Sex Offender Registration in the United States

Emerging Policy and Legal Issues

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Welcome to the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) site. The SMART Office was authorized in the Adam Walsh Child Protection and Safety Act of 2006, which was signed into law on July 27, 2006. The responsibilities of the SMART Office include providing jurisdictions with guidance regarding the implementation of the Adam Walsh Act, and providing technical assistance to the states, territories, Indian tribes, local governments, and to public and private organizations. The SMART Office also tracks important legislative and legal developments related to sex offenders and administers grant programs related to the registration, notification, and management of sex offenders.
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Smart Watch Dispatch, February 2016
Read about International Megan’s Law, key provisions and practical implications.

Smart Watch Dispatch, January 2016
Read about Enhanced Sentencing under the Tribal Law and Order Act (TLOA) and the potential impact on SORNA implementation.

Previous Newsletters

Publications

Tools/Resources

- SORNA Tools
- Education & Prevention
- Multimedia & Publications
- Press Releases
- Links
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The SMART Office developed this guide to assist tribal jurisdictions in implementing or continuing implementation of SORNA. It provides a comprehensive overview of SORNA's requirements and serves as a job aid for sex offender registration personnel in Indian Country. It includes step-by-step direction on how to complete certain tasks and links to helpful templates and guidance documents.
The Sex Offender Registration and Notification Act (SORNA)
A guide on SORNA implementation in Indian Country

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SMART Summary: Prosecution, Transfer, and Registration of Serious Juvenile Sex Offenders
International Tracking of Sex Offenders Working Group White Paper
Global Overview of Sex Offender Registration and Notification Systems
A Practitioner's Guide to the Adam Walsh Act
The SMART Office: Open for Business
Sex Offender Registry Laws: From Jacob Wetterling to Adam Walsh

SOMAPI

The Sex Offender Management Assessment and Planning Initiative (SOMAPI)

Adult Section Research Briefs
A Lot to Cover…

- Sex Offender Registration: An Overview
- Federal Government & Sex Offender Registration
- Recent Case Law
- Innovations in Enforcement
- Military Registration
- International Travel
- Juvenile Registration
Sex Offender Registration: An Overview
History of Registration Systems (Brief!)

- 1947: California
- 1951: Arizona
- 1961: Nevada
- 1963: Ohio
- 1967: Alabama
- 1980’s: Arkansas, Illinois, Montana, Oklahoma, Oregon, Utah
- ...
- 1996: DC, Massachusetts, Nebraska, Vermont
Registration is a Local Activity

- There is no federal registration system
  - Exception: Military (later in presentation)

- Every State and all 5 Principal US Territories have registration laws on the books
- 100+ Indian Tribes/Nations

- Each determines
  - Who must register and how
  - What offenders will be posted on their public websites
Registered sex offenders in the United States and its territories per 100,000 population

Total - 851,870 (per 100,000 population - 262)

Prepared by the Records and Access Unit, June 17, 2016
National Center for Missing & Exploited Children (NCMEC)
RSO data: State or territory sex offender registries
Population range: 2016 U.S. Census Bureau or 2010 U.S. Census Bureau
Mapping software donated to NCMEC by Esri, Redlands, California
How is the Federal Government Involved in Sex Offender Registration and Notification?
SORNA: Two Components

- 1994: Jacob Wetterling Act
- 1996: Megan’s Law
- 2006 SORNA

- A set of standards jurisdictions are asked to substantially implement

- A set of requirements sex offenders are required to follow
National Sex Offender ‘Registries’

- National Sex Offender Public Website (NSOPW)
  - www.nsopw.gov (Search Engine)

- National Sex Offender Registry (NSOR)
  - Folder within NCIC
  - Law Enforcement (ORI) Only
Case Law
Case Law: 2015-2016

- **U.S. v. Nichols**: International Travel  
  - 136 S.Ct. 1113 (2016)

- **U.S. v. Bryant**: Tribal Conviction  
  - 84 U.S.L.W. 4400 (2016)

- **Kansas**: Retroactivity Cases  
  - State v. Petersen-Beard, 2016 Kan. LEXIS 241

- **Washington**: Tier I Disclosure Case  
  - Doe v. Wash. St. Patrol, 2016 Wash. LEXIS 474

- **Nevada**: Injunction Litigation
Innovations in Enforcement
OEA ~ WHO WE ARE

• Florida Offender Enforcement & Apprehension Unit
• Began July 2014
• Part of FDLE Registration/Missing Persons
  – 3 Statewide Inspectors
  – 5 Analysts

Since Inception OEA has:
• Generated 521 Leads
• Obtained 101 Warrants
• Arrested 195 Sexual Offenders/Predators
• Brought 48 Sexual Offenders/Predators Into Registration Compliance
TASKS

- Enforce Florida Sexual Offender/Predator & Career Offender Registration Laws.
- Identify/Locate absconded or non compliant Sexual Offender/Predators & Career Offenders.
- Assist local law enforcement & United States Marshals Service
  - Individual Cases
  - Regional & Statewide Investigative Initiatives.
- Special Projects
OPERATION LOCATOR

SEPTEMBER 2015

- FDLE compared a listing of approximately:
  - 764,000 NCIC Sexual Offenders
  - 30 million Florida Vehicle/DL Records
OPERATION LOCATOR

NOVEMBER 2015

• FDLE Statistical Analysis Center (SAC) compared data sets

• 15,000 possible matches submitted for OEA for review:
  – Research, Registration Requirement Verification, & Determination of Florida Residency.

December 2015 - Present

• Review of narrowed list of ~ 5,800 matches
Operation Locator Results

**Numbers to Date:**
346 reviewed cases
- 294 identified non-viable cases
  - Non-qualifiers for Florida Registration
  - Subjects already registered & compliant in Florida or other jurisdictions.
Operation Locator Results

Numbers to Date:
52 Viable Cases (of the 346 reviewed)

- 36 Referred to Inspectors/LLE/USMS
  - 17 Arrested
  - 11 Brought Into Registration Compliance
  - 8 Pending Arrest/Compliance

- 16 Continue Research
  - 9 Awaiting Out-of-State Documentation
  - 7 Pending Confirmation of FL Registration Requirement
ISSUES

1. Resources (People & Analytical Tools)

2. Out-of-State Sexual Offenders:
   - No Registrations or Registrations without Adam Walsh Language (Notice of registration requirement in new jurisdiction)
   - No warrants or no extradition on warrants
   - Out-of-State Offenders with “compliant” flags but also have active warrants.
ISSUES

3. Time delays receiving necessary registration/court documentation.


5. Compromised Identity Cases and False Hits.
Military Registration
Military Registration

• SORNA Requires UCMJ-convicted offenders to register
• DoD Instruction 1325.07

• Special Legal Issue:
  – Federal Enclaves (art. I, § 8, cl. 17)

• Coordination with local registration officials
• Sexual Assault in the Military
Military Registration

• 2013: Any person convicted of a felony sex offense barred from enlistment or commission
  – NDAA 2013, § 523
  – 2015—expanded to anyone required to register as a sex offender

• Branch policies now generally require a person be processed for administrative separation if convicted of a sex offense
  – When sentence does not include discharge/dismissal
Military Registration

Justice for Victims of Trafficking Act

• May 29, 2015
• § 502
• Requires DoD to send information about any convicted sex offender to:
  • NSOPW; and
  • NSOR
Military Registration

• 2015: DoD requires all installations to:
  – Identify any affiliated personnel that are required to register
  – Notify state sex offender registries of their presence
  – Monitor the offenders while they are on the installation
  – Report any intended international travel to NSOTC

• 2015: Army
  – Requires all sex offenders living or working on an Army installation (CONUS or OCONUS) to register
    • Provost Marshal
International Travel
SORNA & International Travel

- SORNA: 42 U.S.C. 16928
- Final Guidelines: Entering & Departing Offenders
- International Working Group
- White Paper
- 2011 Supplemental Guidelines:
  - 21-Day Notice of International Travel
  - Submit to NSOTC
  - Sent to foreign country via INTERPOL-USNCB
International Travel: Florida’s Experience
International Travel

• Effective July 2014
  • Registrants must report to Sheriff’s Office “within” 21 days prior to establishing residency of 5 or more days out of the country.
    • Provide Passport information
    • Immigration status/documentation
International Travel

• Effective **October 2016**
  • Registrants must ~ Report to Sheriff’s Office
  • “at least” 21 days prior to establishing residency of 5 or more days out of the country.
  • Unanticipated travel (emergencies) 21 days prior to leaving the country reported to Sheriff’s Office ASAP.
  • Offenders must include travel information:
    • Expected Departure & Return Dates
    • Flight Number(s) & Airport of Departure
    • Cruise Port of Departure
    • Any other means of Intended Travel (Train/Bus etc.)
International Travel

FDLE’s Process

– Send Out of Country Travel/Relocation Information to:

United States Marshals & Interpol

• Completed US Marshals International Travel Form
• FL Reg Form with Travel Information
International Megan’s Law and Other International Travel Resources
International Megan’s Law

- Angel Watch Center
- USMS
- 21-Day Notice
- 18 USC § 2250 Amendment
- Passport Marking
- Civil Litigation: Northern District of California
Three Primary LE Interests

• Fugitive or Absconder
  – We’ve got a warrant out--where is my guy?

• Interdiction or Monitoring
  – We think this guy is travelling to engage in CSE
  – Stop him, or keep an eye on him

• Investigatory or Informational
  – Where has my guy been?
  – Depending on where he’s been, what else should I look for?
Passport Issuance

- Passport Services Directorate
- State Department/Bureau of Consular Affairs

When you apply:
- Name run through CLASS for wants/warrants/prohibitions
- LE can request that a passport be revoked/denied in certain situations:
  - Barred from leaving the jurisdiction/country
  - Active warrants
Information Sharing:
SORNA 21 Day Notice

• 21-Day Notice
  – Sent to NSOTC, then INTERPOL for distribution
  – International Travel Form & Instructions

• Electronic Submission to NSOTC
  – https://portal.nsopw.gov
SORNA 21-Day Notice: Email Notifications

- Sent to destination countries
- Informal LE-to-LE communication
  - NCB-to-NCB
  - Cc: NSOTC, Angel Watch, FBI VCAC
- No request for action made
- Detailed travel information provided
SORNA 21-Day Notice Process

- Any information shared from Angel Watch
- FBI VCAC
- NSOTC
- Foreign NCB
Information Sharing: Angel Watch

- Run by ICE/CEIU
- Started as a project out of Southern California
- Screens APIS data for persons convicted of sex offenses against children
  - Travelling to certain destination countries
- Offenders may or may not have given 21 Days’ Notice
- Notice to foreign immigration officials
Data Points & Interdiction Possibilities: Departure

Screening by Angel Watch and shared with NSOTC

Detailed Exit Data Collected by DHS
Foreign Countries’ Response

• Some countries turning away most, if not all, convicted American sex offenders when notice is received:
  – Mexico
  – Philippines
  – DR?
  – Possible others

• Sometimes US receives reciprocal notice
  – Detection and privacy issues
  – Few countries require notice of international travel
Foreign Country Registries

• @30 Countries w/ Registries

• Australia
• Canada
• Ireland
• South Korea
• United Kingdom

Arrest Warrant

INTERPOL

Notification

Tracking/Trace
Green Notices

• Sent to *ALL* member countries
• Legal standard met re: risk of offending
• In the INTERPOL system for 5 years
• Renewable
Operation Predator

- Started in 2003 by ICE to protect children from sexual predators
- Identifies arrested and prosecuted child predators
- INTERPOL-Washington issues Green Notices upon deportation
- Over 5,000 Green Notices issued
Jozef deVries
Extradited from the Netherlands on a Red Notice (2009)
International Travel: Summary

- SORNA 21-Day Notice (DOJ/NSOTC/USNCB)
- Angel Watch (DHS)
- Passport Revocation/Rescinding (State)
- Green Notice (DOJ/USNCB)
  - Proactive
  - Operation Predator
Juvenile Registration
Juvenile Registration

- **SORNA:**
  - 14 or Older at the Time of the Offense
  - Adjudicated Delinquent of a forcible penetration offense
  - Must have some mandatory period of registration
  - Do not need to be posted on public website

- Many states have much broader registration requirements than SORNA

- **SMART Summary**
NEW Juvenile Guidelines

• Will enable SMART to look at policies and practices regarding:
  – The prosecution of serious juvenile sex offenders (SJSO) as adults;
  – The registration (if any) of SJSO, even if the system is technically discretionary;
  – The identification, tracking, monitoring, or managing of SJSO; and the sharing of information about SJSO as might be necessary for public safety.
The SMART Office will determine that a jurisdiction relying on these factors has substantially implemented SORNA’s juvenile registration requirement only if it concludes that these factors, in conjunction with that jurisdiction’s other policies and practices, have resulted or will result in the registration, identification, tracking, monitoring, or management of juveniles who commit serious sex offenses, and in the availability of the identities and sex offenses of such juveniles as needed for public safety purposes, in a manner that does not substantially disserve SORNA’s objectives.
Questions?
FDLE CONTACT INFORMATION

Florida Department of Law Enforcement
Offender Enforcement & Apprehension

1-888-357-7332