

# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

October 26, 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 the senior Senator from Iowa and ranking member of the Committee on Finance, it is my constitutional duty to conduct oversight of the Executive Branch, including the operation and activities of the Department of Housing and Urban Development (HUD/Department). Over the past few months, I have sent a number of inquiries regarding serious problems with HUD programs. Many of the responses I have received thus far have been woefully inadequate, including the recent response regarding lifetime sex offenders residing in publically funded housing.

Specifically, on August 10, 2010, I sent a letter to HUD (*Attachment A*) regarding sex offenders living in federally assisted housing; but HUD's response on October 1, 2010, (*Attachment B*) did not answer my specific questions. I am more disturbed that HUD seems to be dragging its feet on rectifying the serious problem of sexual predators residing in PHAs, often without the knowledge of other PHA residents. According to the Department's response, HUD did not contact the National Crime Information Center until September 15, 2010, over a year after the HUD Office of Inspector General released its findings. Further, it appears that, absent Congressional prodding, much more time would have passed without any steps being taken to address the problem. Such a substantial delay on a matter as significant as addressing sexual predators demands an explanation.

Additionally, during the course of two briefings HUD provided to my staff regarding the database used by HUD to score Public Housing Authorities, my staff made inquiries about whether or not HUD maintains a list of the known sexual predators residing in PHAs and the method HUD employs to monitor sexual predators in PHAs. Unfortunately, the individual available on the phone, whom my staff believed was most familiar with HUD's databases, was precluded both times from responding to my staff member's questions. Accordingly, please answer the following questions:

- 1) Does the HUD database, Real Estate Assessment Center System (REACS), contain information about sex offenders living in public housing?
- 2) If REACS does not contain information about sex offenders living in public housing, please describe in detail where and how HUD maintains this information and how the Department provides notice to PHA residents in the event a known sex offender is residing in the PHA?

I look forward to receiving your response to the questions set forth in this letter by no later than November 9, 2010. If you have any questions on this matter, or if you or a member of your staff would like to speak with a member of my staff regarding this matter, please call Brian Downey or Janet Drew of my staff at (202) 224-4515. All written responses should be sent in electronic format to my attention at [Brian\\_Downey@finance-rep.senate.gov](mailto:Brian_Downey@finance-rep.senate.gov).

Sincerely,



Charles E. Grassley  
Ranking Member

cc: The Honorable Patty Murray  
Chairman  
Subcommittee on Transportation, Housing and Urban Development  
U.S. Senate Committee on Appropriations

The Honorable Christopher S. Bond  
Ranking Member  
Subcommittee on Transportation, Housing and Urban Development  
U.S. Senate Committee on Appropriations

The Honorable John W. Olver  
Chairman  
Subcommittee on Transportation, Housing and Urban Development, and Related Agencies  
U.S. House of Representatives Committee on Appropriations

The Honorable Tom Latham  
Ranking Member  
Subcommittee on Transportation, Housing and Urban Development, and Related Agencies  
U.S. House of Representatives Committee on Appropriations

Attachments

# Attachment A

**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](mailto:Brian_Downey@finance-rep.senate.gov).

Sincerely,



Charles E. Grassley  
Ranking Member

# Attachment B



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-1000

ASSISTANT SECRETARY FOR CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

October 1, 2010

The Honorable Charles E. Grassley  
United States Senate  
Washington, DC 20510

Dear Senator Grassley:

On behalf of Secretary Donovan, thank you for your letter of August 10, 2010 concerning the Department of Housing and Urban Development's (HUD) actions in response to the HUD Office of the Inspector General's (OIG) audit report (2009-KC-0001) on lifetime registered sex offenders residing in federally assisted housing. In your letter, you ask HUD to respond to several questions concerning this audit and subsequent actions by HUD to prevent lifetime registered sex offenders from residing in federally assisted housing.

At the outset, I would like to assure you that HUD takes very seriously its responsibility to see that residents in federally assisted housing are able to live in safe and secure conditions. Specifically, HUD is committed to ensuring that appropriate steps are taken to address any situations that could compromise resident safety relating to the presence of other residents who are lifetime registered sex offenders.

HUD is currently exploring options to address this issue, such as legislation that would mandate the termination of tenancy or assistance for any household member subject to a lifetime registration requirement under a State sex offender registration program, unless the crime is of a nature that would not threaten the health and safety of other residents. In addition, we are investigating how legislation along these lines could also be used to create a partnership between HUD and the National Crime Information Center (NCIC) to match data from the National Sex Offender Registry and HUD tenant information databases. Ensuring that housing managers have accurate access to sex offender information will greatly improve their ability to enforce current and future laws prohibiting lifetime registered sex offenders from residing in federally assisted housing, and we look forward to continuing to explore with Congress the best way of achieving this goal. In addition, HUD has proposed a partnership with NCIC to establish such a data exchange, regardless of whether legislation is passed, and a copy of HUD's letter to NCIC proposing this partnership is attached.

As you referenced in your letter, upon the release of the OIG audit, HUD's Office of Public and Indian Housing (PIH) and the Office of Multifamily Housing (Multifamily Housing) released a notice on September 9, 2009 (the Notice), reiterating the responsibility of managers of federally assisted housing to thoroughly screen applicants to ensure that no lifetime registered sex offenders reside in or are admitted to HUD assisted housing. The notice strongly recommends the termination of assistance for lifetime registered sex offenders who present a threat to the health and safety of residents and community members, or who provided false information on their applications regarding sex offender status of any household member.

In addition, PIH and Multifamily Housing are developing an additional notice and revising existing handbooks to have housing managers ask applicants for a list of all states in which they have resided, in order to ensure that thorough background checks are conducted for all applicants. The notice will also require public housing agencies (PHA) to document consideration of sex offender status, including the source and date of the screening. Moreover, Multifamily Housing has revised, and PIH is in the process of revising, occupancy handbooks to clarify that managers who conduct criminal background checks through sources other than a PHA must retain the records for the term of tenancy plus three years for tenants; and for applicants not admitted to the program they must retain the records with the application for three years.

PIH is working with HUD Field Offices to develop and implement controls to monitor PHA use of the required application questions and retention of screening documentation. PIH plans to provide training and technical assistance to field offices and housing authorities to ensure consistency across PHAs in the implementation of these policies.

Multifamily Housing is creating a Lease Addendum that amends the termination provisions of its model leases to strengthen the language concerning lifetime registered sex offenders who were wrongly admitted or who committed the crime after admission. In addition, PIH and Multifamily Housing are updating management review forms (Form HUD-5834, Management Review for Public Housing Projects, and Form HUD-9834, Management Review of Multifamily Housing Projects, respectively), to include additional monitoring questions relating to the policies and procedures for ensuring that individuals subject to lifetime state sex offender registration requirements are not being admitted and, when applicable, pursuing eviction of individuals erroneously admitted or who commit criminal activity or other lease violations after admission.

HUD is also considering requiring applicants and current tenants to self-certify at admission and at yearly recertification that no member of their household is subject to a lifetime sex offender registration requirement in any state. Failure to report or falsely reporting this information would qualify as fraud and be grounds for termination of tenancy or assistance.

Finally, you also requested information about the actions that HUD has taken to address situations in which managers failed to establish the standards and procedures outlined in the Notice. With regard to the potential removal of specific individuals identified by the OIG as lifetime registered sex offenders, because the OIG has informed us that he is unable to release the names identified as part of the audit, HUD has been unable to determine whether housing managers can remove or have removed these individuals from HUD programs. Furthermore, HUD cannot investigate which managers may not be fully complying with pertinent laws or regulations with regard to these specific individuals. Again, as HUD moves forward on the efforts to ensure that the NCIC database can be accessed and used more effectively, this problem can be addressed. In any case, PIH and Multifamily Housing are in the process of implementing monitoring tools to ensure that the mandatory ban on admission of lifetime registered sex offenders is fully enforced. To date, we are unaware of any PHAs or other housing managers that have failed to establish the zero tolerance standards and procedures outlined in the Notice; however, the monitoring tools will help us detect such managers in the future.

Creating safe communities for participants in HUD programs is a top priority for the Department, and we are working to ensure the safety of residents and community members, while continuing to fulfill our mission of providing needed affordable rental housing.

Thank you for your interest in the Department's programs. If I can be of further assistance, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Peter A. Kovar". The signature is written in a cursive style with a large, sweeping initial "P".

Peter A. Kovar  
Assistant Secretary for Congressional  
and Intergovernmental Relations

Enclosed: Letter to Agent Robert Rudge from Assistant Secretary Sandra B. Henriquez concerning a potential data exchange between NCIC and PIH



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-5000

September 15, 2010

ASSISTANT SECRETARY FOR  
PUBLIC AND INDIAN HOUSING

Robert Rudge  
Supervisory Special Agent  
National Crime Information Center  
Module C-3  
1000 Custer Hallow Rd  
Clarksburg, WV 26306

REC-11

Dear Agent Rudge:

On August 19, 2009, the Office of the Inspector General (OIG) for the Department of Housing and Urban Development (HUD) issued Audit 2009-KC-0001, "HUD Subsidized an Estimated 2,094 to 3,046 Households That Included Lifetime Registered Sex Offenders." One finding of this audit is that Public Housing Authorities (PHAs) do not have reliable, streamlined access to sex offender registration information. Because of this, PHAs experience some difficulty in determining if applicants and participants in the Public Housing and Housing Choice Voucher (HCV) programs are subject to a lifetime registration requirement under a State sex offender registration program.<sup>1</sup>

PHAs currently have statutory authority to access information regarding the criminal conviction records of adult applicants to, or tenants of, federally assisted housing for purposes of applicant screening, lease enforcement, and eviction from the National Crime Information Center (42 U.S. Code 1437d (q)(1)(A)); however, this information must be transmitted through a law enforcement agency. In practice, this requires each PHA to contact their local law enforcement agency, or other entity with access to sex offender information, to confirm that the applicant or tenant is not a lifetime registered sex offender. Representatives from your agency indicated that current law would potentially allow non-law enforcement personnel to perform a preliminary match which could then be followed-up with fingerprints where a potential match is found.

I am writing to propose a partnership between the National Crime Information Center (NCIC) and HUD to exchange data between the National Sex Offender Registry (NSOR) and the Public Housing Information Center (PIC), which contains tenant information for the Public Housing and HCV programs. One potential proposal is that on a regular basis (monthly or quarterly), a HUD representative would extract tenant information, including name, date of birth, and social security number, from PIC and send this information to a representative at NCIC. This information would then be run against the NSOR and likely matches would be flagged. Matches would then be returned to HUD and a flag would be activated in the PIC system; this flag would indicate to PHAs that this tenant should be sent to a local law enforcement agency to be fingerprinted and have this information rerun against the NSOR. If there is a finger-printed

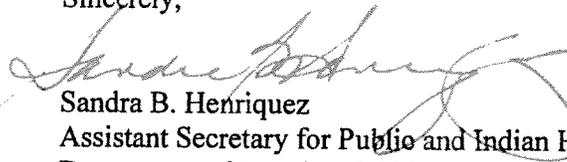
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<sup>1</sup> The Quality Housing and Work Responsibility Act of 1998 (the Act), Section 578, established the ineligibility of households with a member who is subject to a lifetime registration requirement under a State sex offender registration program for admission to federally subsidized housing. Additionally, PHAs have the authority to evict or terminate assistance for any program participant who threatens the health and safety of other residents.

match between the resident and the NSOR, the PHA would be alerted and would either deny admission or consider whether the offender presents a threat to the health and safety of other tenants and should have their housing assistance terminated.

It is crucial that our PHAs have streamlined access to accurate data on sex offenders in order to protect other residents, as well as comply with federal statute. A partnership between the NCIC and HUD would greatly increase the administrative efficiency of gathering this data. I am interested in discussing the above proposal, as well as any other potential partnerships that would allow PHAs better access to sex offender information. I would like to arrange a conference call between our offices to further discuss details of this potential partnership. At your convenience, please contact me at (202)708-1380.

Sincerely,



Sandra B. Henriquez  
Assistant Secretary for Public and Indian Housing  
Department of Housing & Urban Development