[redacted].txt

From: no-reply@erulemaking.net
Sent: Wednesday, March 07, 2007 8:13 PM
To: OLPREGS
Subject: Public Submission

Follow Up Flag: Follow up
Flag Status: Completed

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Public Comments on Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act:========

Title: Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act
FR Document Number: E7-03063
Legacy Document ID:
RIN: 1105-AB22
Publish Date: 02/28/2007 00:00:00
Submitter Info:

First Name: [redacted]
Last Name: [redacted]
Mailing Address:
City:
Country: United States
State or Province: [redacted]
Postal Code:
Organization Name:

Comment Info: =================

General Comment:This can not be allowed to be applied retroactively. The manner in which one is
classified has to be Unconstitutional. The law does not take past criminal history into consideration or if the offender has a spouse and children. Each offender should be assessed using a risk assessment tool before being placed on a tier. California already requires all sex offenders to register for life. With your Tier I & II these people will not have to register for life. The law will also have a flip flop effect of sorts because many of the offenses committed against children here in California classify the perpetrator as high risk. You law will change the status of many, in the wrong direction. Way too many laws attacking the sex offender has recently come to light and just when former offenders here in California were getting over the fact that Jessica's Law will not apply to them, you hit the entire nation with new registration requirements that will cause many people to lose homes and jobs. No one thought this through because everyone in the political arena are afraid to say that these requirements are too harsh especially for those that have complied with the California registration requirements. Please change your opinion on making this law retroactive or at least take into consideration the current laws that each state has and honor what they have in place now. If this doesn't happen a dear family member will have to comply to a whole new set of laws that currently don't apply to him here. Here in California the only offenders that are required to register every 3 months are those that deemed sexually violent predators by a court of law. Your Tier III will unjustly be applied to my family member even though he is not a monster. Please think about his spouse and children in your decision, this law will have horrible consequences on them too. Many victims right groups oppose the new laws that are being passed as counter productive to the rehabilitation of a former offender.

From: no-reply@erulemaking.net
Sent: Wednesday, April 04, 2007 4:08 PM
To: OLPREGS
Subject: Public Submission

Follow Up Flag: Follow up
Flag Status: Completed

Please Do Not Reply This Email.

Public Comments on Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act:========

Title: Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act
FR Document Number: E7-03063
Legacy Document ID:
RIN: 1105-AB22
Publish Date: 02/28/2007 00:00:00
Submitter Info:

First Name: R. Steven
Last Name: Coleman
Mailing Address: [redacted]
City: [redacted]
Country: [redacted]
State or Province: [redacted]
Postal Code: [redacted]
Organization Name: Mississippi Department of Public Safety

Comment Info: =================

General Comment:Wednesday, April 4, 2007

SEX OFFENDER REGISTRATION AND NOTIFICATION

Reference Proposed Rule: OAG Docket No. 117

The Mississippi Department of Public Safety, Crime Information Center, Sex Offender Registry comments that the proposed rule ? 72.1 which specifies the applicability of the requirements of the Sex Offender Registration and Notification Act to include sex offenders convicted prior to the enactment of that Act, is well considered and therefore, should become a part of the Federal requirements governing sex offender registration and notification.

We also agree that these requirements must include registering and keeping the registration current in each jurisdiction in which a sex offender resides, is an employee, or is a student. Thus, we also indorse the proposed ? 72.3 which will govern the state?s applicability of the Sex Offender Registration and
Notification Act. If finally approved, those requirements of the Sex Offender Registration and Notification Act would apply to all sex offenders, including sex offenders convicted of the offense for which registration is required prior to the enactment of that Act.

In the year 2000, the Mississippi Legislature enacted the Mississippi Sex Offenders Registration Law which became effective from and after July 1, 2000. MCA ? 45-33-25 requires any person residing within this state, who has been convicted of any enumerated sex offense, to register with the Department of Public Safety. The Mississippi Department of Public Safety (DPS) maintains the Sex Offender Registry (SOR) which is used to compile and publish information on convicted sex offenders residing, working, or attending school in Mississippi. This

SOR law applies to all such convictions, regardless of the date, even if occurring prior to the statute?s effective date of July 1, 2000. Therefore, state law in Mississippi is compatible with the proposed federal rule.

We sincerely trust this brief comment will be beneficial to the gathering of information pertaining to the proposed federal rule of OAG Docket No. 117.

Respectfully,

R. Steven Coleman
Attorney, Senior
Miss. Bar # 6365

++

Dated: February 16, 2007.
Alberto R. Gonzales,
Attorney General.
[FR Doc. E7?3063 Filed 2?27?07; 8:45 am]
BILLING CODE 4410?18?P

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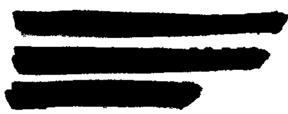
DEPARTMENT OF JUSTICE
28 CFR Part 72
[Docket No. OAG 117; A.G. Order No. 2868?
2007]
RIN 1105?AB22
Office of the Attorney General;

Applicability of the Sex Offender
Registration and Notification Act
AGENCY: Department of Justice.
ACTION: Interim rule with request for
comments.

SUMMARY: The Department of Justice is
publishing this interim rule to specify
that the requirements of the Sex
Offender Registration and Notification
Act, title I of Public Law 109?248, apply
to sex offenders convicted of the offense
for which registration is required before
the enactment of that Act. These
VerDate Aug<31>2005 15:10 Feb 27, 2007 Jkt 211001 PO 00000 Frm 00016 Fmt 4700 Sfmt 4700 E:\FR\FM\28FER1.SGM 28FER1 erjones on PRODPC74 with
RULES
Federal Register / Vol. 72, No. 39 / Wednesday, February 28, 2007 / Rules and Regulations 8895
requirements include registration by a
sex offender in each jurisdiction in
which the sex offender resides, is an
employee, or is a student. The Attorney
General has the authority to make this
specification pursuant to sections 112(b)
and 113(d) of the Sex Offender
Registration and Notification Act.

DATES: Effective Date: This interim rule
is effective February 28, 2007.
Comment Date: Comments must be
received by April 30, 2007.

++



David J. Karp, Senior Counsel
Office of Legal Policy, Room 4509
Main Justice Building
950 Pennsylvania Avenue, NW
Washington, DC 20530

Re: OAG Docket No. 117

Dear Senior Counsel Karp:

I am opposed to the Interim Rule issued as a result of the Adam Walsh Act (AWA) and SORNA by Attorney General Gonzales.

Posting places of employment in a federal database will stand in the way of any sex offender being able to earn a living, no matter how minor their crime. This is counterproductive to the goal of reintegrating ex-felons back into society as self supporting, productive citizens.

The Attorney General Gonzales said that SORNA's applicability will be to "virtually the entire existing sex offender population". There is no mention about whether Congress specifically limits what Mr. Gonzales can do.

In California, there are already laws in effect to handle the truly high risk offender and considering all sex offenders one and the same makes no sense.

Of course we all want to prevent sex crimes. However, SORNA is an ill conceived, poorly thought out Rule that should be discarded immediately

Sincerely,

Marie Callahan

Marie Callahan

New Mexico Sentencing Commission

Bill Richardson, *Governor*
Hon. Joe Caldwell, *Chair*
Billy Blackburn, *Vice-Chair*

Members:
Cynthia Aragon
Appointed by President of State Bar Assoc.
John Bigelow
Chief Public Defender
Bob Cleavall
Appointed by the Speaker of the House
John Denko, Jr.
Secretary of Department of Public Safety
Mark Donatelli
Appointed by the Speaker of the House
Roger Hatcher
Appointed by the Association of Counties
Dorian Dodson
Secretary of Children, Youth and Families
Arthur Pepin
Appointed by Chief Justice of Supreme Court
Patricia Madrid
Attorney General
Gina Maestas
Appointed by Chief Justice of Supreme Court
Lemuel Martinez
Appointed by District Attorneys Association
Antonio Ortega
Appointed by the Speaker of the House
Hon. Lynn Pickard
Appointed by Chief Judge of Court of Appeals
Hon. John Pope
Appointed by District Court Judge's Association
Angie Vachio
Appointed by the Governor
Hon. Jerry Ritter
Appointed by District Court Judge's Association
Suellyn Scarnecchia
Dean of University of New Mexico School of Law
David Schmidt
Appointed by the Senate President Pro-Tempore
Martin Suazo
Appointed by the Senate President Pro-Tempore
Melissa Stephenson
Appointed by the Governor
Joe R. Williams
Secretary of Corrections

Staff:
Michael Hall, Esq.
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Deputy Director
Randall Cherry, Esq.
SOMB Staff Attorney
Paul Guerin, PhD
Linda Freeman, M.A.
Julie Frendle
Nancy Gettings
LaDonna LaRan

April 29, 2007

David J. Karp, Senior Counsel
Office of Legal Policy, Room 4509
Main Justice Building
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Re: OAG Docket No. 117
Comments in Opposition to Interim Rule RIN 1.105--AB22

Dear Attorney General Gonzales:

The Juvenile Committee of the New Mexico Sentencing Commission voted unanimously at its regular meeting on April 16, 2007 to express its opposition to the interim rule RIN 1.105--AB22. Further, the Committee strongly urges the U.S. Department of Justice and Congress to revisit the Adam Walsh Child Protection and Safety Act of 2006 and work diligently to strike a more compassionate and productive balance between victims of sexual abuse, particularly children, and child victims of sexual abuse who sadly exhibit abusive behaviors.

The Juvenile Committee of the New Mexico Sentencing Commission is comprised of many of the state's leaders in juvenile justice, including its chairman Robert Cleavall, former deputy director of juvenile justice, Dorian Dodson, Secretary of Children, Youth and Families, Lemuel Martinez, Appointed by District Attorneys Association, Angie Vachio, Appointed by the Governor, Hon. Jerry Ritter District Court Judge, Suellyn Scarnecchia, Dean of University of New Mexico School of Law, David Schmidt, Chairman of New Mexico's Juvenile Justice Advisory Committee as well as citizen members appointed by the Senate President Pro-Tempore.

The New Mexico Sentencing Commission also oversees the state Sex Offender Management Board, which will be sending its input to you under separate letter.

Our Juvenile Committee is opposed to the U.S. Department of Justice's interim determination that Title I of the Adam Walsh Child Protection and Safety Act of 2006, also known as the Sex Offender Registration and Notification Act (SORNA), applies retroactively to all sex offenders as defined by the Act regardless of when they were convicted, and is also opposed to the overall applicability of Title I to children who have been adjudicated within the juvenile system and not convicted as adults.

2808 Central Avenue SE, Room 114 ✦ Albuquerque, New Mexico 87106
(505) 277-3494 ✦ FAX (505) 277-4215 ✦ Toll Free: 1-888-466-2552
www.nmsc.state.nm.us ✦ nmsc@unm.edu

April 28, 2007

David J. Karp, Senior Counsel, Office of Legal Policy
Room 4509 Main Justice Building
950 Pennsylvania Ave. N.W.
Washington, D.C. 20530

OAG Docket No. 117

My concerns regarding the interim decision by the U.S. Attorney General regarding the retroactivity of the Adam Walsh Act (AWA) are documented below, along with my concerns about the juvenile component, and the punitive effects of the SORNA.

Should Not Retroactively Include Those Not Previously Required to Register Per the Jacob Wetterling Act

The interim decision states:

> "The current rulemaking serves the narrower, immediately necessary purpose of foreclosing any dispute as to whether SORNA is applicable where the conviction for the predicate offense occurred prior to the enactment of SORNA. This issue is of fundamental importance to the initial operation of SORNA, and to its practical scope for many years, since it determines the applicability of SORNA's requirements to virtually the entire existing sex offender population."

Differentiation needs to be made however between those that previously were required to register per the Jacob Wetterling Act, and those that did not. **The AWA should NOT be retroactively applied to those that were not required to register per the Wetterling Act.** It should only be applied retroactively to those that met the definition in the Wetterling Act, including those currently released into the community, and those incarcerated, at the time the AWA took effect. **The Attorney General's decision is not one that should be "all or none". It requires differentiation.** One cannot assume, nor should that imply that if the AWA is not made retroactive to all past offenders that the entire existing sex offender population would not be subject to the AWA. Instead, the Attorney General needs greater differentiation, so that those that previously were required to per the definition in the Wetterling Act would continue to do so as part of the requirements of the AWA; but those that did not, would not be subject to the AWA. Moving forward, obviously, all new offenders that meet the definition of sex offender as defined in the AWA would be included.

There are many important reasons why this should be the case:

1. Some individuals were determined by a judge to not be deemed a sexual offender, and were not required to register. There are several states that make this a judicious decision. (Which is a much more appropriate method of labeling than a categorical offense based decision.)
2. Some have already completed their term of registration
3. Some have had their offenses expunged or pardoned.

4. Some were not required to register by law, including the Jacob Wetterling Act. This is especially significant because many states do not place persons < 18 years of age at the time of the offense on the sex offender registry.
5. Some were allowed by law to petition the court for removal from the registry, and that request was successfully granted after judicious review by the court.

The interim decision on retroactivity will pose the following implementation problems within states, and may even jeopardize its implementation:

1. How will states find those persons above that either did not have to register, or no longer have to register?
2. How will these individuals be notified of their new requirements under the AWA?
3. Lengthy and time consuming processes way have to be implemented to review past cases to determine if an individual meets the new definition for a sexual offender per the AWA. This decision could not be done without proper representation of the offender, and the ability to challenge any decision
4. Increased costs to states to determine who retroactively meets the definition in the new law
5. Increased costs to the states to locate and notify those individual who retroactively meet the definition in the law.

AWA Should Not Include Juveniles

The AWA never should have been applied to juveniles. As a long-time advocate for juveniles, and particularly those with learning disabilities, I am disappointed that any juveniles are included in the definition of a sexual offender per the AWA. I am not alone; many professional organizations oppose the inclusion of juveniles on a sexual offender registry (SOR). It is important to consider that the members of these organizations work with both victims and offenders; they understand the developmental differences of juveniles; they know the distinct differences in the nature of sexual contact by a juvenile versus that of an adult; and they know the impact to a child victim by a juvenile is significantly different than when contact is done by an adult. Below a just some of the organizations that wrote letters or positions statements opposing the inclusion of juveniles on a sexual offender registry, and sought to have them excluded from legislation that became the Adam Walsh Act.

1. American Psychological Association
2. Clinical Social Work Federation.
3. National Association of Social Workers
4. National Association of School Psychologists
5. School Social Work Association of America
6. Society for Research in Child Development
7. Association for the Treatment of Sexual Abusers
8. National Mental Health Association
9. American Academy of Child and Adolescent Psychiatry
10. Federation of Families for Children's Mental Health
11. National Juvenile Justice and Delinquency Prevention Coalition
12. National Consortium for Child and Adolescent Mental Health Services

If you would like copies of any of these position statements, please feel free to contact me, and I will assure that you get it.

Given the rehabilitative nature of our juvenile court system; the fact that these individuals do not have a conviction on their record; the fact that effective intervention and treatment is the basis of our juvenile court system; that fact that state laws and court decisions chose to address an individual's issues as a juvenile; and the fact that confidentiality in juvenile matters should be maintained, **juveniles should not be subjected to the stigma and unintended consequences that accompanying being labeled a sexual offender.**

Punitive Effects of the SORNA

Having worked closely with individuals that have been placed on the SOR, I can tell you this label is definitely punitive. These individuals lose jobs, housing, schooling and scholarship opportunities, and normal socialization opportunities. It fractures the family, and places them at risk for divorce, suicide and depression. Registration requirements are "not just an inconvenience" - they are detrimentally life altering. I know of 2 that have committed suicide because they could not live with a label that inappropriately defined them. Both were 14 – 18 at the time of the offense. Sadly, a few states already place juveniles on their registry. It is heartbreaking to see the negative impact to their life for offenses that sometimes occurred when they were as young as 10 years old. I work with states to change such irrational laws. Regardless, as any juvenile moves into adulthood, their offense is treated in the same manner as an adult offender when it comes to the SOR. The impact on these young offenders is devastating (and I consider young as 21 years old or less because late adolescence isn't complete until approximately 21 or 22). Research shows us this labeling is rarely justified. A juvenile court judge from Kent County Michigan said it best. "It should be reserved for only those juveniles that commit the most heinous of crimes, and show no remorse, and no response to intervention".

It's disheartening to think that 14 – 18 year olds will be subject to the AWA because of the acts of Joshua Wade, the offender in the Amy Zyla case. Joshua Wade stands apart from most juveniles because he refused to participate in his therapy and treatment program. When discharged from the state, it was known that he did not respond to intervention. Sadly, so many other juveniles are being wrongly labeled because of him, and will be subjected to the unintended punitive effects of being labeled a "sexual offender". If you think the SORNA is not punitive, I challenge you to live a few days in the life of someone that bears the label of sex offender – even that of a young person. You will be shocked to see the negative impacts of such a label. That's why over-inclusion is a problem. It doesn't make society safer, and at the same time these punitive effects will incur even greater financial burden to society.

Thank you for this opportunity to be heard as the Attorney General considers this important decision.

Sharon Denniston, Juvenile Advocate, [redacted]

From: Eric Eads [redacted]
Sent: Thursday, March 01, 2007 10:40 PM
To: OLPREGS
Subject: SORNA

Follow Up Flag: Follow up
Flag Status: Completed

I have some concerns regarding safety and well being of family members of those individuals that SORNA applies to such as their children, spouses, parents, ect. For example all vehicles operated by those SORNA applies to will be listed on the internet. Often times the vehicle may not be driven by the offender but rather a family member, friend spouse, parent, ect. How will they be protect by vigilantes? How can they protect themselves against attacks? I also believe publicly publishing an offenders employer may cause potential problems for the employer. It will also increase unemployment for offenders and their families, thus leading to a less stable, less positive enviorment. Regardless of what the AG states I believe that SORNA is punitive in nature not only to the offender, but to his family as well. It violates ex post facto statutes as well in my opionion. I believe there also needs to be more clarification on the tier levels as there is some confusion regarding registration time frame, classification, ect. I look forward to any comments you may have, Sincerely, Eric Eads

From: no-reply@erulemaking.net
Sent: Saturday, April 28, 2007 12:16 AM
To: OLPREGS
Subject: Public Submission

Follow Up Flag: Follow up
Flag Status: Completed

Please Do Not Reply This Email.

Public Comments on Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act:========

Title: Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act
FR Document Number: E7-03063
Legacy Document ID:
RIN: 1105-AB22
Publish Date: 02/28/2007 00:00:00
Submitter Info:

First Name: Kathie
Last Name: Gourlay
Mailing Address:
City:
Country: United States
State or Province:
Postal Code:
Organization Name:

Comment Info: =================

General Comment:Regarding OAG Docket 117 - I don't think it is right to make this sex offender registration law
retroactive to people who may have offended many years ago, performed any punishment

mandated by the government, and then not reoffended. Also, when they did commit an offense,
they did not realize there might be this type of punishment.

From: H/E Haws
Sent: Tuesday, May 01, 2007 2:44 AM
To: OLPREGS
Subject: OAG Docket No. 117

Follow Up Flag: Follow up
Flag Status: Red

Attachments: Fact Sheet on Juvenile SO's.doc
It is wrong to make Adam Walsh Act registration and notification retroactive. Please, please pay attention to the attached Fact Sheet and realize how grossly unfair it is to lump all of our youthful sex offenders into the category of "predators". We live in America!! What is the heavy hand of the Government doing? What about Due Process and Ex Post Facto?

Oh, the unintended consequences of "do-good", "feel-good" rules . . .

Edna Haws

From: Brent Gunnell [redacted]
Sent: Friday, April 27, 2007 7:03 PM
To: OLPREGS
Subject: OAG Docket No. 117

Follow Up Flag: Follow up
Flag Status: Completed
Re:OAG Docket No. 117

What in the world are some of you people thinking. The way the laws are written, the penalty for almost any sexual contact is already grounds for a lifetime of consequences for every offender regardless of the significance or gravity of the event.

Every "sex offender" is pronounced a predator!! This takes away from the small number of actual deviants and creates hysteria for all.

You cannot win the war on Drugs!!
You have not won the war on Terror!!
You allow alcohol to plague the roads and homes of America!!
You incarcerate four times the number of people than the almost any other country in the world!!

And then you come up with this kind of ruling and believe you will solve the problem of sexual predators in this country!!!

You ought to know by now: There is no end to treatment, because the concept foisted on the public is; **THERE IS NO CURE FOR ANY LEVEL OF SEX OFFENDERS!!!**

Treatment is undergoing many changes and there is no real evidence any kind of treatment has been effect in reducing recidivism. In fact the rate of recidivism is virtually the same with or without treatment and that level is LOW!!!!! Those running therapeutic and probationary programs admit they have no real evidence of their programs reducing recidivism, but they continue to run them as if they are working!!!

So in my opinion, adding another layer of retroactive rulings for **all** sex offenders makes little sense and is bad policy, as probation and therapy currently required of all plea bargains, already amounts to **PROBATIONARY AND THERAPEUTIC JURISPRUDENCE**. If you don't understand this it means, additional punish beyond jail sentences and the thousands of dollars offenders currently spend to defend themselves.

Spend your time and efforts on the real bad guys. There are predators. Concentrate on those 5 or 6% of all sex offenders who have problems and need more treatment and jail time than all the others put together.

Brent Gunnell
Arizona Resident

From: Virginia Davis [redacted]
Sent: Monday, April 30, 2007 6:19 PM
To: OLPREGS
Subject: OAG Docket No. 117

Importance: High

Follow Up Flag: Follow up
Flag Status: Red

Attachments: awa interim rule comments.pdf
Attached please find comments from the National Congress of American Indians in response to OAG Docket No. 117.

Virginia Davis
Associate Counsel
National Congress of American Indians
1301 Connecticut Avenue, NW Suite 200
Washington, DC 20036

NATIONAL CONGRESS OF AMERICAN INDIANS

EXECUTIVE COMMITTEE

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April 30, 2007

David J. Karp
Senior Counsel, Office of Legal Policy
Room 4509, Main Justice Building
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

RE: OAG Docket No. 117

Dear Mr. Karp:

I am writing on behalf of the National Congress of American Indians, the nation's oldest and largest organization of American Indian and Alaska Native tribal governments, to comment on the interim rule announced in OAG Docket No. 117.

The tribal governments represented by NCAI share the federal government's commitment to protecting our communities and citizens from sexual predators. Prior to the Adam Walsh Act, a number of Indian tribes had adopted sex offender registry codes. These codes take a variety of forms that reflect the remote rural nature of many Indian communities where oftentimes access to technology is low, but community knowledge and cohesiveness is high. The approach taken by the tribes also varies depending on how the federal government is meeting its responsibility to provide law enforcement services to tribal communities.[1] NCAI and our tribal members also worked successfully to include a provision in the Violence Against Women Act of 2005 to create a National Tribal Sex Offender Registry so that Indian tribes could share information with one another and improve our ability to track dangerous offenders.

We have grave concerns, however, that the Adam Walsh Act was written without adequate consideration of current tribal practices and the unique circumstances in Native communities, and as a result, enforcement of the Act in Indian Country will be undermined (please see the attached NCAI resolution for an additional discussion of these concerns). After reviewing the interim rule, we are concerned that the Department of Justice is now compounding the problem by drafting rules and guidelines for implementation of the Act without consultation with tribal governments, as required by federal law, and therefore without sufficient knowledge of the circumstances in Indian Country.

Executive Order No. 13175 (attached) requires all federal agencies to consult with Indian tribes on a government-to-government basis before proposing legislation or promulgating rules and regulations that will have a substantial impact in Indian Country. While different agencies may interpret the consultation responsibility in

[1] In many areas the federal law enforcement responsibility is met directly by the Bureau of Indian Affairs (BIA), whereas in others the tribe has taken over this responsibility from the BIA pursuant to a 638 contract. In still others, the federal government has delegated its law enforcement responsibility to the state.

different ways, it is clear that "meaningful" consultation means something more than the opportunity afforded to the general public to participate in notice and comment rulemaking. The consultation requirement is one way in which the federal government gives effect to its unique responsibilities to the Indian nations. Moreover, it is the best way to develop effective policies given the complex and unique legal status, histories, and present-day circumstances of Indian peoples.

Because Indian tribes were not consulted in the development of the Adam Walsh Act or the interim rule, the comprehensive nature of the National Sex Offender Registration system will likely be compromised. Neither the interim rule nor the Federal Register notice accompanying the interim rule give any guidance about how the rule will be applied in Indian Country. The remarkable complexity of the existing division of law enforcement responsibilities among federal, state, and tribal authorities is not reflected in tribal provisions of the Adam Walsh Act, not is it addressed in the interim rule. The federal government has the primary responsibility for providing law enforcement services to tribal communities. In many areas this federal law enforcement responsibility is met directly by the Bureau of Indian Affairs (BIA), whereas in others the tribe has contracted to provide for this responsibility pursuant to a 638 contract. In still others, the federal government has delegated its law enforcement responsibility to the state. Despite its significant role in providing law enforcement and judicial services on tribal lands, it is unclear what role the Bureau of Indian Affairs will play in the implementation and enforcement of the Act.

Section 127 of the Adam Walsh Act gives tribal governments the option of electing to be a registration and enforcement "jurisdiction" for purposes of the Act, and many tribes have elected to do so. Unlike the states, however, there are many tribes that do not currently have a sex offender registration and notification program in place, and it will likely take considerable time for these tribal registration systems to come online. It is unclear from the interim rule where an offender who lives or works on tribal lands where a registry does not currently exist is expected to register for the next two years (the permissible time for jurisdictions to come into compliance under the statute). As a result, it is likely that the Act's purpose of "eliminating potential gaps and loopholes" will likely be compromised in the short term. As leaders who want to keep our communities safe, this is very concerning.

We are also concerned that individuals, Indian and non-Indian alike, who have been convicted of qualifying offenses will technically be in violation of federal law despite the fact that it is a practical impossibility for them to comply if they live or work on tribal lands and that tribe does not yet have a registry. Clearly there is something wrong if federal law criminalizes the failure to do something that it is impossible for an individual to do.

Additionally, notifying tribal offenders of the retroactivity rule has the potential to place a substantial burden on tribal and Bureau of Indian Affairs law enforcement agencies. Under the Adam Walsh Act, tribal court convictions for certain offenses now trigger a federal registration requirement. Because many tribes who plan to participate under the Adam Walsh Act do not currently have a sex offender registry code in place, many of the tribal offenders to whom the Adam Walsh Act provisions now apply are required to register for the first time. In addition to the problem raised above regarding where these offenders are to register, it is unclear from the rule how these offenders are to be notified of this new requirement.

Tribal courts and tribal and BIA law enforcement services are severely under-funded and lack the resources that would be required to track-down offenders who are no longer incarcerated and notify them of the new registration requirement. A recent Bureau of Indian Affairs study concluded that the police-to-citizen ratio in Indian Country is less than one-half of what it is nationally. In many areas, there may be just a few officers on duty each shift charged with patrolling an area as large as the State of Connecticut. Although we understand that financial assistance will be available to tribes under the Adam Walsh Act, no such monies have yet been made available. Tribal governments have many pressing public safety needs that will go unmet if scarce tribal and BIA resources are diverted to a notification program.

We have no doubt that there are solutions to the implementation challenges outlined above, but it is imperative that Indian tribes are given an opportunity to provide input into developing those solutions. Unfortunately, Indian tribes were not consulted during the development of the Adam Walsh Act or the interim rule, and have not been asked to give input into other guidelines that are currently being developed by the Department of Justice. We strongly urge the DOJ to comply with the consultation requirement set forth in EO 13175.

We recommend and request that a meeting be held as soon as possible with representatives from Indian tribes, the Department of Justice, and the Department of Interior to begin discussing how best to integrate Indian tribes into the national sex offender registration and notification system. This meeting should take place as soon as is practicable to allow tribes to make informed decisions prior to the July 27, 2007 deadline. Please contact me or NCAI Associate Counsel Virginia Davis, 2[redacted] to follow-up on this request and with any questions.

Sincerely,

Joe Garcia
President

EXECUTIVE COMMITTEE

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The National Congress of American Indians
Resolution #ECWS-07-003

Title: Urging Congress to Amend Section 127 of the Adam Walsh Act

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, according to Department of Justice statistics, 1 in 3 Native women will be sexually assaulted in her lifetime; and

WHEREAS, tribal governments are committed to fulfilling their responsibility to protect and promote public safety on tribal lands and a number of tribes have developed innovative strategies for tracking sex offenders on tribal lands; and

WHEREAS, on July 27, 2006 Congress passed the Adam Walsh Act, which created a National Sex Offender Registry and Notification System; and

WHEREAS, Section 127 of the Adam Walsh Act addresses Indian tribes and was included without any hearings, consultation or consideration of the views of tribal governments and current tribal practices; and

WHEREAS, Section 127 forces tribal governments to affirmatively elect to comply with the mandates of the Act by July 27, 2007 or *the state in which the tribe is located will be given jurisdiction to enforce the Act and would then have the right to enter tribal lands to carry out and enforce the requirements of the Act*; and

WHEREAS, tribal governments in the mandatory P.L. 280 states would be forced to relinquish civil jurisdiction to the states for limited purposes under the Act; and

WHEREAS, the Act requires tribes who elect to comply with the Act, to maintain a sex offender registry that includes a physical description, current photograph, criminal history, fingerprints, palm prints, and a DNA sample of the sex offender; and

WHEREAS, the tribal provisions of the Adam Walsh Act make no reference to the National Tribal Sex Offender Registry authorized in Title IX of the reauthorization of the Violence Against Women Act passed in 2005 that was developed in consultation with Tribal governments and is more consistent with principles of tribal sovereignty; and

WHEREAS, Congress has failed to appropriate any money to develop the National Tribal Sex Offender Registry, nor to assist tribes into developing the systems necessary to comply with the mandates of the Adam Walsh Act and is unlikely to do so prior to the July 27, 2007 deadline for tribes to opt-in; and

WHEREAS, the Department of Justice has not yet issued any regulations or guidance for implementation of the Act and it seems increasingly unlikely that any such guidance will be promulgated prior to the July 27, 2007 deadline; and

WHEREAS, the provision in the Adam Walsh Act that gives states enforcement authority essentially delegates federal law enforcement authority on many reservations where no such delegation has occurred for any other area of law and states are not currently exercising criminal jurisdiction; and

WHEREAS, requiring tribes to take affirmative action to avoid an expansion of state jurisdiction on tribal lands represents an unprecedented diminishment of tribal sovereignty and will likely result in an expansion of state jurisdiction that will unnecessarily complicate the already confusing system of criminal jurisdiction on tribal lands and diminish cooperation between states and tribes on law enforcement; and

WHEREAS, the existing scheme of criminal jurisdiction on tribal lands is sufficient to fully enforce the registration requirements of the Adam Walsh Act without the provision delegating federal enforcement authority to the state in places where states do not currently have this authority; and

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby call upon the Congress to amend the Adam Walsh Act to remove the existing tribal provisions and engage in a process of consultation with tribal governments to determine how best to include tribal nations in the national sex offender registry; and

BE IT FURTHER RESOLVED, that the NCAI does hereby call upon the Congress to remove the arbitrary July 27, 2007 deadline for tribes to elect to participate; and

BE IT FURTHER RESOLVED, that NCAI calls upon Congress to strike the portion of the Adam Walsh Act that delegates federal enforcement authority under the statute to the states; and

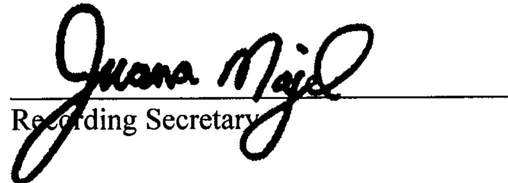
BE IT FINALLY RESOLVED, that NCAI calls upon Congress to appropriate sufficient funds for tribes to develop registration systems that will comply with the mandates of the Adam Walsh Act and for the development of the National Tribal Sex Offender Registry, and calls upon the Department of Justice to authorize tribal registration numbers.

CERTIFICATION

The foregoing resolution was adopted by the Executive Council at the 2007 Executive Council Winter Session of the National Congress of American Indians, held at the Wyndham Washington and Convention Center on February 26-28, 2007 with a quorum present.

President

ATTEST:



Recording Secretary

Federal Register
Vol. 65, No. 218
Thursday, November 9, 2000

Presidential Documents

Title 3—

The President

Executive Order 13175 of November 6, 2000

Consultation and Coordination With Indian Tribal Governments

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes; it is hereby ordered as follows:

Section 1. *Definitions.* For purposes of this order:

(a) "Policies that have tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

(b) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(d) "Tribal officials" means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

Sec. 2. *Fundamental Principles.* In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

Sec. 3. *Policymaking Criteria.* In addition to adhering to the fundamental principles set forth in section 2, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications:

(a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

(b) With respect to Federal statutes and regulations administered by Indian tribal governments, the Federal Government shall grant Indian tribal governments the maximum administrative discretion possible.

(c) When undertaking to formulate and implement policies that have tribal implications, agencies shall:

(1) encourage Indian tribes to develop their own policies to achieve program objectives;

(2) where possible, defer to Indian tribes to establish standards; and

(3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes.

Sec. 4. *Special Requirements for Legislative Proposals.* Agencies shall not submit to the Congress legislation that would be inconsistent with the policymaking criteria in Section 3.

Sec. 5. *Consultation.* (a) Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Within 30 days after the effective date of this order, the head of each agency shall designate an official with principal responsibility for the agency's implementation of this order. Within 60 days of the effective date of this order, the designated official shall submit to the Office of Management and Budget (OMB) a description of the agency's consultation process.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government or the tribe in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) consulted with tribal officials early in the process of developing the proposed regulation;

(B) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(C) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(c) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications and that preempts tribal law unless the agency, prior to the formal promulgation of the regulation,

(1) consulted with tribal officials early in the process of developing the proposed regulation;

(2) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the

need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(3) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(d) On issues relating to tribal self-government, tribal trust resources, or Indian tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

Sec. 6. *Increasing Flexibility for Indian Tribal Waivers.*

(a) Agencies shall review the processes under which Indian tribes apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribe for a waiver of statutory or regulatory requirements in connection with any program administered by the agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency, or as otherwise provided by law or regulation. If the application for waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 7. *Accountability.*

(a) In transmitting any draft final regulation that has tribal implications to OMB pursuant to Executive Order 12866 of September 30, 1993, each agency shall include a certification from the official designated to ensure compliance with this order stating that the requirements of this order have been met in a meaningful and timely manner.

(b) In transmitting proposed legislation that has tribal implications to OMB, each agency shall include a certification from the official designated to ensure compliance with this order that all relevant requirements of this order have been met.

(c) Within 180 days after the effective date of this order the Director of OMB and the Assistant to the President for Intergovernmental Affairs shall confer with tribal officials to ensure that this order is being properly and effectively implemented.

Sec. 8. *Independent Agencies.* Independent regulatory agencies are encouraged to comply with the provisions of this order.

Sec. 9. *General Provisions.* (a) This order shall supplement but not supersede the requirements contained in Executive Order 12866 (Regulatory Planning and Review), Executive Order 12988 (Civil Justice Reform), OMB Circular A–19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(b) This order shall complement the consultation and waiver provisions in sections 6 and 7 of Executive Order 13132 (Federalism).

(c) Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments) is revoked at the time this order takes effect.

(d) This order shall be effective 60 days after the date of this order.

Sec. 10. *Judicial Review.* This order is intended only to improve the internal management of the executive branch, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against the United States, its agencies, or any person.

THE WHITE HOUSE,
November 6, 2000.

[FR Doc. 00–29003
Filed 11–8–00; 8:45 am]
Billing code 3195–01–P

From: Candace Faverty [redacted]
Sent: Monday, March 05, 2007 2:42 PM
To: OLPREGS
Subject: Concerning 28 CFR Part 72 -- ACTION: Interim rule with request for comments.

Follow Up Flag: Follow up
Flag Status: Completed
There has been questions of offenders and parents of juvenile offenders concerning the Adam Walsh Act (HR 4472) pertaining to the definition of Offenses Involving Consensual Sexual Conduct as defined in Subtitle A - Sec. 111 (5)(C)

Subtitle A--Sex Offender Registration and Notification
SEC. 111. RELEVANT DEFINITIONS, INCLUDING AMIE ZYLA EXPANSION OF SEX OFFENDER DEFINITION AND EXPANDED INCLUSION OF CHILD PREDATORS

which contains the following

(5) AMIE ZYLA EXPANSION OF SEX OFFENSE DEFINITION-

(A) GENERALLY- Except as limited by subparagraph (B) or (C), the term `sex offense' means--

(i) a criminal offense that has an element involving a sexual act or sexual contact with another;
(ii) a criminal offense that is a specified offense against a minor;
(iii) a Federal offense (including an offense prosecuted under section 1152 or 1153 of title 18, United States Code) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of title 18, United States Code;
(iv) a military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note); or
(v) an attempt or conspiracy to commit an offense described in clauses (i) through (iv).

(B) FOREIGN CONVICTIONS- A foreign conviction is not a sex offense for the purposes of this title if it was not obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established under section 112.

And specifically this section

(C) OFFENSES INVOLVING CONSENSUAL SEXUAL CONDUCT- An offense involving consensual sexual conduct is not a sex offense for the purposes of this title if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.

DEPARTMENT OF JUSTICE
28 CFR Part 72
[Docket No. OAG 117; A.G. Order No. 2868-2007]

RIN 1105-AB22
Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act
AGENCY: Department of Justice.
ACTION: Interim rule with request for comments.

The Interim rule with requests for comments does not address the issue of "**OFFENSES INVOLVING CONSENSUAL SEXUAL CONDUCT"** There are many young men ages 17-21 who are currently required to register in various States and Jurisdictions across the United States, who by this definition would not be required to register. What is the intent with this definition?

1. Does it only pertain to Federal Offenses?
2. Does it pertain to all Jurisdictions?
3. Does it only pertain to Consensual sex acts occuring after the enactment of the Adam Walsh Act?
4. Does it pertain retroactively thereby allowing these young men to be removed from the registries?
5. Will States retain the option of having these young men on their State/Local registries while not including them in the National Registry?
6. If retroactive, how does one get themselves removed, will they have to petition the court of their conviction for removal?

There are so many young men whose lives are ruined due to this type of sexual misconduct, some resorting to suicide as they see no future for themselves. These questions require addressing sooner than later before more young men end their lives.

Thank you,

Candace Faverty

From: Families for Fairness [[redacted]]
Sent: Sunday, April 15, 2007 5:25 PM
To: OLPREGS
Subject: OAG Docket No. 117

Follow Up Flag: Follow up
Flag Status: Completed

Att: Mr. David J. Karp, Senior Counsel
Office of Legal Policy.

DEPARTMENT OF JUSTICE
28 CFR Part 72
[Docket No. OAG 117; A.G. Order No. 2868-2007]

RIN 1105-AB22

Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act
Department of Justice.
Interim rule with request for comments.

Dear Mr. Karp,

We respectfully submit our suggestions for rules in the implementation of the Adam Walsh Act. We represent young **first offenders**, those ages 18-19, still teenagers, yet prosecuted as adults, for experimental sexual experiences.

1. We recommend that there be a tiered system allowing leniency for your first offenders -- those who are lowest risk of re-offending.

2. We recommend that juveniles and **first offenders** under age 20 at the time of offense be on a **private registry**, available only to law enforcement, thus not labeled and have their lives ruined.
Let them have a second chance.

3. Young offenders usually mature out of their unacceptable sexual behaviours. Most of the time their offenses do not involve weapons, true violence, abduction, etc. yet they are classed the same as true violent predators. A registry with several tiers dilutes it's usefulness.

4. Definitions such a predator, violent, etc. need to mean just that, and not casually used for young people who are experimenting with sexuality. Again, it dilutes the usefulness of the registry.

5. Massive education campaign to let kids know what the **legal consequences** of underage sex in their states. This is vital. Most kids haven't any idea what they are facing, legally.

6. There is no evidence registry does anything to prevent future crime. Thus any use, should be for only those who are dangerous, most likely to re-offend: Victims are boys, strangers, weapons are used, abduction involved, multiple offenses, etc.

7. Treatment works. The idea of "no cure' is only true for some mentally disordered folks who suffer from such things as pedophilia. Don't clutter up the registry with others.

8. It's more a function of parents, not government, to protect their children as nearly all sex offenses
against children are in the child's own home, or by someone close to the family. No registry or laws will stop this unfortunately.

Thank you.

Lynn Hughes

Director
Families for Fairness

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[redacted]g
[redacted]

Lynn Hughes

Director
Families for Fairness

[redacted]
[redacted]4
e[redacted]g
[redacted]
[redacted]

From: jean watson[redacted]
Sent: Monday, April 30, 2007 3:54 PM
To: OLPREGS
Subject: OAG Docket No. 117

Follow Up Flag: Follow up
Flag Status: Red

We are very concerned about the ruling that will allow states to retroactively publish the address for the place of employment of sex offenders. There are many sex offenders in our nation who have put their lives together and not offended again. To publish the work addresses of these people will ensure that many of them lose their jobs. Jobs are extremely difficult for these people to find in the first place. Experts agree that stable employment is one of the most important factors in preventing recidivism for offenders. We own a company and have found that persons with criminal backgrounds can make excellent employees when they are given the chance to turn their lives around. It would be a major disadvantage to our company to retroactively publish our address because we have given an offender stable employment. We are asking that this ruling be overturned and this information not be allowed to be made public.

Thank you.

Jim and Beverly Elam

Ahhh...imagining that irresistible "new car" smell?
Check out new cars at Yahoo! Autos.

From: Anita DiMarino [redacted]
Sent: Saturday, April 28, 2007 11:42 AM
To: OLPREGS
Subject: OAG docket # 117- Retroactivity

Follow Up Flag: Follow up
Flag Status: Completed

No retroactivity on registers!!!
Better yet, No Public Registers!!!
They are more dangerous to society than the crimes from which you think you are "protecting society!!!
These public registries are Hate Laws at their finest and will produce a fear-filled and angry society. An angry society can easily be manipulated into violent retribution against the innocent family and landlords of the accused.
Come to your senses and stop this legislation immediately!!!

Ahhh...imagining that irresistible "new car" smell?
Check out new cars at Yahoo! Autos.

04/25/07

David J. Karp, Senior Counsel
Office of Legal Policy,
Room 4509
Main Justice Building, 950 Pennsylvania Avenue
NW Washington, DC 20530

Dear Mr Karp

Today I am writing to you to voice my concern and opposition for the Interim Rule issued as a result of the Adam Walsh Act and SORNA by the Attorney General Gonzales. This act is wrong, being used as a method of punishing people for past offenses after which they had served their time in prison or probation. It lumps low risk offenders the same as high risk and this is not balanced justice but a public safety issue.

Please consider the effect this will have on the one million families attached to a sex offender when they cannot earn a living. We now have offenders living under a bridge in Florida..they must value animals more than men! This is not right or just, and will open up an invitation for more violence.

There is a lie that has been told to the public that sex offenders cannot be rehabilitated and that they have a high rate of recidivism. This is unfair and untrue. Why is it that a murder, drug addict or arsonist can be rehabilitated but a sex offender cannot?

This is not Nazi Germany but sadly I see many of our rights being taken away, this is only the beginning unless we wake up and realize that the start of removing a persons rights under these conditions will soon lead to more and more of all persons losing their rights! This is a frightening state of affairs and SORNA should be disbanded and done away with now!!

Thank you

Linda Clarke

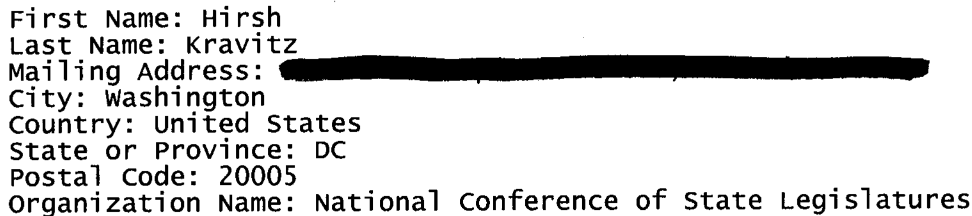
From: no-reply@erulemaking.net
Sent: Monday, April 23, 2007 1:22 PM
To: OLPREGS
Subject: Public Submission

Attachments: P__Lawjus_rule comments(sex offender).doc

Please Do Not Reply This Email.

Public Comments on Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act:========

Title: Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act
FR Document Number: E7-03063
Legacy Document ID:
RIN: 1105-AB22
Publish Date: 02/28/2007 00:00:00
Submitter Info:



First Name: Hirsh
Last Name: Kravitz
Mailing Address:
City: Washington
Country: United States
State or Province: DC
Postal Code: 20005
Organization Name: National Conference of State Legislatures

Comment Info: =================

General Comment:See Attached

April 23, 2007

Mr. David J. Karp
Senior Counsel
Office of Legal Policy
Room 4509 Main Justice Bulding
950 Pennsylvania Avenue, NW
Washington, DC 20530

Interim Rule: Applicability of the Sex Offender Registration and Notification Act
Docket ID: OAG 117; A.G. Order No. 2868-2007

To Whom It May Concern:

Thank you for providing this opportunity for the public to express concerns about the Applicability of the Sex Offender Registration and Notification Act as found in Title I of Public Law 109-248.

The language is said to apply to sex offenders convicted of the offense for which registration is required before the enactment of the Sex Offender Registration and Notification Act. The requirements include registration by a sex offender in each jurisdiction in which the sex offender resides, is an employee, or a student. The National Conference of State Legislatures (NCSL) seeks a clarification as to whether the Act applies retroactively to anyone who was ever convicted of a sex offense or only those convicted of a sex offense while there was a state law in effect.

In a recent meeting with the new Director of the SMART Office, NCSL learned that the intent of the retroactivity provision in the interim rule is not to include offenders who were convicted pre-SORNA and who are no longer under state supervision, but that if such a person ever reenters the state criminal justice system, states would be required to enter this person into the sex offender registry at that time. However, for the sake of clarity, NCSL asks that the intent of the retroactivity provision be rewritten to reflect this interpretation. In seeking this clarification, The National Conference of State Legislatures is firm in our belief that the retroactivity provision shall only apply to currently registered sex offenders in the states so as to respect state sovereignty over the treatment of sex offenders as laid out in each state's respective sex offender registry provisions.

Sincerely,

Susan Parnas-Frederick