



STATE OF VERMONT
OFFICE OF LEGISLATIVE COUNCIL

March 26, 2014

Senator Richard Sears
Senator Claire Ayer

Dear Senators:

In the wake of the death of Dezirae Sheldon, you asked that I review any public documents that may be of help to you in understanding Dezirae's home life prior to her death. Subsequently, I obtained public criminal record information for Dezirae's mother, Sandra Eastman, from the Rutland County Superior Court. I am not permitted to access confidential records of the Department of Public Safety, the Department of Corrections, or the Department for Children and Families. This letter summarizes what I was able to piece together from the court documents and, while it does answer some questions posed by panel members, it is by no means complete.

Based on my review of the documents, it appears as though there are errors in the records, as well as a sentencing deviation from a required statutory minimum, which are of particular concern to you. You asked that I highlight these issues in the hope that they may be discussed, and if appropriate, corrected. These issues include:

- 1) There was a clerical error of some significance made in 2008 with respect to Ms. Eastman's conviction for Lewd and Lascivious Conduct with a Child (L & L with a Child). After the plea was accepted and Ms. Eastman was sentenced, the offense was erroneously recorded as Lewd and Lascivious Conduct (L & L), which carries lesser penalties and requirements under the sex offender registration laws. This error was repeated consistently in Ms. Eastman's records – from her "rap sheet" to subsequent court orders.
- 2) Ms. Eastman was sentenced for the L & L with a Child in 2008 to a minimum sentence below the statutory mandatory minimum for the offense.

3) Ms. Eastman's criminal record indicates she is a lifetime registrant of the Sex Offender Registry, yet she does not appear on the Internet Registry as required by law. Ms. Eastman may not appear on the Internet Registry because her record incorrectly states her offense as L & L, an offense that, barring other aggravating factors, does not require Internet posting.

Conviction for Lewd and Lascivious Conduct with a Child

On 04/22/08, Ms. Eastman was charged with Sexual Assault – Victim under the age of 16 (13 V.S.A. § 3252(c)).¹ Ms. Eastman, 24 years-old at the time, allegedly had sexual intercourse with a 15-year-old juvenile on several occasions and was pregnant with the juvenile's child. The offense was reported to the police by the victim's mother, a friend of Ms. Eastman.² At arraignment, Ms. Eastman was released on conditions, including that she not have contact with the victim or be present at the home, school, or workplace of the victim.³

On 10/18/08, the Rutland County State's Attorney filed an amended information, reducing the charge against Ms. Eastman from Sexual Assault to L & L w/ a Child. The amended information stated that Ms. Eastman "willfully and lewdly commit[ted] a lewd act upon the body of a child under the age of 16 years with the intent of satisfying her sexual desires ... in violation of Title 13, Vermont Statutes Annotated § 2602 ..." The amended information stated the penalty for a first offense of a violation of § 2602 – "not less than 2 years nor more than 15 years, \$5,000.00, or both." Also included on the document was "CODE: 13V2601." This code appears to refer erroneously to 13 V.S.A. § 2601, Lewd and Lascivious Conduct, for which the penalty is not less than 5 years' imprisonment or a fine of not more than \$300.00, or both.⁴

On 10/22/08, Ms. Eastman and the Rutland State's Attorney signed a plea agreement whereby Ms. Eastman agreed to offer a plea of guilty to one count of L & L w/ a Child and the parties agreed to recommend a sentence of 18 months to 7 years, suspended, with probation. Special conditions of probation included sex offender treatment and a prohibition on contact with the victim without prior written approval, which should take into

¹ Docket No. 603-4-08.

² Affidavit of Fair Haven Police Detective Gary J. Boutin.

³ Docket No. 603-4-08.

⁴ Amendment of Information, State of Vermont v. Sandy Eastman.

consideration any valid parent-child contact order concerning the victim and his child.⁵ Judge Harold Eaton accepted the plea and an adjudication of guilty was entered.

On 11/04/08, Ms. Eastman filed a motion to amend her conditions of probation. Judge Thomas Zonay granted the motion the following day “to add an exception that Defendant may continue to reside at the home of [victim’s mother]...⁶

On 11/06/08, a hearing was scheduled on the matter of Ms. Eastman’s failure to provide required information to the Vermont Criminal Information Center (VCIC) for purposes of the Sex Offender Registry. The record indicates that Ms. Eastman submitted the information on that date and that it was sent to VCIC.

After the entry of judgment and imposition of sentence on 10/22/08, Docket No. 603-4-08 and all documents I reviewed related to Ms. Eastman’s criminal records state that she was convicted of L & L, not L & L with a Child. It appears as though one small error made by copying the wrong code off the amended information resulted in all subsequent records at the court, the Department of Corrections (DOC), VCIC, etc. being incorrect.

Violation of Probation

On 10/06/10, a probation violation complaint was filed in the Criminal Division of the Rutland Superior Court, alleging that Ms. Eastman had failed to meet with her probation officer as directed and had not complied with sex offender treatment.⁷ Ms. Eastman pled not guilty and bail was set at \$200 and conditions. Ms. Eastman did not make bail and was transferred to Northwest State Correctional Facility (NWSCF). On 1/31/11, Ms. Eastman admitted to the violation and on 3/09/11 Judge Theresa DiMauro imposed the original sentence of 18 months to 7 years, all suspended except for 141 days, for which she was given credit for time served in NWSCF awaiting disposition of the charge. Judge DiMauro also imposed additional conditions on Ms. Eastman’s continued probation, including that she submit to electronic monitoring as required by her probation officer.⁸

⁵ Plea agreement of the State of Vermont and Sandy Eastman, 10/22/08.

⁶ Docket No. 603-4-08.

⁷ Probation violation complaint, State of Vermont v. Sandy Eastman, 10/06/10.

⁸ Docket No. 603-4-08.

Cruelty to Children Under 10 by One Over 16

On 4/18/2013, Ms. Eastman was charged with a violation of 13 V.S.A. § 1304 for “failing to provide prompt medical treatment” to a juvenile. The affidavit submitted in support of the information stated that Ms. Eastman brought a one-year-old child to the hospital with a right tibia fracture. Further tests determined the child had an older fracture of the left leg. Ms. Eastman initially told medical personnel that she did not know how the fractured occurred and later provided various inconsistent statements about the possible cause of the fractures and why she did not seek medical attention earlier.⁹

Ms. Eastman was arraigned on 4/29/13. Judge DiMauro set conditions of release that included no contact with the one-year-old victim and no unsupervised contact with children except as directed by the Department for Children and Families (DCF).¹⁰

On 7/31/13, Ms. Eastman pled guilty and was sentenced by Judge DiMauro to one to two years’ imprisonment, all suspended, to run consecutive to the 2008 sentence and terms of probation. Additional conditions of probation included a directive to “actively participate in violence counseling for anger management and/or domestic violence ... if directed by your probation officer” and to “abide by the requirements of your case plan and disposition plan as directed by DCF.”¹¹

Status as a Sex Offender

A criminal history record for Ms. Eastman on 3/14/13 states that she was convicted of L & L in 2008 and is a lifetime registrant on the Sex Offender Registry. It is not entirely clear why Ms. Eastman is designated as a lifetime registrant, as neither L & L or L & L with a Child require lifetime registration and she does not appear to have a record of prior sexual offense convictions. It is possible she is listed as a lifetime registrant for being noncompliant with sex offender treatment, but this is pure speculation because she is not listed on the public Internet Sex Offender Registry (Internet Registry).

⁹ Affidavit of Corporal Raymond J. LaMoria, Jr., 3/13/13.

¹⁰ Docket No. 667-4-13.

¹¹ Notice of plea agreement and probation warrant, 7/31/13.

State law requires information on persons such as Ms. Eastman who have been convicted of L & L with a Child to be posted on the Internet Registry.¹² It is possible that she was left erroneously off the public registry because court records sent to the VCIC and others indicated she was convicted of an offense (L & L) that does not require Internet posting. However, it is perplexing how she has been designated a lifetime registrant, but not subject to the Internet Registry, because by statute, generally, all lifetime registrants are subject to the Internet Registry.

Please let me know if you have any additional questions or if you would like me to pursue additional information on any of the issues raised in this letter.

Sincerely,

Michele Childs
Legislative Counsel

¹² 13 V.S.A. § 5411a.