



OPEN LETTER TO LOUISIANA'S SHERIFFS REGARDING HALLOWEEN

October 30, 2014

Dear Sheriff:

It has come to our attention that several parishes and municipalities in Louisiana have adopted rules concerning the scheduling of “trick or treat” hours for Halloween and are posting unlawful signs at the homes of some community residents. While protecting children at Halloween and any other time is a legitimate purpose, these initiatives do nothing to enhance public safety, while violating fundamental rights guaranteed to all.

This letter is to advise you that regulations of this sort violate the First Amendment of the Constitution of the United States and Article I, Sections 7 and 9 of the Louisiana Constitution, which provide for rights of free speech and assembly.

No governmental body may prohibit anyone from ringing someone else's doorbell at any time for any legitimate purpose, nor may the government prohibit anyone from giving “treats” to visitors at any time. Simply put, the residents of Louisiana have the Constitutional right to ring doorbells on any date and time they choose asking for treats, and all have the right to receive visitors and give them treats at any time.

Some communities may have adopted penalties for trick or treating outside the designated hours, and many simply state what those hours will be. Certainly it is a violation of the First Amendment rights of all to impose penalties of any kind for visiting homes outside of designated hours. Even without set penalties, the mere designation of specified hours creates a chilling effect on the right of free assembly.

With respect to signs at the homes of registered sex offenders, we have learned that in some communities law enforcement has posted signs reading “No candy at this residence,” or “No trick, no treat, no candy,” or similar signs indicating that children should not trick or treat at those addresses. These signs violate the privacy rights of family members who have committed no crimes and who are therefore not subject to registration or any other restrictions on their activities.

In 2012, a federal court in California blocked a similar sign requirement, ruling that the signs violate the First Amendment right to be free from compelled speech. *John Doe #1, et al. v. City of Simi Valley*, CV 12-8377 PA (VBKx) (USDC, Central District of California). Finding that “a number of less speech restrictive alternatives exist that serve substantially to further the aims” of the signs – including laws such as Louisiana’s that ban certain sex offenders from participating in trick or treating – the court found that the government failed to meet its burden to show that the sign requirement was “narrowly tailored to achieving [the] compelling interest” of protecting children on Halloween.

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In short, these signs do not enhance the safety of trick-or-treaters. Those individuals who are prohibited by law from distributing treats can be monitored. Instead, these signs can harm the residents inside those homes, including innocent children and other family members whose safety and privacy must be protected.

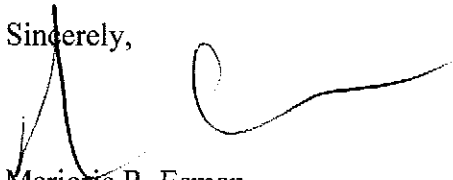
As elected officials, you have sworn to uphold the laws of the United States and of the State of Louisiana. Those laws include the obligation to respect the right to visit homes and receive guests at the time and for the purpose of an individual's choosing, and to protect individuals from violations of their First Amendment rights of free association and against compelled speech.

We therefore urge you not to enforce any restrictions on the time of the celebration of Halloween, and not to force anyone to post signs at their residences during this holiday.

Please feel free to contact me if you have any questions.

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Sincerely,

A handwritten signature in black ink, appearing to read 'Marjorie R. Esman', with a long, sweeping horizontal flourish extending to the right.

Marjorie R. Esman
Executive Director