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U.S. Department of Justice

Office of Legal Counsel

Office of the Assistant Attorney General

Washington, D.C. 20530

April 3, 2012

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OFFICE OF LEGAL COUNSEL
EXECUTIVE SECRETARIAT

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

Handwritten initials: R. H. 1/2, YAS

FROM: Virginia A. Seitz, Assistant Attorney General
Office of Legal Counsel

SUBJECT: Proposed Revisions to the Attorney General Guidelines for Victim
and Witness Protection

As you know from our discussions, the Department of Veterans Affairs ("VA") requested our opinion on the scope of section 13031 of the Victims of Child Abuse Act of 1990 ("VCAA"), 42 U.S.C. § 13031. That provision requires persons engaged in certain activities and professions on federal lands or in federal facilities to report "facts that give reason to suspect that a child has suffered an incident of child abuse," if they learn such facts in the course of their professional activities. Failure to make such a report is subject to criminal penalties. The VA has asked, *inter alia*, whether section 13031's reporting requirement is limited to situations in which the suspected victim of child abuse is cared for or resides on federal land or in a federal facility. Although the statutory language is not perfectly clear, we have concluded that the statute is best read to require that *all* persons who learn of suspected child abuse while engaged in the enumerated activities and professions on federal land or in federal facilities to report that abuse, wherever the suspected victim is cared for or resides. The Criminal Division and the Attorney General's Advisory Council concur with our view.

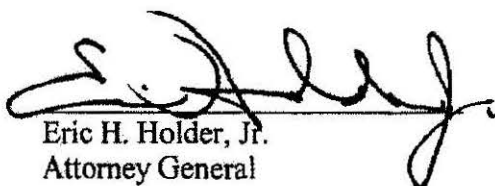
In light of this conclusion, we believe it prudent for the Department to revisit a portion of the Attorney General Guidelines for Victim and Witness Protection ("Guidelines") that the Office of Justice Programs ("OJP") issued last October. As currently drafted, the Guidelines indicate that the VCAA's reporting obligation falls only on covered professionals who work "on federal land or in a federally operated (or contracted) facility *in which children are cared for or reside.*" (Emphasis added.) The Guidelines further suggest that covered professionals need only report "child abuse *on federal lands or in federally operated (or contract) facilities.*" (Emphasis added.) We recommended to OJP that it delete the italicized phrases from the Guidelines. These minor amendments would harmonize the Guidelines with our reading of the statute. OJP

concur and is prepared to make these changes. Accordingly, we recommend that you approve OJP's revision of the Guidelines to conform to our forthcoming opinion. If you agree with this recommendation, please indicate your approval by initialing or signing below.


cc: Douglas Letter
Senior Counselor to the Attorney General

Joye Frost
Office of Justice Programs

Approved:



Eric H. Holder, Jr.
Attorney General



James M. Cole
Deputy Attorney General

DATE: April 24, 2012