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May 6, 2010

AMENDED EXECUTIVE INSTRUCTION NO. 25

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**SUBJECT:** Amended Instruction Regarding Registered Sex Offenders in Public Libraries

In response to the court order in *John Doe v. City of Albuquerque*, CV-1041 MCA/LFG, this instruction applies to any person currently registered under the Megan's law of any State, the New Mexico Sex Offender Registration and Notification Act or the Albuquerque Sex Offender Registration and Notification Act ("Registered Sex Offender"). Registered Sex Offenders are allowed only in the Main Library of the Albuquerque Library system at 501 Copper Ave. NW, Albuquerque, New Mexico, 87102 ("Main Library") on Thursdays and Saturdays (from 10:00 a.m. through 6:00 p.m.). Registered Sex Offenders are not allowed in the children's section of the Main Library for any reason.

The reasons for allowing access to the Main Library pursuant to this instruction, as opposed to other branch libraries in the system, are that the Main Library is centrally located, staffed by City Security Officers, and accessible by public transportation. The collection at the Main Library is equal or superior to the other libraries in the system. To the extent materials are not presently available at the Main Library because the materials may be in use; these materials can be delivered to the Main Library upon request.

A sign shall be posted at the entrance to the Main Library advising all Registered Sex Offenders they are required to check in with City Security Officers immediately upon entering the Main Library and that the Registered Sex Offenders are allowed in the Main Library only on Thursdays and Saturdays. Signs shall be posted at all branch libraries other than the Main Library warning Registered Sex Offenders they are not allowed in the branch libraries and are allowed only in the Main Library on certain days during certain hours.

Registered Sex Offenders shall report to the City Security Officers at the security desk located at the entry to the Main Library immediately upon entry to the Library. The Registered Sex Offender shall give their correct registered name to the City Security Officers, as identified on the applicable sex offender registry, and tell the Security Officers they are a Registered Sex Offender. The Security Officers at the Main Library shall keep a daily sign-in log pertaining to Registered Sex Offenders. The City Security Officers shall log the name of the Registered Sex Offender, the date, and the approximate time the Registered Sex Offender reported entry to the Main Library. The City Security Officers shall warn the Registered Sex Offender he or she



is not allowed in the children's area of the Main Library. The Registered Sex Offender shall initial the log in a space provided indicating they have been specifically warned not to enter the children's area of the Main Library.

If any Registered Sex Offender is found in, or it is determined that the Registered Sex Offender has been in, any branch other than the Main Library or in the Main Library in violation of this Instruction, the Registered Sex Offender shall be banned from access to all Libraries in the City for one year. Upon a second offense, the Registered Sex Offender shall be banned for the duration of the time they are required to register as a sex offender.

Every Registered Sex Offender who enters the Main Library shall have in their possession a photo identification card as that term is used in Article III, Section 14 of the City Charter ("Identification"). No Registered Sex Offender shall enter the main Library without Identification. Without limitation on the foregoing, a driver's license, student identification card, picture credit card or card issued by the City Clerk satisfies this requirement provided such card is current and valid. A City Security Officer shall ask for and examine the Identification and indicate on the log that identification has been examined. A City Security Guard may ask for and examine the Identification of any Registered Sex Offender or any person reasonably believed to be a Registered Sex Offender in the Main Library at any time. Any Registered Sex Offender or person believed to be a Registered Sex Offender who refuses to show Identification to a City Security Officer or shows false Identification to a City Security Officer shall be banned for the duration of the time they are required to register as a sex offender, even on a first offense. Without limitation on the foregoing, the fact that the likeness of any person appears on a sex offender registry and that person has not checked in under this Instruction is sufficient cause to ask for Identification and eject the person from the Main Library if they refuse to produce Identification or entered the Main Library in violation of this Instruction.

A notice of the violation shall be provided to the Registered Sex Offender. The notice of a violation shall be hand delivered to the Registered Sex Offender by City Security Officers, or, if the Registered Sex Offender refuses delivery of the notice, the notice shall be mailed by City Security Officers with the assistance of Library Staff, or by Library Staff, to the address of the Registered Sex Offender according to the applicable sex offender registry. The mailing of a notice of violation to the address of the Registered Sex Offender according to the applicable sex offender registry shall constitute constructive notice of a violation of this instruction. City Security Officers shall prepare an incident report and provide a copy of the notice and report forthwith to the following entities: City Library Staff, City Legal, the Sex Offender Unit of the Albuquerque Police Department and the Sex Offender Unit of the Bernalillo County Sheriff's Office. Copies shall also be provided to any other law enforcement agency upon request.

Any Registered Sex Offender found in violation of this instruction may request a hearing from the City of Albuquerque Office of Administrative Hearings to determine whether City Security Officers or other personnel correctly determined that the Registered Sex Offender or person reasonably believed to be a Registered Sex Offender entered a library other than the Main Library, entered the Main Library in

violation of this instruction or refused to produce a photo identification card as required by this Instruction. The hearing request shall be filed within thirty days of the date of the notice of violation. There shall be no filing fee required for the first offense, but there shall be a filing fee for the second and all subsequent offenses. If the hearing request is not timely filed, the opportunity for a hearing shall be forfeited. The ban shall apply while any requested hearing is pending. Any Registered Sex Offender found in a Library while banned under this instruction is subject to prosecution for criminal trespass pursuant to NMSA 1978, § 30-14-1(C) (1995), as amended from time to time. Delivery of the notice of violation shall constitute withdrawal of consent under the foregoing Statute.

Executive Instruction 25 dated September 16, 2008 is withdrawn.

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Richard J. Berry, Mayor

Date