

NOTICE OF SETTLEMENT

TO: Registrant

FROM: New York State Division of Criminal Justice Services (DCJS)

This notice concerns the settlement of a lawsuit filed by The Legal Aid Society on behalf of all persons who were convicted of sex offenses and required to register under the Sex Offender Registration Act (SORA) (Correction Law §§168 et seq.). In that case, Doe v. Pataki, 3 F.Supp.2d 456 (SDNY 1998), a federal court, Judge Denny Chin, ruled that registered sex offenders (“registrants”) had been assigned risk levels without receiving proper due process of law. Due process means a fair hearing, which a person must receive before being given a risk level and subjected to community notification.

Judge Chin issued an injunction in the case. The injunction has largely prevented community notification for registrants on probation or parole on January 21, 1996 or who were incarcerated on January 21, 1996 and assigned risk levels before January 1, 2000. It has remained in effect until the present. The injunction will soon be lifted on a case-by-case basis for those designated risk level 2 or level 3, after each registrant has had an opportunity for a hearing in his or her case.

If you had originally been designated a risk level 3 or a risk level 2, you will receive a notice from the Office of Court Administration (OCA) in the coming months with information about the hearing process. The OCA notices will be sent first to level 3 registrants. Notices to level 2 registrants, particularly in counties with large populations, will probably not be sent for at least several months, until hearings have been scheduled for the level 3 registrants.

The hearing will be held in the county in which you were originally convicted and sentenced or a court designated by OCA. You have the right to counsel at that hearing. If you cannot afford an attorney, an attorney will be appointed to represent you. You will have the right to testify, present evidence, and challenge the State’s evidence.

The notice from OCA will contain a date for your initial appearance in court to challenge your risk level. This date is not the date of the hearing itself. Instead, on the initial appearance date, an attorney will be assigned, if necessary, and the judge will set the date for the hearing, which will occur approximately 60 days later. After the hearing, the judge will decide what risk level to assign: level 3 (high risk of reoffense), level 2 (moderate risk of reoffense), or level 1

(low risk of reoffense).

The OCA notice will describe the different registration obligations and community notification provisions applicable to particular risk levels. This information will enable a registrant to make an informed choice about whether to challenge the original assigned risk level.

Because the lowest risk level is level 1, there is no need for hearings in that category. Accordingly, if your original risk level was level 1, no OCA notice will be sent to you. Your risk level will be entered into the registry administered by DCJS thirty (30) days after the mailing of this Notice. You must continue to verify your address annually with DCJS and comply with other registration requirements until the completion of the required 10-year period that commenced with the date of your first registration. While you remain registered, your name and risk level may also be given to callers to an "800" number maintained by DCJS.

The exact terms of the settlement of the case are contained in a Stipulation signed by The Legal Aid Society and the Attorney General. It is available in the court file of the Southern District of New York. The case number of Doe v. Pataki is 96 Civ. 1657 (DC). The Stipulation will also be available on the DCJS website at www.criminaljustice.state.ny.us thirty (30) days after it is approved by Judge Chin.

If you have questions about the hearing process, you may call The Legal Aid Society at 1-866-853-2491 between 9:30 am and 5:30 pm from Monday to Friday.