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JOHN P. KEARNS
CHIEF OF POLICE

February 11, 1985

Law and Legislative Committee
Sacramento, California

Honorable Members in Session:

SUBJECT: REQUEST FOR SUPPORT OF UNITED STATES SENATE BILL S.140

BACKGROUND

I have been contacted by United States Senator Paula Hawkins requesting support for Senate Bill S.140. This proposed legislation, entitled the Children's Justice Act, would make available to the states \$12,000,000 in federal grant funds if reforms are instituted in child abuse laws. The suggested reforms include reducing the trauma to the child victim, enhancing the chances of successful prosecution of child molesters, and protecting the child from further abuse.

In recent years the Sacramento Police Department has experienced a dramatic increase in child abuse investigations. Such crimes are not only physically traumatic to children, but all too often leave life long psychological scars on the victim. I am in favor of legislation designed to aid child abuse victims and to increase the chances of successful prosecution.

FINANCIAL DATA

The proposed legislation allocates \$12,000,000 for state aid but does not delineate how the funds will be disbursed. It is therefore impossible to predict what impact this would have for the City.

RECOMMENDATION

I request that the Law and Legislation Committee support this bill by corresponding with U.S. Representative Robert Matsui and U.S. Senators Alan Cranston and Pete Wilson. They should be asked to vote in favor of this legislation.

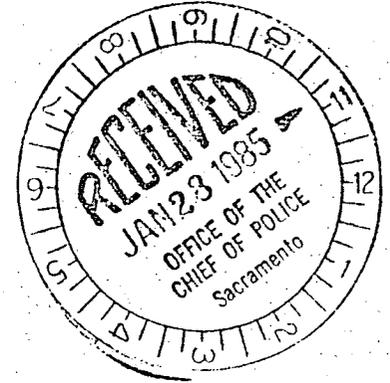
Respectfully submitted,


JOHN P. KEARNS
CHIEF OF POLICE

United States Senate

WASHINGTON, D.C. 20510

January 18, 1985



Chief John Kearns
813 6th Street
Sacramento, California 95814

Dear Chief Kearns:

Knowing your concern for the safety of our nation's children. I am writing to request your assistance in enacting the Children's Justice Act.

It is hardly an exaggeration to say that our judicial system turns a deaf ear to the cries of children who have been sexually abused. We know that thousands never open up to anyone about their traumatic experiences because they doubt that their family and neighbors will believe them. Sadly, that is often the case. Still, one would expect at least our judicial system to give every benefit of the doubt consistent with fairness to children who have managed to overcome their own fears and society's prejudices in order to bring their victimizer to justice. In reality, our courts demonstrate an insensitivity so great as to put many children through a second round of abuse.

S. 140, the Children's Justice Act, promises the States financial assistance from the Federal government provided they enact reforms that will better prevent abuse from occurring in the first place, help children through a very trying time, and bring molesters to trial and punishment. These reforms include videotaping the testimony of children to spare them the strain of appearing in public, extending statutes of limitations, changing the current practice of dismissing the accounts of children as hearsay, coordinating multiple court proceedings, and establishing counseling and treatment programs. They were developed by many fine individuals and organizations (such as the American Bar Association's National Legal Resource Center for Child Advocacy and Protection and the Attorney General's Task Force on Family Violence) that have extensively studied the subject of legal intervention in child abuse cases. These reforms are so essential that the Federal government must exert its influence in an area ordinarily left to the States.

You can play an important role in protecting our children from molesters. Please contact your U.S. Representative and Senators to urge their support for the Children's Justice Act and your State Senators and Representative to urge their consideration of the reforms specified in this legislation. As a United States Senator, I can assure you that your calls and letters will have an impact

January 18, 1985
Page 2

on their decisions. I am enclosing a copy of the Act for your information.

America's children will thank you more than I ever can.

Sincerely,

A handwritten signature in cursive script that reads "Paula". The signature is written in dark ink and is positioned above the typed name.

Paula Hawkins
United States Senator

PH/rrg
Enclosure

From a mother whose daughter was sexually molested:

I would like someone to print an article about the injustice of the victims in sexual abuse cases when videotapes are not used and children are forced to face their attackers in a courtroom. I think the public needs to be aware of what happens to victims and their families when they decide to report and prosecute child abusers So much of our story wasn't told in the courtroom because of not being able to extract the testimony from Wendy that was necessary. She was terrified into silence by his presence. What a shame that this man is now free to continue with his perverted lifestyle and harm other innocent children and their unsuspecting parents.

Videotaping of a child's testimony not only reduces the trauma to that child victim, it can also improve the chances of successful prosecution of child molesters. A primary reason for the low rate of prosecution of child molesters is the fact that the rules of evidence discredit a child's testimony and many prosecutors are reluctant to pursue prosecution based solely on the testimony of the child victim. Since the nature of the crime is such that there are rarely witnesses or corroborative evidence, the child molester can hide behind these archaic laws and rules of evidence.

Although every State except Nebraska has repealed archaic statutes which require corroboration of sexual child abuse, as a practical matter, most prosecutors are reluctant to pursue prosecution based solely on the child's testimony. The reason lies in the archaic and erroneous legal assumption that a child's testimony is somehow suspect. This is based on old and erroneous assumptions that a child's memory is more malleable and less trustworthy than an adult's. But recent studies have disputed this assumption. The Journal of Social Issues devoted a recent issue to studies of children as witnesses. The findings of the experts are best summed up by Dr. Goodman, director of the Program in Psychology and the Law at the University of Denver. She stated:

2

Investigators often fail to question children properly, or due to a lack of understanding of children's cognitive abilities elicit what appears to be inconsistent testimony. Many district attorneys are hesitant to pursue cases which rely on children's testimony for fear that no one will believe the children. Even if a case is pursued, attorneys are reluctant to put a child on the stand out of concern for his or her emotional well-being and for fear that the child will not be able to withstand cross-examination.

Such judgments, however, are likely to be based on biases, and beliefs rather than on solid grounds. It is time, Dr. Goodman notes, that these intuitions were replaced with solid evidence and deeper understanding.

Therefore, reforms are needed in the rules of evidence to facilitate a child's testimony in a case of sexual child abuse. The most popular and proven reforms are videotaping, which has been adopted by at least 12 States since 1977 and a statutory hearsay exception which has been adopted by at least 6 States since 1982. Other suggested reforms designed to enhance prosecution of child molesters include specific statutory definitions of child abuse, a longer statute of limitations, elimination of the marital privilege, and consideration of the evidentiary viability of a sexually abused child syndrome.

The third area in which reform is vitally needed is to protect the child from abuse or further abuse. Suggested reforms include civil protection orders, granting the court authority to order the accused abuser out of the home instead of forcing the child to flee to a shelter; treatment and counseling programs, for both the abused child and the abuser, in order to break the cycle of abuse; and prevention programs within the local school curricula.

Mr. President, these reforms are vital if we are to assure the abused, neglected and exploited children of our Nation that we hear and will respond to their cry for help.

Mr. President, I ask unanimous consent that a copy of this bill, the Chil-



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, FIRST SESSION

Vol. 131

WASHINGTON, THURSDAY, JANUARY 3, 1985

No. 1

Senate

By Mrs. HAWKINS:

S. 140. A bill to amend the Child Abuse Amendments of 1984, to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of sexual child abuse cases; to the Committee on Labor and Human Resources.

CHILDREN'S JUSTICE ACT

Mrs. HAWKINS. Mr. President, today I am introducing important new legislation designed to protect the sexually abused children of America and to enhance the chances of successful prosecution of child molesters.

The concept behind the Children's Justice Act is very simple. The legislation provides much needed funds earmarked to the States for sexual child abuse programs if the State demonstrates its interest in protecting children by enacting reforms in three areas. Reforms are needed to: First, reduce the trauma to the child victim; second, enhance the chances of successful prosecution of child molesters, and third, protect the child from abuse or further abuse.

The legislation does not mandate these reforms, nor does it stifle innovation by specifying which reforms the States should enact. It highlights some of the most successful and proven reforms, those recommended by either the Attorney General's Task Force on Family Violence or the ABA's National Center for Child Advocacy and Protection. The need for these reforms and their success has

been well documented.

Under the category of reforms designed to reduce the trauma to the child victim, the legislation cites such reforms as coordinating court proceedings, avoiding duplicate interviews and providing a witness advocate or guardian ad litem. The need for these reforms is great. Often a child is so traumatized by the administrative and court proceedings that they often wonder just who is on trial.

I would like to read portions of letters of victims and their families to better illustrate this point.

From a victim of child pornography:

On several occasions I have been threatened with prison for contempt of court or not cooperating, not once has anyone outside my family and friends expressed any concern for my well being—which over the past year has been hampered by violent nightmares. Tell me, Ms. Hawkins, is this usual treatment for a victim of child pornography? Mr. Reagan is on television now, saying:

There is a tradition in this country that you are innocent until proven guilty.

What am I guilty of to deserve this treatment? Being 10-years old a decade after my birth? Being taken advantage of by a trusted family friend? I will apologize for neither.

Another parent wrote:

Some of us are waiting to see if the judge is going to be creative enough so that these children won't have to come face to face with the abusers. If they—the children, don't have to face them, then I'm all for it and so's my son. But if they have to face them, then I don't know what we'll do.

3
dren's Justice Act, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Children's Justice Act".

SEC. 2. The Child Abuse Amendments of 1984 (Public Law 98-457) is amended by adding at the end thereof the following new title:

"TITLE IV—CHILDREN'S JUSTICE GRANT

"DECLARATION OF POLICY

"GRANTS AUTHORIZED

"SEC. 401. The Secretary of Health and Human Services (hereinafter in this title referred to as the 'Secretary') is authorized to make additional grants to States under section 4(a) of the Child Abuse Prevention and Treatment Act for identification, treatment, and prevention of sexual abuse in accordance with their eligibility requirements of this title.

"ELIGIBILITY OF ASSISTANCE

"SEC. 402. (a) A State is eligible for assistance under this title if the Secretary determines, that not later than one year after the date of enactment of this title, the State has enacted legal and administrative changes with respect to the investigation and prosecution of child sexual abuse cases as provided in subsection (b).

"(b) (1) A State shall have in effect a child sexual abuse program which includes at least one statute or administrative procedure to carry out the purposes of the categories described in paragraphs (2), (3), and (4).

"(2) A State shall provide for the handling of child sexual abuse cases in a manner which reduces the trauma to the child victim. Administrative procedures consistent with the reduction of trauma may include—

"(A) the establishment of interdisciplinary teams of child abuse professionals such as law enforcement officers, child protective service workers, prosecutors, child's advocates, mental health professionals, and medical personnel for handling child sexual abuse cases;

"(B) coordinated court proceedings for handling intrafamily child sexual abuse; or

"(C) providing for specialized training of law enforcement, legal, judicial, and child welfare personnel to deal with child sexual abuse victims.

"(3) A State shall establish reforms designed to improve the chances of successful prosecution or legal action against child molesters. Such reforms may include—

"(A) a specific definition of child sexual abuse;

"(B) modifications of certain evidentiary restrictions such as the hearsay rule, the corroboration requirement, and the qualification of child sexual abuse victims as witnesses to allow for the age of child sexual abuse victims; or

"(C) establishing procedures for the videotaping of victims statements and testimony to protect the child sexual abuse victim from trauma.

"(4) In order to improve procedures to protect children from sexual abuse, a State shall establish administrative statutory reforms such as—

"(A) providing a guardian *ad litem* who is assigned to make an independent investigation and report to court on recommendations regarding what action should be taken that would be in the best interests of child;

"(B) granting courts authority to grant civil protection orders to protect children from further abuse; or

"(C) providing treatment programs for the child molester and sexually abused child.

"(c) The categories of statutes and administrative procedures described in paragraphs (2), (3), and (4) of subsection (b) are intended to be general guidelines for State action. Each State is encouraged to develop innovative approaches towards achieving the objectives described in subsection (b).

"REGULATIONS

"SEC. 403. As soon as practicable after the enactment of this title, the Secretary shall issue such regulations as may be necessary to implement sections 401 and 402. In establishing regulations under this section the Secretary shall consider the purposes of this title.

"AUTHORIZATION

"SEC. 404. There are hereby authorized to be appropriated for the purposes of this title \$12,000,000 for the fiscal years 1986 and 1987."

By Mrs. HAWKINS: