child sexual abuse, abusers are often relatives, friends, babysitters, or persons in positions of authority over the child. The underlying causes of sexual offending are not fully understood, although researchers have identified some factors that may increase the *tendency* of perpetrators of sexual crimes to offend.

Congress enacted the Adam Walsh Act of 2006 (P.L. 109-248, AWA) in an attempt to better protect the public from sex offenders. Major provisions of AWA address mandatory registration for adult and juvenile sex offenders; a national sex offender registry and website; periodic in-person verification of registration information; a community notification program; and federal assistance in managing sex offenders and identifying and locating those who fail to register. In addition, AWA provides for the treatment and management of sex offenders through the federal Bureau of Prisons and for civil commitment of dangerous sex offenders upon their release from prison. The act further authorizes studies to examine the control, prosecution, treatment, and monitoring of sex offenders, as well as reports on enforcement of registration requirements.

AWA originally required all states to be in compliance with certain AWA provisions by July 27, 2009; this has since been extended by DOJ to May 26, 2010. As jurisdictions begin to implement these provisions, a number of issues have surfaced. A major concern is the adequacy of federal funding for things like managing and registering offenders, particularly in light of declining state revenues. A state that is not in compliance by the deadline will lose 10% of its Byrne grant funds. However, some analyses show that it would cost much more for some states to implement the requirements than to lose a percentage of DOJ Byrne grant funds. States have also expressed concern about the retroactivity provisions of AWA, which require sex offenders whose convictions predate the enactment or implementation of the law to register as offenders. Some

claim that implementation of this provision may subject states to expensive constitutional challenges.

Another issue is the extent to which sex offenders are actually rehabilitated. Persons committing a sex offense are convicted and sent to prison, sometimes with the expectation that upon release they will have changed, when in fact they may not. Imprisonment does not necessarily address the offenders' attraction to children or improve their ability to resist acting on unacceptable sexual feelings. There is substantive medical evidence that some sex offenders suffer from mental disorders, often with biomedical underpinnings.

Finally, states also have concerns about the provision of AWA that requires registration of adjudicated juveniles ages 14 and older who have committed sexual assaults. DOJ has stated that the AWA guidelines only require registration of older juveniles who have been convicted of crimes such as rape. Still, for some states, this requirement may be inconsistent with their laws, which emphasize rehabilitation of children who have been convicted of crimes. In addition, some argue that placing juveniles on a public registry with their personal information puts them at risk of becoming a target for adult sexual offenders. Other concerns about juvenile sex offenders have focused on where they ought to be educated when they are released from prison. Some jurisdictions enroll them in traditional neighborhood schools; others home school them; and still others place them in schools for children with special needs. For these reasons, Congress may wish to revisit the issue of registration of adjudicated juveniles who are sex offenders.

Missing Adults

Unlike children, adults have the legal right to go missing under most circumstances. Adults may leave their home and have no intentions of returning; others may be abducted or become lost and unable to return home. While away from home, missing adults may be vulnerable. For example, they may be accompanied by dangerous individuals or be without food, water, and prescription medicine.

As discussed above, several federal programs provide assistance in recovering missing children. In addition, federal law requires law enforcement agencies to report missing children and young adults under the age of 21 to the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC), a federal database of crime and missing person information. Reporting missing adults to the database is voluntary. As a result, families of missing adults may receive limited assistance from state and local law enforcement entities in recovering their loved ones, although some federal support has been available. The federal Missing Alzheimer's Disease Patient Alert grant assists in identifying missing individuals with Alzheimer's disease and other forms of dementia by funding the Alzheimer's Association to carry out educational and other programming. The Alzheimer's Association's Safe Return program provides a MedicAlert bracelet or other form of identification to enrolled individuals that includes a toll-free, 24-hour emergency response number to call if the person is found wandering or lost. Separately, Congress provided funding from FY2002 through FY2006 for the Kristen's Act grant program, which funded a national clearinghouse and resource center, the National Center for Missing Adults (NCMA). (NCMA has since merged with another non-profit organization for missing persons, and continues to provide services to law enforcement and families of missing adults.)

As the nation prepares for an aging population and likely increase in the number of individuals living in the community with cognitive impairment or other forms of disability, Congress may want to consider whether there is a role for the federal government in helping to prevent missing

adult episodes and to recover adults who go missing. In recent years, Congress has considered bills that would authorize federal grants for states to develop what are known as Silver or Senior Alert systems. These systems are intended to alert law enforcement entities and the public that adults with impairments or other disabilities are missing and may need assistance. The alerts are activated on behalf of targeted groups of individuals—such as those with cognitive or mental impairment (e.g., Alzheimer’s disease and other forms of dementia), developmental disabilities, or suicidal tendencies—who may be at high risk of going missing and unable to make their way home or to a safe place. As many as 15 states already have these systems in place.

The federal government currently supports public alert programs, known as AMBER Alerts, for children who have gone missing and where criminal activity is involved. As it already does with the AMBER Alert program, the federal government could assist in developing minimum guidelines for a missing adult alert system as well as provide states with related technical support and training. Establishing a uniform network of state alert systems in every state could assist states and localities with any necessary coordination across state lines, and ensure that states have somewhat uniform criteria for issuing alerts. Nonetheless, the use of any alert system for missing adults may challenge their right to privacy, particularly if they choose to go missing. Further, it is not clear how effective state alert systems are in recovering missing vulnerable adults. At least a few states with the alert systems do not maintain detailed outcomes data on their alerts. And alert systems may not be useful altogether for certain adults, such as those with Alzheimer’s, who tend to wander close to home.

Whether federal resources should be devoted to missing person cases may depend on how much is known about the population. There is no definitive estimate of the number of adults who go missing, because some individuals are not known to be missing or go unreported to three federally-supported databases (the NCIC and two others) that contain data on missing persons and unidentified decedents. Law enforcement agencies are not required to report on missing adults as they are with children. Even with the requirement on reporting children, no mechanisms are in place to monitor whether children are entered into federal databases. Further, policymakers and others have raised the point that the federal databases do not currently populate one another. This limitation begs the question whether the federal government can and should develop technology to enable the databases to coordinate. A somewhat related issue is whether law enforcement agencies ought to be required to enter data on missing adults into these databases. Any changes to the databases or requirements for entering data would like raises questions about the privacy of missing individuals, as well as the extent to which funding would be available.

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