

United States Senate
COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

August 10, 2010

Via Electronic Transmission

The Honorable Shaun L. S. Donovan
Secretary
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410

Dear Secretary Donovan:

As ranking member of the Committee on Finance, it is my constitutional duty to conduct oversight into the actions of the Executive Branch, including the activities of the Department of the Housing and Urban Development (HUD/Department). I am writing to inquire about lifetime sex offenders living in federally subsidized housing, some due to a legal loophole. It is essential that the Federal Government ensures the safety and security of public housing residents against such predators.

Congress included a provision in the Quality Housing and Work Responsibility Act of 1998 (the Act), which made it illegal for lifetime convicted sex offenders to be admitted to federally subsidized housing, to address rising concerns regarding the threats posed by sexual predators. Specifically, the Act states that “Notwithstanding any other provision of law, an owner of federally assisted housing shall prohibit admission to such housing for any household that includes any individual who is subject to a lifetime registration requirement under a State sex offender registration program.”

The HUD Office of Inspector General (OIG) released an audit report (2009-KC-0001) which revealed that local Public Housing Authorities (PHAs) do not conduct adequate screenings for convicted sex offenders and have admitted dangerous offenders to live in public housing projects and Section 8 housing. Additionally, the OIG found that the Department failed to implement adequate controls or monitoring at the federal level to ensure that PHAs prevent this from happening. The OIG reviewed a sample of 67 households and found that 36 contained lifetime sex offenders, including:

- 18 household members who were ineligible at the time of admission due to lifetime registration status.
- 10 household members who were admitted and convicted before the current law was enacted.
- 8 household members who were eligible at the time of admission, but later became lifetime registered sex offenders.

- Based on these figures, the OIG determined that HUD subsidizes an estimated 2,094 to 3,046 households that include lifetime registered sex offenders.

Additionally, the OIG informed my staff that they are prohibited from releasing the specific names of the lifetime registered sex offenders that were identified in the audit sampling due to an agreement made with the Federal Bureau of Investigation (FBI). Specifically, the FBI provided National Sex Offender Registry information to the OIG which is subject to confidentiality provisions and is therefore not available to the public. The Dru Sjodin National Sex Offender Public Website is available to the public; however it only searches state websites and is not fully reliable. As a result, the names of dangerous sex offenders presently living in public housing can neither be released, nor can the individuals be removed from the PHA.

According to the OIG, it is the responsibility of the PHAs to conduct thorough application reviews and background checks on all new applicants. In particular, PHAs are required to perform the necessary criminal history background checks in the state where the housing is located and in the other states where the household members are known to have lived. I was also made aware of the fact that PHAs are not **requiring** (emphasis added) complete background information from PHA applicants and are not specifically asking an applicant for a list of all the states in which the applicant previously lived. Further, I understand that housing projects and PHAs are not currently required to check the Dru Sjodin Nation Sex Offender Website. Consequently, the Administration has created an environment that enables lifetime sex offenders to withhold pertinent information and gain entrance to taxpayer funded housing. Lastly, it is my understanding that HUD does not penalize PHAs for failing to conduct more thorough background checks.

According to the Audit Report, the law as written has created a loophole that “only prohibit[s] admission and do[es] not prohibit offenders convicted after admission or those who were both admitted and convicted before the current law was enacted (p. 6).” I understand that legislation is being drafted to correct this situation and I would appreciate an update on the efforts being made to close this loophole.

Following the release of the Audit Report, HUD issued a Special Notice (H 2009-11 and PIH 2009-35HA)) to “reiterate current regulatory requirements and strongly encourage the establishment of standards and processes with a zero tolerance approach to prevent lifetime sex offenders from receiving federal housing assistance.” While I appreciate HUD’s effort to ensure that PHAs are strengthening their respective screening processes to ensure that sex offenders are not allowed into the programs, I am concerned that HUD merely **recommends** (emphasis added), as opposed to **requires** (emphasis added), that PHAs conduct additional screening. I also note that there does not appear to be any accountability structure set forth to enforce the Department’s recommendations with regard to sex offenders.

For these many reasons, and to ensure the safety and security of individuals and families living in federally subsidized housing, please:

- 1) Describe in detail the implementation plan being conducted by HUD to address the OIG's recommendations.
- 2) Discuss in detail the actions taken by HUD to address those PHAs that failed to establish the zero tolerance standards and procedures as outlined in the HUD Special Notice. In the event an action was taken against a PHA, please identify the PHA and the nature of its failure.
- 3) Advise of any instances known to HUD involving a lifetime sex offender residing in a PHA during the period of FY 2008 through the present.
- 4) Identify each PHA penalized for not complying fully with all pertinent laws relating to lifetime sex offenders for the period of FY 2008 through the present.
- 5) Describe in detail what the Department intends to do with those lifetime sex offenders who are presently residing in public housing. Specifically, will they be removed, and if not, why not?

Thank you in advance for your prompt attention to this matter. I would appreciate a response by August 24, 2010. Should you have any questions regarding this matter, please do not hesitate to contact Janet Drew or Brian Downey of my staff at (202) 224-4515. All documents responsive to this request should be sent electronically in PDF format to Brian_Downey@finance-rep.senate.gov.

Sincerely,



Charles E. Grassley
Ranking Member