

## COMMISSION FOR TEACHER PREPARATION AND LICENSING

1020 O STREET  
SACRAMENTO 95814

August 7, 1978

78-7906

TO: All California County District Attorneys, County Sheriffs, and City Police Department Chiefs

FROM: Peter L. LoPresti, Executive Secretary *P.L.L.*

SUBJECT: Reminder to Send Notice to the Commission for Teacher Preparation and Licensing When a Public School Employee is Arrested for Specified Sex and Drug Offenses as Required by Penal Code Section 291 and Section 11591 of the Uniform Controlled Substances Act, Respectively

On behalf of the Commission for Teacher Preparation and Licensing and the Committee of Credentials, I would like to thank you for the assistance you have extended to this agency when requests have been made to provide arrest and investigative information. Your timely and courteous responses have been highly appreciated. I would like to encourage you to continue your cooperation.

Prompt notice to the Commission when a school employee has been arrested for a sex or drug offense is especially important because the arrest can be the basis for removing the employee from the classroom assignment. Please be advised that the arrest notice should be sent to the Commission and not to the State Department of Education. Notice should also be sent to the employing school district.

Gathering of pertinent information on these arrests is crucial for resolving the question of fitness to serve the school children of our state. I would also like to encourage you to enclose a copy of the arrest report and other investigative data at the time you notify the Commission. This suggested procedure will result in better utilization of the staff of both the Commission and your law enforcement agency.

In conclusion, I would like to reemphasize that the cooperation of the law enforcement agencies in the state has been exemplary. Your assistance has been invaluable. I urge you to continue helping the Commission and the Committee of Credentials as they carry out their statutory duty of determining fitness to serve in the public classrooms of California. Copies of Penal Code Sections 261, 290 and 291 and Sections 11590 and 11591 of the Uniform Controlled Substances Act are attached.

Please feel free to reproduce and disseminate this letter to appropriate staff and units.

Attachments

#### Article 4. Registration of Controlled Substance Offenders

11590. (a) Any person who, on or after the effective date of this section, is convicted in the State of California of any offense defined in Section 11350, 11351, 11352, 11353, 11354, 11355, 11357, 11358, 11359, 11360, 11361, 11363, 11366, 11368, or 11550, or any person who is, on or after such date, discharged or paroled from a penal institution where he was confined because of the commission of any such offense, or any person who is, on or after such date, convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall within 30 days after the effective date of this section or within 30 days of his coming into any county or city, or city and county in which he resides or is temporarily domiciled for such length of time, register with the chief of police of the city in which he resides or the sheriff of the county if he resides in an unincorporated area.

(b) Any person who, on or after the effective date of this section is convicted in any federal court of any offense which, if committed or attempted in this state would have been punishable as one or more of the offenses enumerated in subdivision (a) shall within 30 days after the effective date of this section or within 30 days of his coming into any county or city, or city and county in which he resides or is temporarily domiciled for such length of time, register with the chief police of the city in which he resides or the sheriff of the county if he resides in an unincorporated area.

(c) This section does not apply to a conviction of a misdemeanor conviction under Section 11357 or 11360.

11591. Every sheriff or chief of police, upon the arrest for any of the controlled substance offenses enumerated in Section 11590, or Section 11364, insofar as that section relates to paragraph (9) of subdivision (d) of Section 11034, of any school employee, shall do either of the following:

(1) If such school employee is a teacher in any of the public schools of this state, he shall immediately notify by telephone the superintendent of schools of the school district employing such teacher and shall immediately give written notice of the arrest to the Commission for Teacher Preparation and Licensing and to the superintendent of schools in the county wherein such person is employed. Upon receipt of such notice, the county superintendent of schools shall immediately notify the governing board of the school district employing such person.

(2) If such school employee is a nonteacher in any of the public schools of this state, he shall immediately notify by telephone the superintendent of schools of the school district employing such nonteacher and shall immediately give written notice of the arrest to the governing board of the school district employing such person.

(3) If such school employee is a teacher in any private school of this state, he shall immediately notify by telephone the private school authority employing such teacher and shall immediately give written notice of the arrest to the private school authority employing such teacher.

#### §261. Rape--Acts Constituting.

Rape is an act of sexual intercourse, accomplished with a female not the wife of the perpetrator, under either of the following circumstances:

1. Where she is incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent;

2. Where she resists, but her resistance is overcome by force or violence;

3. Where she is prevented from resisting by threats of great and immediate bodily harm, accompanied by apparent power of execution, or by any intoxicating narcotic, or anesthetic, substance, administered by or with the privity of the accused;

4. Where she is at the time unconscious of the nature of the act, and this is known to the accused;

5. Where she submits under the belief that the person committing the act is her husband, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce such belief.

#### §291. Notice of Arrest of Public School Employee for Sex Offense.

Every sheriff or chief of police, upon the arrest for any of the offenses enumerated in Section 290 or in subdivision 1 of Section 261 of any school employee, shall do either of the following:

(1) If such school employee is a teacher in any of the public schools of this state, he shall immediately notify by telephone the superintendent of schools of the school district employing such teacher and shall immediately give written notice of the arrest to the [1] Commission for Teacher Preparation and Licensing and to the superintendent of schools in the county wherein such person is employed. Upon receipt of such notice, the county superintendent of schools shall immediately notify the governing board of the school district employing such person.

(2) If such school employee is a nonteacher in any of the public schools of this state, he shall immediately notify by telephone the superintendent of schools of the school district employing such nonteacher and shall immediately give written notice of the arrest to the governing board of the school district employing such person.

**§290. Person Convicted of Certain Lewd Crimes Must Register With Sheriff—Facts to State.**

Any person who, since the first day of July, 1944, has been or is hereafter convicted in the State of California of the offense of assault with intent to commit rape [10], the infamous crime against nature, or sodomy under Section 220, or of any offense defined in [11] Section 266, 267, 268, 285, 286, 288, 288a, subdivision 1 of Section 647a, subdivision 2 or 3 of Section 261, subdivision (a) or (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272; or any person who since such date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since such date or at any time hereafter is discharged or paroled from a penal institution where he was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since such date or at any time hereafter is determined to be a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since such date or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses shall within 30 days after the effective date of this section or within 30 days of his coming into any county or city, or city and county in which he resides or is temporarily domiciled for such length of time register with the chief of police of the city in which he resides or the sheriff of the county if he resides in an unincorporated area.

Any person who, after the first day of August, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he was confined because of the commission or attempt to commit one of the above-mentioned offenses or is released from a state hospital to which he was committed as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code shall, prior to such discharge, parole, or release, be informed of his duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign such form as may be required by the [1] Department of Justice, stating that the duty of the person to register under this section has been explained to him. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his discharge, parole, or release and shall report such address to the [2] Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and

shall send two copies to the [3] Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his discharge, parole, or release.

Any person who after the first day of August, 1950, is convicted in the State of California of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to such release or discharge, be informed of his duty to register under this section by the court in which he has been convicted and the court shall require the person to read and sign such form as may be required by the [4] Department of Justice, stating that the duty of the person to register under this section has been explained to him. The court shall obtain the address where the person expects to reside upon his release or discharge and shall report within three days such address to the [5] Department of Justice. The court shall give one copy of the form to the person, and shall send two copies to the [6] Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his discharge, parole, or release.

Such registration shall consist of (a) a statement in writing signed by such person, giving such information as may be required by the [7] Department of Justice, and (b) the fingerprints and photograph of such person. Within three days thereafter the registering law enforcement agency shall forward such statement, fingerprints and photograph to the [8] Department of Justice.

If any person required to register hereunder changes his residence address he shall inform, in writing within 10 days, the law enforcement agency with whom he last registered of his new address. The law enforcement agency shall, within three days after receipt of such information, forward it to the [9] Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

Any person required to register under the provisions of this section who shall violate any of the provisions thereof is guilty of a misdemeanor.

The statements, photographs and fingerprints herein required shall not be open to inspection by the public or by any person