



Sex Offender Sentencing, Monitoring, Apprehension, Registration and Tracking (SMART) Office

“Sex Offender Registry Laws: From Jacob Wetterling to Adam Walsh”

By Laura L. Rogers, Director of SMART Office

As Director of the new Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office within the United States Department of Justice’s Office of Justice Programs, one of my responsibilities is to educate law enforcement officers and other criminal justice professionals on recent statutory changes relating to registration of sex offenders. This article outlines various changes instituted by the Adam Walsh Child Protection and Safety Act of 2006 (AWA), which President Bush signed into law last year.

National standards for the registration of sex offenders were previously set by the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. Under Wetterling, the national standards for registration of sex offenders applied to states, the District of Columbia, and principal territories. Wetterling required residency registration and encouraged registration of employment and school information. AWA adds includes Indian tribal jurisdictions and requires registration by sex offenders where they reside, are employed and attend school. AWA increases the federal failure to register penalty and allows for state sex offenders to be prosecuted federally for failure to register pursuant to inter-jurisdiction or foreign travel.

The AWA broadens the range of offenses against adults to cover crimes that involve sexual contact, while Wetterling was limited to assaults involving sexual acts, such as rape. AWA includes crimes of child pornography and conspiracy and extends registration beyond adults to include certain juveniles convicted only of the most serious sex offenses.

AWA establishes three tiers of registration requirements, based on offense severity. Tier I offenders must register for 15 years and complete annual in-person showups; tier II offenders must register for 25 years and complete semiannual showups; tier III offenders register for lifetime and complete quarterly showups. As under Wetterling, recidivism pushes offenders into higher tiers. AWA provides for tier I and juveniles offenders to be relieved of their registration requirement after maintaining a clean record for 10 and 25 years, respectively.

Wetterling required sex offenders to submit their names and residential addresses, with relatively limited requirements concerning other information. The AWA strengthens reporting requirements by mandating sex offenders submit information including SSN, employer and school information, fingerprints, physical description, photograph and a DNA sample.

A key element of the AWA is that it establishes standards to promote greater uniformity across public sex offender Web sites. Wetterling required the establishment of state sex offender Web sites, but left discretion to states about which registrants and what information would be posted. AWA establishes minimum requirements regarding which sex offenders and what information must be made available to the public through state and the National Sex Offender Public Website, and it sets forth specifications about required search capabilities. Information that is

statutorily exempted from public dissemination will be included on law enforcements National Sex Offender Registry.

Another responsibility of the SMART Office is to provide jurisdictions with guidance regarding implementation of the AWA. The SMART Office is working on implementation guidelines. After the ongoing internal review process at the Department of Justice is completed, the guidelines will be made available for public comment. The dissemination of the guidelines is a top priority for the SMART Office.

Interim rules regarding the retroactivity of AWA were published in the Federal Registry on February 28, 2007. Public comment is available until April 30, 2007. Sex offenders convicted of an AWA registration offense, who have completed their registration requirements, must register if they come back into the judicial system by receiving a conviction for another crime, regardless of whether the offense is a sex offense.

All jurisdictions are required to implement the minimum standards included in Title 1 of the AWA by July 27, 2009. Jurisdictions should consider AWA minimum requirements as a floor, not a ceiling. Jurisdictions are free to implement regulations that are stricter than what AWA requires.