



**Julie P. Leer**

12/19/2007 04:46 PM

To: "John Ford" <john@spolyus.com>  
cc: "Ronningen, Paul" <oronp@nd.gov>, tmathern@nd.gov  
Subject: Re: Open records request

Dear Mr. Ford -

DHS has no policy in place regarding the housing of foster children along with registered sex offenders in a foster care setting as you describe in your December 14, 2007 e-mail, so your request for a copy of that policy cannot be granted. (See N.D.C.C. 44-04-18(4) "...nothing in this section requires a public entity to create or compile a record that does not exist.")

Prior to responding to your e-mail received Friday, December 14, 2007, we contacted Division of Juvenile Services (DJS) and the Dakota Boys' and Girls' Ranch (DBGR) to obtain information on their practices in the context of the situation you presented. DJS provided the following general information:

ND state law includes juveniles who have been adjudicated in the definition of "sexual offender". One must sort through the definitions in order to get a clearer picture of what this often means.

Many times, DJS youth carry a "sex offender" label and the offense "gross sexual imposition" on their records. If the victim is under the age of 15, the offense is a gross sexual imposition by definition. It does not matter that the perpetrator might be under the age of 15 as well. Therefore, when DJS is asked to provide treatment to youth who have engaged in inappropriate behaviors within their own families, or with agemates or younger children outside of their families, these youth often are found to have committed gross sexual imposition, according to the legal definition.

Also, state law includes the same sex offender registration requirements for both adults and delinquent youth. Registration as a sexual offender is broader than just sex offenses. Youth who have committed certain violent offenses must register with law enforcement as well. The registration requirement is not an unusual action, as suggested. Rather, it is our common practice.

The lifetime registration requirement is imposed when there are two or more offenses.

To see a young person with the characteristics of two GSI offenses, registering for a lifetime, may simply be that a young person was identified early and treatment services are progressing. It is also important to note that the law requires lifetime registration for persons with two convictions, it does not specify the degree of the offense. In other words, a person with two misdemeanors would also register for a lifetime if the offenses have happened since August of 1999.


DBGR provided the following information:

Dakota Boys and Girls Ranch often deals with young people adjudicated as sex offenders in our sexual responsibility (SR) programming. Although primarily seen in the SR program, if sufficient progress is seen over time, they may be transitioned to other locations or levels of programming as a step down. Some of these residents might find themselves on the sex offender registry depending on their type and frequency of offending. All DBGR efforts are focused on effective programming and strict supervision to ensure all residents on the campuses are kept safe. In essence, we take the appropriate "universal precautions" to ensure all residents are not placed at risk. Our sexual responsibility program has some of the most stringent supervision rules in the entire agency, and staff are very aware of the potential risk of even the most incidental or superficial types of contact. We do not do any type of specific notification to families and residents, as we feel that would be a serious violation of the client's right to confidentiality.

Julie Leer  
Legal Advisory Unit

## MEMORANDUM

**TO:** Administrative Rules Committee

**FROM:** Julie Leer, Legal Advisory Unit   
Department of Human Services

**DATE:** March 12, 2008

**RE:** Juveniles on Sex Offender Registry

Jonathan Alm, DHS contacted Ken Sorenson, Assistant Attorney General.

Ken said that juveniles can be required to register in accordance with 12.1-32-15 (copy attached). If the juvenile court makes a finding on the record that a juvenile should not be required to register, the juvenile will not have to register and his name will not appear in the sex offender registration record. If the juvenile court is silent on the issue, the juvenile will be required to register and the juvenile's name will appear in the registration records. Ken stated normally when a juvenile is adjudicated as a sex offender and is required to register; the Division of Juvenile Services will manage the placement out of home, if any, such as the DBGR, and arrange for the juvenile to register with local law enforcement in the jurisdiction where the juvenile is placed. Juveniles are registered in the same manner as adults and the levels of risk that may be assigned (low, moderate, and high) are the same for juveniles and adults.