FIGHTING ADAM WALSH ACT LEGISLATION IN YOUR STATE
Juvenile-Specific Factsheet and Update
January 2012

THE STATUS OF SORNA IMPLEMENTATION

The Sex Offender Registration and Notification Act (SORNA), Title I of the Adam Walsh Child Protection & Safety Act was passed in 2006.

Since the Act's passage in 2006, 38 of the 236 jurisdictions have been certified as having substantially implemented SORNA; 15 states, 21 tribes, and 2 Territory.[1] The newest state to come substantially implement is Tennessee.

The states: Alabama, Delaware, Florida, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nevada, Ohio, South Carolina, South Dakota, Tennessee, and Wyoming

The tribes: Bois Forte Band of Chippewa, Comanche Nation, the Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Confederated Tribes and Bands of the Yakama Nation, Grand Traverse Band of Ottawa and Chippewa Indians, Iowa Tribe of Oklahoma, Kickapoo Tribe of Oklahoma, Kootenai Tribe of Idaho, Little Traverse Bay Bands of Odawa Indians, Miccosukee Tribe of Indians of Florida, Nottawaseppi Huron Band of the Potawatomi, Ohkay Owingeh, Omaha Tribe of Nebraska, Osage Nation, Pascua Yaqui Tribe, Poarch Band of Creek Indians, Pueblo of Isleta, Tohono O'odham Nation, Upper Skagit Indian Tribe, Washoe Tribe of Nevada and California

US territories: Guam and the Commonwealth of the Northern Mariana Islands

Frequently Asked Questions
Talking points to Address Legislators' Concerns

Legislative Concern #1:

"We have to pass AWA legislation or else our state will become a safe haven for sex offenders."

Responses:

The Fifty States and D.C. have had full sex offender registration under Megan's Law since at least 1995. All states have in place laws that prevent registrants from crossing state lines without registering.

The AWA was created to provide a national comprehensive system of registration. Since the passage of the Adam Walsh in 2006, only 14 states have been deemed to have "substantially implemented" SORNA. Registration laws in the 14 states vary tremendously.

Texas and New York have said 'NO". This fall, Texas and New York submitted official letters to the SMART Office explicitly stating that their state will not comply with the SORNA.

Legislative Concern #2:

"We have addressed the possible harms to youth by no longer requiring that juvenile information be posted on the Web."

We commend United States Attorney General Eric Holder's decision to allow jurisdictions to create a new discretionary, not mandatory, exemption of juveniles from public Web site disclosure. While this is a solid step in the right direction, it does not do enough. Under SORNA, children will still be subject to strict laws that may bar them from getting an education, accessing public housing, living with family, and may prohibit youth from participating in pro-social activities that help them develop into healthy adults. Furthermore, in this digital age, even in states that do not post juvenile information on official websites," pictures and information on registrants is still available to the public upon request. Thus private parties have placed the information on Facebook, private security registration sites, etc. **Please see the accompanying Chart and paragraph for more information.**

[1] *See* "U.S. Department of Justice, OJP, SMART Office website http://www.ojp.usdoj.gov/smart/newsroom.htm

UNITED STATES CONGRESS LOOKS AT AMENDING FEDERAL SORNA

In October 2011 the Adam Walsh Act Reauthorization bill (House Resolution 2870) was scheduled for review before the US House Judiciary Committee. Representative Bobby Scott (D-VA) proposed an amendment that would make it discretionary for states to include children in SORNA Legislation. Marc Levin from *Right on Crime* authored a letter in support of the amendment on behalf of his organization and the *Texas Criminal Justice Foundation, garnering* bi-partisan interest in the amendment. However, a Republican co-sponsor of this amendment is still being sought.

After appearing on the mark-up schedule for most of October, HR 2870 was removed from consideration indefinitely. The Adam Walsh Reauthorization bill requires continued close monitoring by concerned advocates..

STATES ARE OFFICIALLY SAYING "NO" TO SORNA

Other states have determined that compliance with the federal mandate is not in their interests. Before passing a bill that can result in irreversible harm to young offenders ask your state lawmakers to consider other options. Urge lawmakers to study the responses by Texas and New York in their decision to not seek compliance with the Adam Walsh Act. Both of these states directly referred to the harms caused by the expansive registration requirements of SORNA. In an August 17, 2011 letter to the Department of Justice, Jeffrey Boyd, General Counsel and Acting Chief of Staff to Governor Rick Perry, wrote: "In dealing with juvenile sex offenders, Texas law more appropriately provides for judges to determine whether registration would be beneficial to the community and the juvenile offender in a particular case."[2] In a similar letter from the State of New York, Risa Sugarman, Director of the Office of Sex Offender Management, wrote: "New York has a long standing public policy of treating juvenile offenders differently from adult offenders so that juveniles have the best opportunity of rehabilitation and re-integration. The federal requirement that juveniles be placed on the Sex Offender Registry under SORNA is in direct conflict with that public policy." [3]

THE MEANING OF"SUBSTANTIAL IMPLEMENTATION" IS A MOVING TARGET

The positions taken by New York and Texas are ideal. If your state is not willing to say "no" to SORNA, there are alternatives. As your state continues to wrestle with SORNA implementation in the upcoming year, it is important to note that the definition of "substantial implementation" is a moving target. Now is the time to push state SORNA legislation to exclude youth to the greatest extent possible. The SMART Office appears willing to consider alternate juvenile provisions. Take the State of Maryland as an example:

Maryland – Due to tremendous efforts by the ACLU-Maryland, Justice Policy Institute, The Office of the Maryland Public Defender, and Sarah Bryer of National Juvenile Justice Network, Maryland was able to carve out significant exceptions for juveniles. In August 2011, Maryland was deemed to have "substantially implemented" SORNA by the Department of Justice with the following limited juvenile registration scheme:

- Young offenders register for a maximum of 5 years;
- Young offenders can petition the juvenile court for a reduction in the length of registration; and
- Young offenders are automatically removed from the registry at the age of 21.[4]

Simply Delaying Implementation can also be Effective

Be creative. Suggest measures that will delay implementation. For example;

[2] http://www.ncleg.net/documentsites/committees/JLOCJPS/October%2013,%202011%20Meeting/ RD_SORNA _General_Information_2011-10-13.pdf (accessed November 23, 2011).
[3] Ibid.
[4] Ibid.

SORNA § 125(b) challenges - In some instances the juvenile provisions of SORNA may violate the state constitution. Under SORNA § 125(b), a state may be exempt from implementing certain provisions of SORNA if such provisions violate the State Constitution or are contrary to the rulings of the state's highest court .

Formation of Federal SORNA Juvenile Study Committee in lieu of legislation – Now that the final deadline to comply with SORNA has passed, some State Legislators may be more inclined to take a reasoned approach. Suggest deleting all juvenile provisions from state SORNA legislation and replacing it with language calling for the formation of a SORNA Study Committee. A SORNA Study Committee would be charged with studying how, if at all, juveniles should register in your state. This Commission will be a multi-disciplinary committee, similar to the Arizona Federal SORNA Advisory Committee[5]. The Committee will take testimony and commission research related to the inclusion of juveniles on the registry to help determine which juvenile provisions may be a violation of the State Constitution or rulings of the state's highest court and in need for exception under SORNA § 125(b), or otherwise harm youth in ways that are not beneficial to the state.

Using SORNA Implementation to roll back Existing Restrictions on Youth.

For states that have already subjected juveniles to harsh sex offender registration laws pre-SORNA, the implementation process may be a chance to lessen the harm. A good example of this type of advocacy comes from the State of Michigan.

Michigan – A 2010 article reported that nearly 8% of Michigan's 50,000 registered sex offenders were children.[6] The statistics further revealed that the state's youngest registered sex offenders are 8 years old. "The state counts a total of 3,563 juvenile sex offenders on the registry, all of whom were adjudicated through the state's juvenile court system."[7] Tremendous efforts by the ACLU of Michigan and a broad range of allies formed a Professional Advisory Board (PAB) to advise the Michigan General Assembly on SORNA implementation. The coalition and PAB were able to use SORNA legislation to make sex offender registration laws less onerous for children in Michigan. Through advocacy the group managed to raise the minimum age of registration to 14 years old and reclassify certain offenses to non-registerable offenses; thus removing 80% of youth from the registry in Michigan.

THE EXEMPTION OF JUVENILES FROM WEBSITE POSTING IS NOT ENOUGH See Chart 1.1

The Supplemental Guidelines to SORNA, released in January 2011, allow jurisdictions, in their discretion, to exempt information concerning sex offenders required to register on the basis of a juvenile adjudication of delinquency from public Website posting.[8] In other words, a jurisdiction can exempt juveniles from the public Website and still substantially implement SORNA.

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[5] On July 13, 2009, the Arizona Legislature established a 22-member SORNA study committee to examine the effectiveness of Arizona's current sex offender laws, the standards set forth by the Act and the impact on Arizona of adopting the federal standards of the Act (Laws 2009, Chapter 125). The SORNA study committee was made up various experts including Members of the State Legislature, a prosecutor, a Chief juvenile public defender, a local university professor, a researcher, the Director of the Arizona Department of Corrections, and the Director of the Department of Public Safety. The team began meeting in November 2009 and was required to report its findings and recommendations by December 31, 2009. The SORNA Committee was scheduled to be repealed on January 1, 2011.

[6] David Garcia. *Juveniles Crowd Michigan Sex Offender Registry.* MICHIGAN MESSENGER (February 10, 2010). See http://michiganmessenger.com/34538/juveniles-well-represented-on-mich-sex-offender-registry

[7] *Supra*.

[8] According to the US DOJ, after receiving hundreds of public comments criticizing the juvenile provisions of SORNA, United States Attorney General Eric Holder created a discretionary exemption for internet posting of juveniles. The Supplemental Guidelines, issued on January 11, 2011by the United States Department of Justice, modified certain features of the SORNA Final Guidelines to make a change required by the KIDS Act and to address other issues arising in jurisdictions' implementation of the SORNA requirements. Most notably, allowing jurisdictions, in their discretion, to exempt information concerning sex

The following paragraph, courtesy of National Conference of State Legislatures, describes and distinguishes the supplemental guidelines from that of the original SORNA guidelines[9]:

> **Juvenile Delinquency Adjudications**
>
> **The supplemental guidelines** give states discretion to exempt juvenile delinquency adjudications from public web site posting. Additionally, jurisdictions are not required to disclose adjudications to entities that include certain schools, public housing, social services and volunteer entities. However, the supplemental guidelines do not change SORNA requirements for registration of juveniles adjudicated delinquent for acts constituting serious sex offenses. And, their registration information must be shared with the national database, law enforcement, supervision agencies and registration authorities in other jurisdictions, as applicable.
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> **The original SORNA guidelines** require registration of juveniles who have committed certain serious or aggravated acts; and in addition require that jurisdictions post the young offender's information on the state's public web site, as well as provide for full disclosure of that information.

The exception created for juveniles in the Supplemental Guidelines to SORNA is insufficient to remedy the harm to youthful offenders.

Although U.S. Attorney General Holder's additional exemptions from public Web site disclosure are commendable, the tenor of SORNA and its overall application to juveniles continues to be contrary to sound public policy and notions of juvenile justice and disproportionately punitive to children.

Proponents of SORNA will argue that the Department of Justice clarified the privacy issue concerning youth by issuing the Supplemental Guidelines. As described below, this statement is FALSE.

States Neglected to Exempt Juveniles from AWA Legislation

Looking at the current status of SORNA implementation children will still face the stigma of being publicly labeled as a "sex offender."[10] The final deadline to comply with SORNA was July 27, 2011. Most states drafted and submitted their AWA legislation to the SMART Office before the Supplemental Guidelines were released. A recent survey conducted reveals that of the 14 states deemed to be in substantial compliance with SORNA, only 3 of those states exempt juveniles from public web posting. [11] It appears that many states' legislation submitted to the SMART Office before the July 27, 2011 final deadline went beyond the minimum requirements of SORNA, and did not exempt youth from the Web. Under SORNA children will still be placed on the same registries with adults, conceivably placing their "awkward pubescent mug shots among those of adult felons."[12] Notably, many young offenders could be banned from public parks, movie theaters and perhaps even schools. Fliers detailing some childrens' offenses and identifying information will be mailed out to their neighbors. Some youthful offenders will be required to register publicly as sex offenders for the rest of their lives.

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offenders required to register on the basis of juvenile delinquency adjudications from public Web site posting. (DOJ, OAG Docket 2011)

[9] NATIONAL CONFERENCE OF STATE LEGISLATURES. May 2010. *See* http://www.ncsl.org/?tabid=20361

[10] See Chart 1.1 an unofficial survey of the 14 states deemed to be in substantial compliance with SORNA that looks at the way the new law publicizes juvenile registrants. The survey looked at (1) Web site posting laws and (2) Other means of Public Notification (flyers, billboards, commercials, postcards, etc.)

[11] Supra.

[12] Abigail Goldman, *Young, But 'Predators' for Life: New Sex Offender Laws, Meant to Protect, May Instead Ruin Lives and Increase Risks*, THE LAS VEGAS SUN, (Jan. 6, 2008 12:00 AM), http://www.lasvegassun.com/news/2008/jan/06/young-but-predators-for-life/.

Chart 1.1

An unofficial survey, conducted in December 2011, of the 14 states deemed to be in substantial compliance with SORNA that looks at the way the new law publicizes juvenile registrants. The survey looked at (1) Web site posting laws and (2) Other means of Public Notification (flyers, billboards, commercials, postcards, etc.)

State deemed to be in Compliance	Juveniles Photographs are on the Public Website?		Juveniles Subject to Other forms of Community Notification		Further Explanation & Source
	YES	NO	YES	NO	
Alabama	Y		Y		Code
Delaware	Y		Y		▪ Any child convicted or adjudicated of a Tier II or III sex offense in Delaware goes on the public registry and is subject to the same community notification laws as an adult. ▪ Individuals, including juveniles, convicted or adjudicated of a misdemeanor offense can petition the court to be exempt from registration as follows under 11 Delaware Code §4121(d)(6). This section was revised in 2007. Delaware Family Court has interpreted it to include Tier I misdemeanor offenses only. *11 Delaware Code §4121(d)(6))(a), (b) & (c).*
Florida	Y		Y		In addition full website posting. Children are also subject to alternate community notification such as mailing postcards to neighbors, flyers, etc.)
Kansas	Y		Y		Code
Louisiana	Y		Y		Code
Maryland		N	Y		**In Theory …** ▪ Under Maryland law, some children adjudicated delinquent are subject to public registry (placed on the website) and all related postings. Crim. Pr. Article Section 11-704(c). ▪ Some children adjudicated delinquent in Maryland are subject to the private, "law enforcement" only registration under Section 11-704.1. The Department of Juvenile Services just released its policy on enforcing this and it looks like they are treating it just like the adult registry, including requiring juveniles to submit DNA samples. **In Practice…** Police *may* use community notification, as described below. However, Maryland Police opposed notification for juveniles adjudicated delinquent vigorously, therefore it is not expected that law enforcement will actually extend the laws to children adjudicated delinquent. It is expected that the laws will only be applied to direct files (juveniles charged as adults). **Notice by local law enforcement units to day care homes, child care centers, child recreation facilities, or faith institutions.** This is Permissive – but should not apply to juvenile registrant – goes into effect 1/1/2012 – would apply to direct files. MD CRIM PROC § 11-709 (f) A local law enforcement unit may notify the following entities that are located within the community in which a sex offender is to reside or habitually live or where a sex offender who is not a resident of the State will work or attend school of the filing of a registration statement or notice of change of address or county where the

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State deemed to be in Compliance	Juveniles Photographs are on the Public Website?		Juveniles Subject to Other forms of Community Notification		Further Explanation & Source
	YES	NO	YES	NO	
					registrant will habitually live by the sex offender: (1) family child care homes or child care centers registered, licensed, or issued a letter of compliance under Title 5, Subtitle 5 of the Family Law Article; (2) child recreation facilities; (3) faith institutions; and (4) other organizations that serve children and other individuals vulnerable to sex offenders who victimize children. **School notification of committed to custody of DJS – not offense specific and does not authorize notification of offense for which adjudicated delinquent .. Again – This is being interpreted as permissive**. MD Code, Courts and Judicial Proceedings, § 3-8A-19 (5)(i) If the court finds that a child enrolled in a public elementary or secondary school is delinquent or in need of supervision and commits the child to the custody or under the guardianship of the Department of Juvenile Services, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to be delinquent or in need of supervision and has been committed to the custody or under the guardianship of the Department of Juvenile Services. (ii) If the court rescinds the commitment order for a child enrolled in a public elementary or secondary school, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child is no longer committed to the custody of the Department of Juvenile Services. (iii) The notice authorized under subparagraphs (i) and (ii) of this paragraph may not include any order or pleading related to the delinquency or child in need of supervision case.
Michigan		N		N	Any juvenile adjudicated delinquent placed on the public site is subject to the same rules as adults. However, as part of the compliance legislation, Michigan changed its laws to preclude the registration of any offender under the age of 14 (retroactive) and put those already listed who were convicted/adjudicated between the ages of 14 and 16 on the non-public registry (except in cases where they were convicted with adult status for CSC 1 and certain crimes where the victim is under the age of 13). In Michigan, community notification on the web is by request only. Michigan does not have other forms of community notification (no flyers, no billboards, etc.)
Mississippi	Y		Y		Survey Source

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By Nicole Pittman

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State deemed to be in Compliance	Juveniles Photographs are on the Public Website?		Juveniles Subject to Other forms of Community Notification		Further Explanation & Source
	YES	NO	YES	NO	
Missouri	Y		Y		SORNA was implemented in Missouri in October 2011. Juveniles adjudicated delinquent are subject to community notification on the public website the same as adults. Missouri does not have alternate community notification requirements (no flyers, no billboards, etc.)
Nevada	Y		Y		On September 10, 2008, the ACLU of Nevada won a against the retroactive enforcement of A.B. 579 and S.B. 471, Nevada's new sex offender laws. Judge Mahan held that the retroactive application of the laws violated the U.S. Constitution, including the Due Process and Ex Post Facto clauses, making clear that the Constitution applies to all. This injunction still stands. ACLU Nevada v. Matso, 2:08-cv-00822-JCM-PAL (D. Nev., Oct. 7, 2008).
Ohio	Y		Y		While technically some youth may have their picture on the website, and are subject to community notification, both of these are pretty limited. Most juveniles do not have their picture posted. More youth in Ohio are subject to community notification requirements. *See* http://www.legislature.state.oh.us/bills.cfm?ID=127_SB_10; ORC 2152.82: http://codes.ohio.gov/orc/2152.82; ORC 2152.83: http://codes.ohio.gov/orc/2152.83; ORC 2152.86: http://codes.ohio.gov/orc/2152.86.
South Carolina	Y		Y		Code
South Dakota	Y		Y		Code
Wyoming		N	Y		Wyoming House Bill 23 of 2011 went into effect on July 1, 2011: Summary of bill: http://legisweb.state.wy.us/2011/Summaries/HB0023.htm Engrossed act: http://legisweb.state.wy.us/2011/Summaries/HB0023.htm

In this Digital Age, it is Difficult to Keep Information about Youth Truly Private

Children are often being humiliated by public disclosure of their registrant status even when they are supposed to be on a state's 'non-public' registry. In Illinois police keep a 'wall of shame' of anyone on the registry. Officers print flyers with the picture and information of children and leaflet neighborhoods.

Private security companies also run sex offender registration listings – these sites post the picture and information of all registrants regardless of what the state does. Private security companies also do not update their information. For example, if a child successfully petitions for removal from the registry, private companies do not consistently remove the child from their site. There are no known remedies to update private websites once a person's registration status changes.

The Difference between Registration Web Posting and Community Notification Laws

The state systems legislated in the 1990s, and presently enforced, are a mix of *three* different methods for identifying and tracking persons convicted of sex crimes; 1) a registration requirement, 2) a community notification system and, 3) residency and zoning restrictions.

Sex Offender Registration Requirement - The first federal sex offender registration act was passed in response to the unsolved abduction of a child while he was riding his bicycle in a small town in Minnesota. Similar to the AWA, The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act of 1994 established a national database of adult sex offenders and conditioned receipt of federal anti-crime funds on state compliance with the Act.

Community Notification Laws - Congress passed Megan's Law in 1996 in response to the abduction and murder of seven-year old New Jersey resident, Megan Kanka. Under Megan's Law, registered sex offenders were subject to community notification rules of the local and state government. Community notification systems proliferated rapidly through a series of amendments to Megan's Law. Often referred to as "public registration," community notification consists of a publicly accessible registry allowing private citizens to access identifying information about convicted sex offenders. Some form of community notification for adult sex offenders has been present in all fifty States and the District of Columbia since 1996.

Amendments to Community Notification Laws - The *Pam Lyncher Sexual Offender Tracking and Identification Act of 1996* provided for a national database to track sex offenders and subjected those convicted of an aggravated sex offense or multiple registerable sex offenses to lifetime registration and additional community notification requirements. The Act further amended the scope of community notification requiring the Federal Bureau of Investigation (FBI) to develop a national database of names and addresses of convicted sex offenders released from prison. The Lychner Act also broadened the tracking of sexual offenders beyond the state level, linking the states with a national registry and Website and allowed for State and/or local governments to subject registrants to additional forms of notification, beyond Web postings. Some of the additional forms of community notification used around the country are highway billboards with pictures and identifying information, requiring sex offenders to display lawn signs on their property, florescent license plates, mailing of postcards with the picture and information of registrants, flyers, and leaflets.

The Explosion of Sex Offender Residency and Zoning Restrictions - Sex offenders are subject to sanctions and prohibitions above and beyond what other juvenile and criminal offenders must face. There are laws in nearly every state prohibiting former sex offenders from living a certain distance from schools, churches and parks. Restrictions on where sex offenders can live became widely popular after the highly publicized 2005 murder of 9-year-old Florida resident Jessica Lunsford allegedly by a convicted sex offender who had moved into the neighborhood. Over 20 states and more than 800 cities nationwide have since adopted so-called "Jessica's Laws."[13]

SORNA is silent as to how a state handles sex offender community notification laws beyond web posting. The Act also does not consider the interplay between SORNA requirements and residency/zoning restrictions. Legislators are passing AWA legislation without considering how the additional community notification laws, residency and zoning restrictions and other existing state sex offender laws may be disproportionately punitive. State Lawmakers are consumed with coming into compliance with SORNA while existing local and state laws effectively banish former sex offenders from communities.

[13] *See* Jill S. Levenson & Leo P. Cotter, *The Impact of Sex Offender Residence Restrictions: 1,000 Feet From Danger or One Step From Absurd?* 49 INT'L J. OF OFFENDER THERAPY & COMP. CRIMINOLOGY 168 (2005).

The Privacy of Juvenile Proceedings

U.S. Attorney General Holder's exercise of authority to create such discretionary exemption to public web site disclosure does not go far enough. In creating the exemption, Holder cited to the governing principles set forth in the Federal Juvenile Delinquency Act ("FJDA"). One of the main purposes of the FJDA is to "remove juveniles from the ordinary criminal process in order to avoid the stigma of a prior criminal conviction and to encourage treatment and rehabilitation."[14]

Juvenile adjudications, by and large, take place outside the public domain. Our nation's justice system historically shields juvenile offenders from the public eye – both from protections that the public scrutiny provides against government oppression, and from the burdens that public scrutiny imposes through the stigmatization of those convicted of crimes.[15] As held by the United States Supreme Court, "[i]t is a hallmark of our juvenile justice system in the United States that virtually from its inception . . . its proceedings have been conducted outside of the public's full gaze and the youths brought before our juvenile courts have been shielded from publicity."[16] Furthermore, the adjudicatory system is designed to rehabilitate rather than punish, and thus, is ill-suited to public exposure.

Confidentiality in juvenile proceedings is not absolute, but it is carefully protected: Closed proceedings and sealed records are the norm in juvenile delinquency proceedings.[17] "Such confidentiality has historically been one of the most significant factors differentiating juvenile adjudications, which are designed to be rehabilitative, from adult criminal proceedings, which are designed to be punitive."[18] District judges have discretion to open juvenile proceedings and unseal portions of the record of juvenile adjudications under the FJDA, and disclosure to certain authorized persons for enumerated purposes is permitted.[19] However, judges may not expose all juvenile proceedings to public scrutiny as a general practice. They are charged, rather, with "the delicate task of weighing the interests of the juvenile and the public . . . in each case."[20] Moreover, the ***identity*** and the ***image*** of the juvenile **may not be publicly disclosed even in cases in which the proceedings are opened or some of the documents from the case are released: The FJDA mandates that "neither the name nor picture of any juvenile shall be made public in connection with a juvenile delinquency proceeding."**[21] Thus, even in those cases in which the court decides to open juvenile proceedings to those who wish to attend the trial, the juvenile defendant is not generally exposed to much more public awareness of his identity and criminal conduct than in the ordinary instance when his trial is closed.

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[14] United States v. Juvenile Male, 590 F.3d 924, 928 (9th Cir. Mont. 2010), *question certified to Montana* United States v. Juvenile Male, 560 U.S. _____, 2010 U.S. LEXIS 4565 (U.S. June 7, 2010).

[15] *Supra*.

[16] Smith v. Daily Mail Pub. Co., 443 U.S. 97, 107 (1979) (Rehnquist, J., concurring)

[17] United States v. Eric B., 86 F.3d 869, 879 (9th Cir. 1996); United States v. Three Juveniles, 61 F.3d 86 (1st Cir. 1995).

[18] United States v. Juvenile Male, 590 F.3d 924, 934 (9th Cir. Mont. 2010).

[19] 18 U.S.C. § 5038(a).

[20] United States v. A.D., 28 F.3d 1353, 1361 (3rd Cir. 1994).

[21] 18 U.S.C. § 5038(e)