



Albuquerque,
New Mexico

August 16, 2019

Sheriff Manny Gonzales
Bernalillo County Sheriff's Department
400 Roma Avenue NW
Albuquerque, NM 87102

Dear Sheriff Gonzales:

This is to notify you that the Bernalillo County Sheriff's Department (BCSD) is in violation of the New Mexico Sex Offender Notification and Registration Act (SORNA). We urge that you become familiar with the limitations of your office as it relates to SORNA and train your deputies and staff properly. The relevant language regarding the limitations of a sheriff is, "The department, cities, counties, home rule municipalities and other political subdivisions of the state shall not require a sex offender to report or to register more frequently or to provide information not required by the Sex Offender Registration and Notification Act..." See 29-11A-9(A).

Despite the fact that this limitation became effective July 1, 2013, your office is continuing a practice of imposing requirements on registrants that are not codified in statute. Thus, they are unlawful.

First, BCSD has a practice of leaving bright colored flyers on doors with an order that the person contact BCSD within 24 hours or else they are in violation of SORNA. Registrants are not required to call BCSD simply because your office would like to have them do so. We are strongly urging that you instruct your deputies to discontinue this practice of making threats of prosecution when there is no such requirement.

Second, your office is requiring registrants to provide advance notice and an itinerary of out-of-state travel prior to leaving the state. There is no such requirement in SORNA, making the requirement unlawful. SORNA only requires advance notice if the person is moving to a new state. A temporary absence from New Mexico does not require advance notice nor that an itinerary be provided. We urge that you instruct your deputies to discontinue this practice immediately.

Third, we have been sent employment forms that your department is requiring registrants to take to their employers to be filled out and returned to them. These are listing their convictions and other specifics not allowed under 29-11A-4(K) NMSA. This too is an additional obligation beyond the scope of the statute and is in direct violation of the 10-year non-publishable provisions. While a registrant is required to notify his employer pursuant to 29-11A-4(K)NMSA, the statute only prescribes "...the sex offender shall disclose his status

as a sex offender in writing to his employer, supervisor or person similarly situated.” This practice needs to cease and desist immediately.

We do recognize that your duties as sheriff require you to enforce SORNA. Those duties are clearly set forth in 29-11A-4 NMSA. Those statutory requirements are not subject to a sheriff imposing his/her own additional obligations because he/she feels it might be a better policy than the legal obligations required of a sex offender.

We request that you communicate your position to us within 10 days of this letter as it is our sincere hope to avoid litigation on this matter.

We respectfully put all parties on notice that all records need to be preserved in this matter.

This notice is in accordance with NMSA 1978, § 41-4-16, providing written notice to Risk Management Division within the allotted time to provide notice of a pending Tort claim against the Bernalillo County Sheriff's Department.

Sincerely,



Ashley Cloud, Esq.
Staff Attorney
Liberty & Justice Coalition

cc: Bernalillo County Attorney
NM Association of Counties
Risk Management Division
Department of Public Safety