

STATE OF SOUTH CAROLINA
In the Supreme Court
APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

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S.C. SUPREME COURT

The Honorable Grace Gilchrist Knie, Circuit Court Judge

Civil Action No. 2017-CP-32-00712

Eric Ragsdale

.....Appellant,

Mark Keel, Chief, State Law Enforcement
Division, and the State of South Carolina Respondent.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY LEXINGTON	)	2017-CP-32-00712
John Doe,	)	
	)	
Plaintiff,	)	
vs.	)	
	)	Order Regarding Defendants'
	)	Motion for Summary Judgment
Mark Keel, Chief, State Law Enforcement	)	
Division, and the State of South Carolina,	)	
Defendants.	)	
	)	
	)	

Hearing Date:	December 19 th , 2018, @ 2:00 p.m.
Hearing Judge:	Grace Gilchrist Knie
Counsel for Plaintiff/s:	Jonathan M. Milling
Counsel for Defendant/s:	Adam L. Whitsett
Court Reporter:	Steven E. LeBlanc

This matter was before the court on Wednesday, December 19th, 2018, at 2:00 p.m., in Lexington County, SC, the Eleventh Judicial Circuit, upon Defendants' SCRCP, Rule 56 Motion for Summary Judgment, filed with the Court on October 18th, 2018. Attorney, Jonathan M. Milling, of the Milling Law Firm, LLC, was present representing the interests of the Plaintiff. Attorney, Adam L. Whitsett, of the South Carolina Law Enforcement Division was present representing the interests of the Defendants. Steven E. LeBlanc was the court reporter.

PROCEDURAL /FACTUAL BACKGROUND:

Plaintiff filed the Summons and Complaint with the Clerk of Court, Court of Common Pleas on March 3rd, 2017, commencing this action. The action has been filed in this matter on behalf of the plaintiff, "John Doe." Plaintiff's complaint provides that Doe pled guilty to Assault and Battery of a High and Aggravated Nature ("ABHAN") in 2005. In addition, the Circuit Court

ordered Doe to register as a sex offender pursuant to S.C Code Ann. § 23-3-430(D). Accordingly, Doe has been registering in Lexington County, South Carolina, since that time. Plaintiff filed this "Petition for Declaratory Judgment" against Defendants regarding certain provisions governing the South Carolina Sex Offender Registry.

In the Complaint, Plaintiff alleges that the State of South Carolina, in adopting an across the board lifetime registration requirement, has established no rational basis reasonably tied to a governmental interest in: exceeding SORNA's tiered registration requirement which allows for cessation of registration for certain offenders, and requiring persons convicted of ABHAN, a non-specifically identified registration offense, to suffer a lifetime registration requirement, and for treating those convicted of ABHAN and Criminal Sexual Conduct 1st Degree identically, while SORNA has found justification in treating them differently, and also required the lifetime registration without judicial review. SORNA also found that by requiring lifetime registration without judicial review for those convicted of ABHAN, violates the Due Process clause of the Fourteenth Amendment. Plaintiff alleges that Plaintiff is entitled to a finding and an Order concluding that the lifetime registration scheme is unconstitutional, and adopting SORNA's tiered system, and concluding that the lifetime registration scheme for persons convicted of ABHAN violates due process, and is unconstitutional. Plaintiff is requesting that the Court declare South Carolina's lifetime registration requirement for all offenses, even non-enumerated offenses, unconstitutional, and order Defendants to remove Plaintiff's name from the Sex Offender Registry, and award Plaintiff costs, and reasonable attorneys' fees associated with the prosecution of this action. Defendants filed their Answer on July 17th, 2017. Defendants filed their Motion for Summary Judgment and Memorandum in Support on October 18th, 2018.

LAW:

“Summary judgment is appropriate when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact such that the moving party must prevail as a matter of law.” Rule 56, SCRCP; Knight v. Austin, 396 S.C. 518, 521-22, 722 S.E.2d 802, 804 (2012). “The purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder.” Englert, Inc. v. Leafguard USA, Inc., 377 S.C. 129, 133-34, 659 S.E.2d 496, 498 (2008).

“Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order, as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the solicitor.” S.C. Code Ann. § 23-3-430(D).

In South Carolina, courts have consistently held that registration pursuant to SORA is not punishment. *See* State v. Walls, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002); Hendrix v. Taylor, 353 S.C. 542, 552, 579 S.E.2d 320, 325 (2003) (finding that “the length of time one must be listed on the sex offender registry is non-punitive, and it cannot constitute a deprivation of a constitutionally protected liberty interest.”); In re Ronnie A., 355 S.C. 407, 409, 585 S.E.2d 311, 312 (2003) (finding that “sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated.”); In re Justin B., 405 S.C. 391, 409, 747 S.E.2d 774, 783 (2013) (finding that the electronic monitoring provisions of SORA constitutes a civil non-punitive remedy.) S.C. Code Ann. § 23-3-400 provides [that the intent of SORA is] “to promote the state’s fundamental right to provide for the public health, welfare, and safety of its citizens” and to “provide law enforcement with the tools needed in investigating criminal offenses.

SORA mandates registration as a sex offender in South Carolina if an individual is convicted of or pleads guilty to certain offenses. SORA specifically states that a person can be “convicted of, adjudicated delinquent for, pled guilty or nolo contendere to....” See S.C. Code Ann. § 23-3-430(A). The South Carolina Supreme Court has also noted that:

there are several [alternative] bases on which to predicate registration in South Carolina: (1) the defendant was convicted in South Carolina of an offense delineated in South Carolina’s registry statute, (2) the defendant was convicted of an offense in another jurisdiction for which registration is required in the jurisdiction where the offense occurred, or (3) the defendant was convicted in another jurisdiction of an offense that is similar to a South Carolina offense requiring registration.

In re Shaquille O’Neal B., 385 S.C. 243, 251-52, 684 S.E.2d 549, 554 (2009). As such, any conviction or guilty plea in another jurisdiction of an offense that is similar to any South Carolina registerable offense requires registration, and the fact that an individual is not required to register in the jurisdiction of conviction is not dispositive. *Id.* See also Hendrix v. Taylor, 353 S.C. 542, 552, 579 S.E.2d 320, 325 (2003); Lozada v. S. Carolina Law Enft Div., 395 S.C. 509, 514-15, 719 S.E.2d 258, 261 (2011) (noting that “whether the defendant was required to register in the state where the offense occurred does not control the analysis of whether the offenses are similar, but is instead ‘an *alternative* basis for registration.’”

The “rational relationship” test determines whether the sex offender registry laws violate the Plaintiff’s right to equal protection. The classification as a sex offender in South Carolina is justified and does not violate equal protection if: “(1) the classification bears a reasonable relation to the legislative purpose sought to be effected; (2) the members of the class are treated alike under similar circumstances and conditions; and (3) the classification rests on some reasonable basis.” Hendrix v. Taylor, 353 S.C. 542, 550, 579 S.E.2d 320, 324 (2003). “The initial determination of

reasonableness in a classification lies with the legislature and will not be set aside by this court unless it is plainly arbitrary.” Samson v. Greenville Hospital System, 295 S.C. 359, 367, 368 S.E.2d 665, 669 (1988) (internal citations omitted).

The South Carolina Supreme Court has previously ruled that the SORA registry “complies with the first prong of the test, as the legislative purpose is clearly defined” in the text of the law. Hendrix v. Taylor, 353 S.C. 542, 550, 579 S.E.2d 320, 324 (2003) (citing S.C. Code Ann. § 23-3-400). Classifying an individual as a sex offender is “reasonably related to the legitimate state purpose of protecting the public and aiding law enforcement in limiting the risk that sex offenders pose to communities.” *Id.*; *see also* In re Ronnie A., 355 S.C. 407, 409, 585 S.E.2d 311, 312 (2003).

Registration as a sex offender is not a punishment, but rather a regulatory requirement imposed to promote public safety. Williams v. State, 378 S.C. 511, 516, 662 S.E.2d 615, 618 (2008); *see also* State v. Walls, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002). In addition, all members of the Plaintiff’s class, *i.e.* those persons ordered to register pursuant to S.C. Code Ann. 23-3-430 et al., are treated identically. All members of the class “are subject to uniform administrative and legal procedures.” Hendrix v. Taylor, 353 S.C. 542, 550, 551, 579 S.E.2d 320, 324 (2003). And, as to the third and final component of the test, classification of the Plaintiff as a sex offender “is reasonable because the purpose of the law is to protect the public welfare and to assist law enforcement in accomplishing that goal.” Hendrix v. Taylor, 353 S.C. 542, 551, 579 S.E.2d 320, 324 (2003); *see also* S.C. Code Ann. § 23-3-400.

In order to show the state violated a due process right and deprived an individual of a liberty interest without a hearing, the individual must first “show that he has a constitutionally protected liberty or property interest, and that he has been deprived of that protected interest by some form

of state action.” Fleming v. Rose, 338 S.C. 524, 539-40, 526 S.E.2d 732, 740 (Ct. App. 2000), *rev’d on diff. grounds*, 350 S.C. 488, 567 S.E.2d 857 (2002).

SORA registration is a non-punitive imposition and is regulatory, as such no liberty interest is implicated. State v. Walls, 348 S.C. 26, 31, 558 S.E.2d 524 (2002); *In re. Ronnie A.*, 355 S.C. 407, 585 S.E.2d 311 (2003); Hendrix v. Taylor, 353 S.C. 542, 579 S.E.2d 320 (2003); *In the Interest of Justin B.*, a Juvenile under the Age of Seventeen, 419 S.C. 575, 799 S.E.2d 672 (2017)(reaffirming the constitutionality of SORA and reaffirming unequivocally that SORA is not punishment).

In addition, “[w]hether an individual must be placed on the sex offender registry is a question of law.” Lozada v. S. Carolina Law Enf’t Div., 395 S.C. 509, 512, 719 S.E.2d 258, 259 (2011) (citing Noisette v. Ismail, 299 S.C. 243, 247, 384 S.E.2d 310, 312 (Ct. App.1989)).

ARGUMENTS OF COUNSEL:

Plaintiff alleges that SORNA provides minimum standards that all states must meet and that South Carolina is required to adopt SORNA’s tiered system. Plaintiff also asserts that a lifetime registration requirement as a sex offender violates his liberty interests. Plaintiff contends the State of South Carolina has enacted burdens and requirements for Sex Offender registrants that violate due process rights because it deprives Plaintiff’s liberty interests.

In response to Plaintiff’s allegation that SORNA provides minimum standards that all states must meet and that South Carolina is required to adopt SORNA’s tiered system, Defendant contends that the South Carolina Legislature is constitutionally empowered to enact laws applicable to South Carolina sex offenders and is not required to enact SORNA and that Plaintiff’s contention is simply incorrect.

In response to Plaintiff's allegation that a lifetime registration requirement as a sex offender violates his liberty interests, Defendant contends that this argument fails as a matter of law. The equal protection clause of the United States Constitution provides that "no state shall ... deny to any person within its jurisdiction the equal protection of the laws." The question under equal protection analysis is whether the legislation is rationally related to a legitimate state purpose. The scope of review is limited in cases involving a constitutional challenge to a statute because all statutes are presumed constitutional and, if possible, will be so construed to render them valid. In applying the "rational relationship" test to determine whether the sex offender registry laws violate the Plaintiff's right to equal protection, the Plaintiff's classification as a sex offender in South Carolina is justified and does not violate equal protection if: (1) the classification bears a reasonable relation to the legislative purpose sought to be effected; (2) the members of the class are treated alike under similar circumstances and conditions; and (3) the classification rests on some reasonable basis. Registration as a sex offender is not a punishment, but rather a regulatory requirement imposed to promote public safety. Classification of Plaintiff as a sex offender is reasonable because the purpose of the law is to protect the public welfare and to assist law enforcement in accomplishing that goal. As such, Plaintiff's SORA registration protects society and aids law enforcement as a matter of law.

In response to Plaintiff's contention that the State of South Carolina has enacted burdens and requirements for Sex Offender registrants that violate due process rights because it deprives Plaintiff's liberty interests, Defendants respond that Plaintiff incorrectly argues that required lifetime sex offender registration violates his right to due process because, unlike civil collateral consequences associated with other types of criminal charges, there is no administrative procedure

avenue for removal in regards to SORA. This argument fails because SORA registration is a non-punitive imposition and is regulatory, as such that no liberty interest is implicated. As such, any due process claim fails as a matter of law.

Defendants also argue that this action fails to state a claim Rule 12(b)(6) of the South Carolina Rules of Civil Procedure in that the applicable statute of limitations bars this action. In South Carolina, a civil action based upon a liability created by statute, other than a penalty or forfeiture, must commence within three years. *See* S.C. Code Ann. § 15-3-530(2). Plaintiff was informed of his SORA registration requirement in March 2005, and Plaintiff properly began regularly registering at approximately that same time. As such, in accordance with S.C. Code Ann. § 15-3-530(2), any cause of action for relief commenced when Plaintiff first registered. Therefore, any civil action challenging the Plaintiff's SORA registration must have been commenced no later than 2008. However, this action was not filed until March of 2017. As such, this claim is barred by the applicable statute of limitation and thus fails as a matter of law.

It is Defendants' contention that summary judgment is appropriate in this matter. The analysis turns on the resolution of purely legal issues for which summary judgment appears proper. Plaintiff's guilty plea to Assault and Battery of a High and Aggravated Nature mandated registration, pursuant to S.C. Code § 23-3-430(D). Defendants contend that the guilty plea and sentence are sufficient to require Plaintiff to continue registering in South Carolina in accordance with SORA. South Carolina's SORA registration is for life. *See* S.C. Code Ann. § 23-3-460 (mandating registration "for life"). This lifetime mandate is set forth in clear statutory language. As such, this specific statutory language is determinative and leaves no room for judicial interpretation and Defendants argue that therefore Plaintiff's claims fail as a matter of law.

CONCLUSION:

After consideration of the record, memoranda, arguments of counsel, and the applicable law, The Court makes the following findings of fact and conclusions of law:

Plaintiff's guilty plea to Assault and Battery of a High and Aggravated Nature mandated registration, pursuant to S.C. Code § 23-3-430(D). The guilty plea and sentence are sufficient to require Plaintiff to continue registering in South Carolina in accordance with SORA. South Carolina's SORA registration is for life. This lifetime mandate is set forth in clear statutory language. As such, this specific statutory language is determinative and leaves no room for judicial interpretation and therefore Plaintiff's claims fail as a matter of law. Summary judgment is proper when the resolution is of purely legal issues.

Therefore the Court finds that summary judgment is appropriate in this matter and finds that Defendants' Motion for Summary Judgment filed with the Court on October 18th, 2018, should be and is therefore granted.

IT IS SO ORDERED.

/s/Grace Gilchrist Knie
Honorable Grace Gilchrist Knie
Presiding Judge, Eleventh Judicial Circuit

February 8th, 2019
Spartanburg, South Carolina



Lexington Common Pleas

Case Caption: John Doe VS Mark Keel
Case Number: 2017CP3200712
Type: Order/Summary Judgment

IT IS SO ORDERED.

S/GRACE GILCHRIST KNIE - 2760

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STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON) IN THE COURT OF COMMON PLEAS

C.A. No. 2017-CP-32-00712

John Doe,)
))
Plaintiff,)
vs.)

FINAL
ORDER REGARDING MOTION
FOR RECONSIDERATION

Mark Keel, Chief State Law Enforcement)
Division, and the State of South Carolina,)
Defendants.)

A Rule 59(e) SCRCPP motion to reconsider and to alter or amend this Court's order issued on February 11th, 2019, has been received from the Plaintiff, John Doe, filed with the Court on February 21st, 2019, and properly served on The Court per Rule 59(g) SCRCPP. Pursuant to Rule 59(f), SCRCPP, the court, in its discretion, may decide the motion based on briefs without oral argument. The court indicated to the parties by Order of February 11th, 2019, that it would decide the issue on written submissions. Further the Court informed the parties that written submissions are not required by the non-moving party and the moving party could rely upon what has been filed or may supplement. The deadline to file written submissions regarding this motion was 5:00 p.m. on Monday, March 4th, 2019, for the movant and the deadline to file any submissions in reply was 5:00 p.m. on Monday, March 11th, 2019. Those deadlines have now expired.

After careful consideration of the able arguments and filings of Counsel and review of the record, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered.

Accordingly, the Motion of the Plaintiff, John Doe, made pursuant to Rule 59, SCRCP,¹ is DENIED.

AND IT IS SO ORDERED.

March 21st, 2019

/s/Grace Gilchrist Knie
Grace Gilchrist Knie, Judge
Seventh Judicial Circuit
Spartanburg, SC

¹ The Court, in its discretion, has determined this Motion on the filings, without oral argument, pursuant to Rule 59(f), SCRCP.



Lexington Common Pleas

Case Caption: John Doe VS Mark Keel

Case Number: 2017CP3200712

Type: Order/Other

IT IS SO ORDERED.

S/GRACE GILCHRIST KNIE - 2760

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STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

JOHN DOE,

Plaintiff

vs.

Mark Keel, Chief
State Law Enforcement Division, and
The State of South Carolina,
Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH CIRCUIT

CASE NO.: 2017-CP-32-

SUMMONS

2017CP3200712

YOU ARE HEREBY SUMMONED and required to answer the Complaint of John Doe in the above-entitled action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the Complaint on the attorney for John Doe., Milling Law Firm, LLC, 2910 Devine Street, Columbia, SC 29205, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within said time, judgment by the default will be rendered against you for the relief demanded in the Complaint.

MILLING LAW FIRM, LLC
2910 Devine Street
Columbia, South Carolina 29205
(803) 451-7700

By: _____

Jonathan M. Milling (SC Bar No. 15628)
Attorney for the Plaintiffs

_____, 2017
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

JOHN DOE,

Plaintiff

vs.

Mark Keel, Chief
State Law Enforcement Division, and
The State of South Carolina,
Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH CIRCUIT

CASE NO.: 2017-CP-32-

COMPLAINT

Petition for Declaratory Judgment

(Non-jury)

2017CP320071

Petitioner would respectfully show unto this Honorable Court, and allege as follows:

1. The Doe is a resident of the County of Lexington, State of South Carolina who brings this action under a fictitious name in an effort to protect himself from any further additional and unnecessary embarrassment and damages.
2. That Respondent Mark Keel is the Chief of the State Law Enforcement Division, maintaining the Sex Offender Registry for the State of South Carolina. The present action is an action in part for declaratory judgment regarding certain provisions of the Sex Offender Registry and pursuant to §23-3-410, S.C. Code of Laws, as amended, the Sex Offender Registry is under the direction of Defendant Keel.
3. That the State of South Carolina, a sovereign state and body politic, enacts its legislation through its State Legislature (General Assembly and Senate) and Governor. The present action is an action in part for declaratory judgment regarding the constitutionality of provisions of the South Carolina Code of Laws, specifically the lifetime registration requirement for non-enumerated offenses.

4. That in 1994, the United States Congress passed the Wetterling Act which imposed certain registration requirements for persons convicted of sex crimes.
5. That in 1994, the State of South Carolina also began imposing certain registration requirements upon persons convicted of sex offenses.
6. That the intent in South Carolina's sex offender registration requirement is to protect the public from those sex offenders who may re-offend and to aid law enforcement in solving crimes.
7. That in 2006, the United States Congress passed as a part of the Adam Walsh Act, the Sexual Offender Registration and Notification Act ("SORNA") which further defines and refines registration requirements for sex offenders.
8. That SORNA provides minimum standards that all states must meet.
9. That under SORNA, states can meet these minimum standards by providing more stringent requirements upon offenders, provided that all Constitutional safeguards are satisfied.
10. That SORNA provides a three tiered system whereby offenses are classified, and treated accordingly.
11. That SORNA provides that Tier I offenses require registration for 15 years.
12. That SORNA provides that Tier II offenses require registration for 25 years.
13. That SORNA provides that Tier III offenses require registration for life.
14. That SORNA further provides that Tier I offenders may reduce their registration requirement to 10 years by maintaining a clean record for 10-years.
15. That South Carolina's offense of Assault and Battery of a High and Aggravated Nature ("ABHAN"), if classified at all, would be classified as a Tier I offense under SORNA.
16. That in March 2005, Doe pled guilty to ABHAN and received a negotiated probationary

sentence.

17. The Circuit Court ordered registration as a sex offender, and Doe has been registering in Lexington County, South Carolina since that time.

18. That in entering his guilty plea, Plaintiff did not admit to or acknowledge any sexual battery as that term is defined in South Carolina Code Annotated Section 16-3-651.

19. That ABHAN is not identified as an offense in South Carolina Code Annotated Section 23-3-430 mandating registration.

20. That pursuant to South Carolina Code Annotated Section 23-3-430 (D), upon conviction of an offense not specifically identified, the presiding judge may order registration if good cause is shown by the solicitor.

21. That offenders convicted of a non-identified offense under South Carolina Code Annotated Section 23-3-430(D) are subject to the same lifelong registration requirement as specifically identified offenders.

22. That in adopting South Carolina Code Annotated Section 23-3-430(D), the State of South Carolina has elected to reject the tiered registration system in SORNA.

23. That the State of South Carolina has not outlined what justification, if any, exists for rejecting the SORNA tiered registration system, and mandating lifetime registration for all offenders, including Doe.

24. That Doe has not been convicted of any offenses since March 2005.

25. That Doe has successfully completed his period of probation for the registration offense.

26. That Doe has successfully completed the appropriate sex offender treatment program.

27. That under SORNA, as of March 2015, Doe would be eligible to conclude his registration obligations.

28. That under SORNA, even if Doe did not qualify for early termination of the registration requirement, the registration requirement would expire automatically in March 2020.

29. That, upon information and belief, Doe has suffered and continues to suffer grievous consequences as an adult from being a registered sex offender, including:

(a) permanent ban from volunteering with most youth events, including his own young son's teams or activities, where those include sporting, church, or school events.

(b) limited employment opportunities; and

(c) embarrassment and humiliation for himself and his relatives.

FOR A FIRST CAUSE OF ACTION
(Violation of Fourteenth Amendment)

30. Doe realleges Paragraphs 1 through 29 as if fully stated herein.

31. That the Fourteenth Amendment to the U.S. Constitution, Section I, provides "no person shall be deprived of life, liberty, or property without due process of law."

32. That Article I, Section 3 of the South Carolina Constitution also provides that "nor shall any person be deprived of life, liberty, or property without due process of law."

33. That the people of the State of South Carolina deemed the privacy rights of an individual so fundamental that they were specifically protected in Article I, Section 10 of the South Carolina Constitution.

34. That Doe has a protected fundamental right to privacy.

35. That Doe has a protected liberty interest to be free from permanent, unwarranted governmental interference.

36. That the State of South Carolina interferes with Doe's protected liberty interest through the lifetime registration requirement.

37. That the State of South Carolina, in adopting an across the board lifetime registration

requirement, has not narrowly tailored the registration requirement to serve a compelling state interest.

38. That the State of South Carolina, in adopting an across the board lifetime registration requirement, has established no rational basis reasonably tied to a governmental interest in exceeding SORNA's tiered registration requirement which allows for cessation of registration for certain offenders.

39. That the State of South Carolina, in adopting an across the board lifetime registration requirement, has established no rational basis reasonably tied to a governmental interest in requiring persons convicted of ABHAN, a non-specifically identified registration offense, to suffer a lifetime registration requirement.

40. That the State of South Carolina, in adopting an across the board lifetime registration requirement, has established no rational basis for treating those convicted of ABHAN and Criminal Sexual Conduct 1st Degree identically, while SORNA has found justification in treating them differently

41. That the State of South Carolina has established no rational basis reasonably tied to a governmental interest in lifetime registration without judicial review.

42. That the State of South Carolina in requiring lifetime registration without judicial review for those convicted of ABHAN violates the Due Process clause of the Fourteenth Amendment.

43. That Doe is entitled to a finding and Order from this Court concluding that the lifetime registration scheme is unconstitutional, and that South Carolina should adopt SORNA's tiered system.

44. That Doe is entitled to a finding and Order from this Court concluding that the lifetime registration scheme for persons convicted of ABHAN violates due process, and is

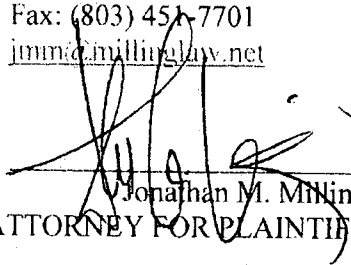
unconstitutional.

WHEREFORE, Plaintiff/Petitioner prays this Court for an Order:

- 1) declaring South Carolina's lifetime registration requirement for all offenses, even non-enumerated offenses, unconstitutional;
- 2) ordering Defendants to remove Plaintiff/Petitioner's name from the Sex Offender Registry;
- 3) costs, including reasonable attorneys fees associated with the prosecution of this action; and
- 3) for such other and further relief as may be deemed appropriate.

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BY:


Jonathan M. Milling
ATTORNEY FOR PLAINTIFF

Columbia, South Carolina
March 3, 2017

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

JOHN DOE

IN THE COURT OF COMMON PLEAS
ORIGINAL
CIVIL ACTION COVERSHEET

Plaintiff(s)

2017 MAR -3 PM 4:46

2017-CP - 32-

vs.

MARK KEEL, CHIEF OF SLED and STATE OF SOUTH CAROLINA

Defendant(s)

Submitted By: JONATHAN M. MILLING

Address: 2910 Devine Street
Columbia, SC 29205

SC Bar #: 15628
Telephone #: (803) 451-7700
Fax #: (803) 451-7701
Other:
E-mail: jmm@millinglaw.net

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20____-CP-_____
☐ Notice/ File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☒ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (510) | | |
- Declaratory Judgment**

Submitting Party Signature: _____

Date: March 3, 2017

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et seq.

FOR MANDATED ADR COUNTIES ONLY

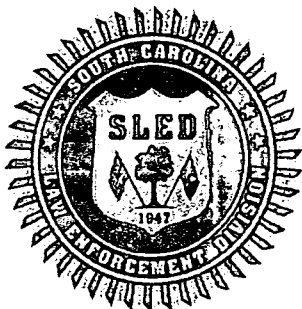
Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**



**South Carolina
Law Enforcement Division**

P.O. Box 21398
Columbia, South Carolina
29221-1398

Henry D. McMaster, Governor
Mark A. Keel, Chief

Tel: (803) 737-9000

July 17, 2017

Jonathan M. Milling, Esquire
Milling Law Firm, LLC
2910 Devine Street
Columbia, SC 29210

Re: John Doe v. Mark Keel and State of South Carolina
Civil Action No.: 2017-CP-32-00712

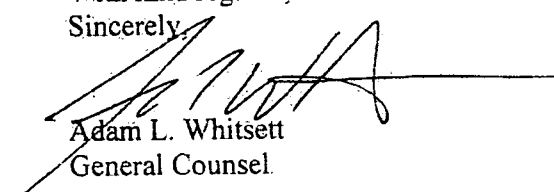
Dear Attorney Milling:

I hope this correspondence finds you well. Enclosed and herewith served upon you is the **Answer** of the Defendants in this matter.

Also, we had previously discussed the Defendants' need to know the identity of Mr. Doe so that we can review the facts and circumstances of his particular case. Have you had any further thoughts on the logistics of such?

Thanks and know that I look forward to working with you on this case.

With kind regards, I am
Sincerely,


Adam L. Whitsett
General Counsel

Enclosures – listed in text

Cc: South Carolina Attorney General's Office via e-mail

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	Case No.: 2017-CP-32-00712
John Doe,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ANSWER
	)	
Mark Keel, Chief, State Law Enforcement	)	
Division, and the State of South Carolina,	)	
	)	
Defendants.	)	

Defendants Mark Keel as Chief of the South Carolina State Law Enforcement Division (SLED) and the State of South Carolina, hereby answer the Complaint of Plaintiff as follows:

FOR A FIRST DEFENSE
Failure to State a Claim

The Complaint fails to state a claim upon which relief can be granted and should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A SECOND DEFENSE
Response to Allegations

1. The Defendants deny each and every allegation of the Plaintiff's Complaint not herein specifically admitted, qualified, explained, or addressed.
2. Defendants are without sufficient information to admit or deny the allegations of paragraph one (1); however, paragraph 1 is nevertheless admitted upon information and belief.
3. Paragraph two (2) is admitted insofar as it states that the South Carolina Sex Offender Act (SORA) registry is under the direction of Defendant Keel who is the Chief of SLED. To the extent the remaining allegations of paragraph 2 state the nature and character of this action, no response is required, but the Defendants specifically deny that Plaintiff is entitled to relief.

4. Paragraph three (3) is admitted insofar as it alleges that the State of South Carolina a sovereign state and body politic that enacts legislation through the State Legislature and Governor. To the extent the remaining allegations of paragraph 3 state the nature and character of this action, no response is required, but the Defendants specifically deny that Plaintiff is entitled to relief.

5. Paragraph four (4) is admitted upon information and belief; however, Defendants would crave reference to the entirety of the Wetterling Act for the most accurate recitation thereof.

6. Paragraph five (5) is admitted upon information and belief and Defendants would crave reference to the applicable provisions of the Sex Offender Registry Act (SORA) enacted in 1994 for the most accurate recitation thereof.

7. Paragraph six (6) is admitted insofar as it paraphrases the intent of SORA; however, the Defendants would crave reference to the actual text of SORA for the most accurate recitation thereof.

8. Paragraphs seven (7) is admitted upon information and belief; however, Defendants crave reference to the entirety of the Sex Offender Registration and Notification Act (SORNA) for the most accurate recitation thereof.

9. Paragraph eight (8) is denied insofar as it alleges that compliance with SORNA, or any provision thereof, is mandatory for the individual states. Defendants aver that SORNA is NOT mandatory and the individual states can choose whether or not to implement SORNA, or any provision thereof. Moreover, the Defendants further aver that the South Carolina Legislature is constitutionally empowered to enact laws applicable to South Carolina sex offenders and is not required to enact SORNA. *See* S.C. Const. art. III, § 1; S.C. Const. art. I, § 8.

10. Paragraphs nine (9), ten (10), eleven (11), twelve (12), thirteen (13), and fourteen (14) are admitted upon information and belief. However, Defendants would crave reference to the actual

text of SORNA for the most accurate recitation thereof. Defendants would further aver that the State of South Carolina is not required to implement a tiered system and that the South Carolina Legislature is constitutionally empowered to enact laws applicable to South Carolina sex offenders and is not required to enact SORNA. *See* S.C. Const. art. III, § 1; S.C. Const. art. I, § 8.

11. To the extent that SORNA's tiers are based on the underlying conduct involved in the commission of an offense, the Defendants are without information sufficient to admit or deny the allegations of paragraph fifteen (15) and would therefore deny the same.

12. Defendants are without information sufficient to admit or deny the allegations of paragraphs sixteen (16), seventeen (17), or eighteen (18) and would therefore deny the same.

13. Defendants admit so much of paragraph nineteen (19) that alleges that Assault and Battery of a High and Aggravated Nature (ABHAN) is not enumerated in S.C. Code Ann. § 23-3-430(C); however, Defendants aver that South Carolina law and jurisprudence requires registration in several circumstances beyond a conviction of an enumerated offense. *See* S.C. Code Ann. § 23-3-430(A); S.C. Code Ann. § 23-3-430(D); In re Shaquille O'Neal B., 385 S.C. 243, 251-52, 684 S.E.2d 549, 554 (2009) (setting forth and discussing the alternative bases for registration in South Carolina).

14. Paragraph twenty (20) is admitted; however, Defendants crave reference to the actual text of S.C. Code Ann. § 23-3-430(D) for the most accurate recitation thereof.

15. Paragraph twenty-one (21) is admitted. The Defendants further aver that SORA's lifelong registration mandate is set forth in a clear, unambiguous, and constitutional statute. *See* S.C. Code Ann. § 23-3-460.

16. With regard to paragraph twenty-two (22), the Defendants admit that the South Carolina Legislature has elected to exercise its constitutionally mandated powers to enact SORA, which

does not have a tiered registration system. Defendants would further aver that the State of South Carolina has substantially implemented SORNA since 2011.

17. Paragraph twenty-three (23) is denied insofar as the stated purpose of SORA is set forth clearly and unambiguously in S.C. Code Ann. § 23-3-400. Defendants further aver that the State of South Carolina has substantially implemented SORNA since 2011.

18. Defendants are without information sufficient to admit or deny the allegations of paragraphs twenty-four (24), twenty-five (25), twenty-six (26), twenty-seven (27), or twenty-eight (28) and would therefore deny the same.

19. The Defendants are without specific information from which to admit or deny the allegations of paragraph twenty-nine (29) and would therefore deny the same. The Defendants would further aver that any alleged consequences set forth in paragraph 29 are not statutory prohibitions pursuant to or limitations set forth in SORA, nor do any constitute punishment.

20. With regard to paragraph thirty (30), the Defendants incorporate all of their previous responses by reference.

21. Paragraphs thirty-one (31) and thirty-two (32) are admitted insofar as they recite excerpts of the United States Constitution and the South Carolina Constitution. However, Defendants crave reference to the provisions cited for the most accurate recitation thereof.

22. With regard to paragraph thirty-three (33), the Defendants admit that the South Carolina Constitution states:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures and unreasonable invasions of privacy shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, the person or thing to be seized, and the information to be obtained.

S.C. Const. art. I, § 10. However, to the extent that paragraph 33 is an attempt to characterize the intent and will of the people of South Carolina, it is denied.

23. Paragraph thirty-four (34) is denied to the extent that the South Carolina Supreme Court has specifically rejected the argument that SORA registration violates an individual's right to privacy. See Hendrix v. Taylor, 353 S.C. 542, 549, 579 S.E.2d 320, 323–24 (2003).

24. Defendants admit paragraph thirty-five (35) to the extent that the South Carolina Supreme Court has acknowledged that a person has a protected liberty interest to be free from permanent, unwarranted governmental interference. See State v. Dykes, 403 S.C. 499, 506, 744 S.E.2d 505, 509 (2013). However, Defendants deny that the Plaintiff's non-punitive regulatory registration requirement implicates such interest. See Hendrix v. Taylor, 353 S.C. 542, 552, 579 S.E.2d 320, 325 (2003) (holding "the length of time one must be listed on the sex offender registry is non-punitive, and it cannot constitute a deprivation of a constitutionally protected liberty interest."); State v. Walls, 348 S.C. 26, 558 S.E.2d 524 (2002) (finding South Carolina's registration requirement to be non-punitive); In re Ronnie A., 355 S.C. 407, 585 S.E.2d 311 (2003) (finding that "sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated."); Williams v. State, 378 S.C. 511, 515–16, 662 S.E.2d 615, 618 (Ct. App. 2008) ("The South Carolina Sex Offender Registry Act (the Act) was created to be a non-punitive act, and our Supreme Court has found that 'the Act is not so punitive in purpose or effect as to constitute a criminal penalty.'.... Thus, the consequence of registering as a sexual offender pursuant to the Act is regulatory in nature and is imposed to promote public safety."); In Interest of Justin B., 419 S.C. 575, 799 S.E.2d 675, 681 (2017) (finding that lifetime registration "is not a punitive measure, and the requirement bears a rational relationship to the Legislature's purpose in the Sex Offender Registry Act to protect our citizens—including children—from repeat sex offenders. The requirement, therefore, is not unconstitutional. If the requirement that juvenile sex

offenders must register and must wear an electronic monitor is in need of change, that decision is to be made by the Legislature—not the courts.”).

25. Paragraph thirty-six (36) is denied. See Hendrix v. Taylor, 353 S.C. 542, 552, 579 S.E.2d 320, 325 (2003) (holding “the length of time one must be listed on the sex offender registry is non-punitive, and it cannot constitute a deprivation of a constitutionally protected liberty interest.”); State v. Walls, 348 S.C. 26, 558 S.E.2d 524 (2002) (finding South Carolina’s registration requirement to be non-punitive); In re Ronnie A., 355 S.C. 407, 585 S.E.2d 311 (2003) (finding that “sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated.”); Williams v. State, 378 S.C. 511, 515–16, 662 S.E.2d 615, 618 (Ct. App. 2008) (“The South Carolina Sex Offender Registry Act (the Act) was created to be a non-punitive act, and our Supreme Court has found that ‘the Act is not so punitive in purpose or effect as to constitute a criminal penalty.’ ... Thus, the consequence of registering as a sexual offender pursuant to the Act is regulatory in nature and is imposed to promote public safety.”); In Interest of Justin B., 419 S.C. 575, 799 S.E.2d 675, 681 (2017) (finding that lifetime registration “is not a punitive measure, and the requirement bears a rational relationship to the Legislature’s purpose in the Sex Offender Registry Act to protect our citizens—including children—from repeat sex offenders. The requirement, therefore, is not unconstitutional. If the requirement that juvenile sex offenders must register and must wear an electronic monitor is in need of change, that decision is to be made by the Legislature—not the courts.”).

26. Paragraph thirty-seven (37) is denied. Further, the Defendants aver that South Carolina courts have long held that the rational-basis test applies. See Hendrix v. Taylor, 353 S.C. 542, 549-50, 579 S.E.2d 320, 324 (2003); State v. Dykes, 403 S.C. 499, 508, 744 S.E.2d 505, 510

(2013); In the Interest of Justin B., a Juvenile under the Age of Seventeen, 419 S.C. 575, 799 S.E.2d 675, 681 (2017).

27. Paragraphs thirty-eight (38), thirty-nine (39), forty (40), forty-one (41) are denied. South Carolina courts have long held that South Carolina's lifelong SORA registration requirement is constitutional in that it is rationally related to the legislative purpose sought to be effected; all members of the class, *i.e.* all those individuals properly required to register in this state are treated the same; and the classification rests on a reasonable basis. Hendrix v. Taylor, 353 S.C. 542, 549-50, 579 S.E.2d 320, 324 (2003); In re Ronnie A., 355 S.C. 407, 409, 585 S.E.2d 311, 312 (2003); S.C. Code Ann. § 23-3-400 Williams v. State, 378 S.C. 511, 516, 662 S.E.2d 615, 618 (2008); State v. Walls, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002); In the Interest of Justin B., a Juvenile under the Age of Seventeen, 419 S.C. 575, 799 S.E.2d 675, 681 (2017). Further, SORNA's requirements are of no moment and have no bearing on the outcome of this action.

28. Paragraphs forty-two (42) and forty-three (43) are denied. The Defendants would aver that South Carolina jurisprudence establishes that the SORA registry is regulatory and non-punitive such that no liberty interest is implicated. *See* State v. Walls, 348 S.C. 26, 558 S.E.2d 524 (2002); In re Ronnie A., 355 S.C. 407, 585 S.E.2d 311 (2003); Hendrix v. Taylor, 353 S.C. 542, 579 S.E.2d 320 (2003); Williams v. State, 378 S.C. 511, 516, 662 S.E.2d 615, 618 (2008); In the Interest of Justin B., a Juvenile under the Age of Seventeen, 419 S.C. 575, 799 S.E.2d 675, 681 (2017). Moreover, Defendants would aver that for the Court to re-write SORA as sought in this request would violate the South Carolina Constitution's mandate for the separation of powers. *See* S.C. Const. art. I, § 8; In the Interest of Justin B., a Juvenile under the Age of Seventeen, 419 S.C. 575, 799 S.E.2d 675, 681 (2017) (noting that a changes to SORA are decisions "to be made by the Legislature—not the courts.").

29. Paragraph forty-four (44) is denied. The Defendants would aver that South Carolina jurisprudence establishes that the SORA registry is regulatory and non-punitive such that no liberty interest is implicated. See State v. Walls, 348 S.C. 26, 558 S.E.2d 524 (2002); In re Ronnie A., 355 S.C. 407, 585 S.E.2d 311 (2003); Hendrix v. Taylor, 353 S.C. 542, 579 S.E.2d 320 (2003); Williams v. State, 378 S.C. 511, 516, 662 S.E.2d 615, 618 (2008); In the Interest of Justin B., a Juvenile under the Age of Seventeen, 419 S.C. 575, 799 S.E.2d 675, 681 (2017).

30. The Defendant denies the requests for relief set forth in the "WHEREFORE" section of the complaint.

FOR A THIRD DEFENSE
Proper Inclusion on the Registry

31. The Defendants would aver that the Plaintiff's non-punitive inclusion on the SORA registry in accordance with S.C. Code Ann. § 23-3-430(D), is proper; constitutional, and in accordance with clear and unambiguous South Carolina law. Further, the Defendants would aver that the Plaintiff does not allege that he meets any of the statutory criteria for removal from the SORA registry such that he is entitled to be removed from such. See S.C. Code Ann. §§ 23-3-430(E), (F), and (G).

WHEREFORE, having fully answered the Plaintiff's complaint, Defendants pray that this Honorable Court:

- A. dismisses the Plaintiff's Complaint entirely;
- B. denies any and all relief sought by the Plaintiff; and
- C. grants such other and further relief as the Court may deem just and proper.

Respectfully Submitted,

ALAN WILSON
Attorney General

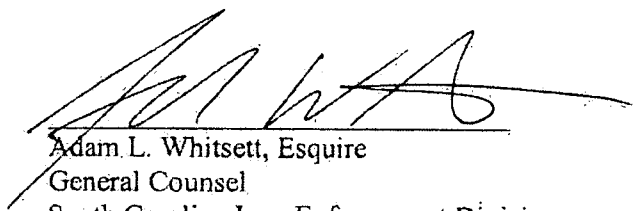
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S.C. Bar Number: 74888

ATTORNEY FOR MARK KEEL AND SLED.

COLUMBIA, SOUTH CAROLINA
JULY 17, 2017

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

John Doe,

Plaintiff,

v.

Mark Keel, Chief, State Law Enforcement
Division, and the State of South Carolina,

Defendants.

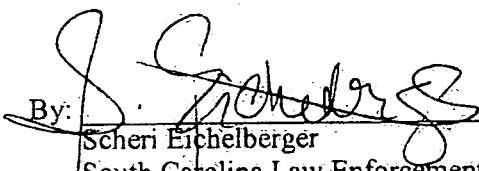
) IN THE COURT OF COMMON PLEAS
) ELEVENTH JUDICIAL CIRCUIT
) Case No.: 2017-CP-32-00712

CERTIFICATE OF SERVICE

I hereby certify that I served the Answer in the above matter by depositing a copy of the same in the United States mail, postage prepaid, and addressed to:

Jonathan M. Milling, Esquire
Milling Law Firm, LLC
2910 Devine Street
Columbia, SC 29210

On July 17, 2017 from Columbia, South Carolina.

By: 

Scheri Eichelberger
South Carolina Law Enforcement Division

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT
Case No.: 2017-CP-32-00712

John Doe,)
)
Plaintiff,)
)
v.)
)
Mark Keel, Chief,)
State Law Enforcement Division, and)
The State of South Carolina,)
)
Defendant.)

**MOTION FOR SUMMARY
JUDGMENT AND
MEMORANDUM IN SUPPORT
THEREOF**

TO: JONATHAN M. MILLING, ESQUIRE, ATTORNEY FOR THE PLAINTIFF

PLEASE TAKE NOTICE THAT the Defendant South Carolina Law Enforcement Division by and through Chief Mark Keel (hereinafter "SLED"), and the State of South Carolina, by and through its undersigned attorneys, hereby move this Honorable Court for summary judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure in this matter. The grounds for this motion and arguments in support thereof are as follows:

STANDARD OF REVIEW

"Summary judgment is appropriate when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact such that the moving party must prevail as a matter of law." Rules Civ. Proc., Rule 56; Knight v. Austin, 396 S.C. 518, 521-2, 722 S.E.2d 802, 804 (2012). "The purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder." Englert, Inc. v. Leafguard USA, Inc., 377 S.C. 129, 133-4, 659 S.E.2d 496, 498 (2008).

FACTUAL BACKGROUND

The action has been filed in this matter on behalf of the plaintiff, "John Doe." The Plaintiff's complaint provides that Doe pled guilty to Assault and Battery of a High and Aggravated Nature ("ABHAN") in 2005. In addition, the Circuit Court ordered Doe to register as a sex offender pursuant to S.C Code Ann. § 23-3-430(D).¹ Accordingly, Doe has been registering in Lexington County, South Carolina, since that time. On or about March 3, 2017, approximately thirteen (13) years later, Plaintiff filed this "Petition for Declaratory Judgment" against Defendants Chief Keel, SLED, and the State of South Carolina, regarding certain provisions governing the South Carolina Sex Offender Registry.

APPLICABLE SORA JURISPRUDENCE

In South Carolina, courts have consistently and unequivocally held that registration pursuant to SORA is **NOT** punishment. *See State v. Walls*, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002); *Hendrix v. Taylor*, 353 S.C. 542, 552, 579 S.E.2d 320, 325 (2003) (finding that "the length of time one must be listed on the sex offender registry is non-punitive, and it cannot constitute a deprivation of a constitutionally protected liberty interest."); *In re Ronnie A.*, 355 S.C. 407, 409, 585 S.E.2d 311, 312 (2003) (finding that "sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated."); *In re Justin B.*, 405 S.C. 391, 409, 747 S.E.2d 774, 783 (2013) (finding that the electronic monitoring provisions of SORA constitutes a civil non-punitive remedy.)

The South Carolina Legislature has also made it abundantly clear that the intent of SORA is "to promote the state's fundamental right to provide for the public health, welfare, and safety of

¹ "Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the solicitor." S.C. Code Ann. § 23-3-430(D).

its citizens” and to “provide law enforcement with the tools needed in investigating criminal offenses.” S.C. Code Ann. § 23-3-400. This intent is set forth by the plain language of the statute and has been recognized throughout South Carolina jurisprudence.

Further, SORA mandates registration as a sex offender in South Carolina if an individual is convicted of or **pleads guilty to** certain offenses. SORA specifically states that a person can be “convicted of, adjudicated delinquent for, pled guilty or nolo contendere to....” See S.C. Code Ann. § 23-3-430(A). The South Carolina Supreme Court has also noted that

there are several [alternative] bases on which to predicate registration in South Carolina: (1) the defendant was convicted in South Carolina of an offense delineated in South Carolina’s registry statute, (2) the defendant was convicted of an offense in another jurisdiction for which registration is required in the jurisdiction where the offense occurred, or (3) the defendant was convicted in another jurisdiction of an offense that is similar to a South Carolina offense requiring registration.

In re Shaquille O’Neal B., 385 S.C. 243, 251-52, 684 S.E.2d 549, 554 (2009). As such, any conviction or guilty plea in another jurisdiction of an offense that is similar to any South Carolina registerable offense requires registration, and the fact that an individual is not required to register in the jurisdiction of conviction is not dispositive. *Id.* See also Hendrix v. Taylor, 353 S.C. 542, 552, 579 S.E.2d 320, 325 (2003); Lozada v. S. Carolina Law Enf’t Div., 395 S.C. 509, 514-15, 719 S.E.2d 258, 261 (2011) (noting that “whether the defendant was required to register in the state where the offense occurred does not control the analysis of whether the offenses are similar, but is instead ‘an *alternative* basis for registration.’” (emphasis in original)).

In addition, “[w]hether an individual must be placed on the sex offender registry is a question of law.” Lozada v. S. Carolina Law Enf’t Div., 395 S.C. 509, 512, 719 S.E.2d 258, 259 (2011) (citing Noisette v. Ismail, 299 S.C. 243, 247, 384 S.E.2d 310, 312 (Ct. App.1989)).

ARGUMENT

The Defendants are informed and believe that summary judgment is appropriate in this matter. The analysis turns on the resolution of purely legal issues for which summary judgment appears proper. The Plaintiff's guilty plea to Assault and Battery of a High and Aggravated Nature mandated registration, pursuant to S.C. Code § 23-3-430(D). Based on the following, the Defendants are informed and believe that the aforementioned guilty plea and sentence is sufficient to require the Plaintiff to continue registering in South Carolina in accordance with SORA.

I. The Plaintiff's Claims Fail as a Matter of Law

South Carolina's SORA registration is for life. *See* S.C. Code Ann. § 23-3-460 (mandating registration "for life"). This lifetime mandate is set forth in clear and unequivocal statutory language. As such, this specific statutory language is determinative and leaves no room for judicial interpretation. *See* Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000); Charleston County Sch. Dist. v. State Budget and Control Bd., 313 S.C. 1, 437 S.E.2d 6 (1993) ("The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature."); In re Vincent J., 333 S.C. 233, 509 S.E.2d 261 (1998) ("Under the plain meaning rule, it is not the court's place to change the meaning of a clear and unambiguous statute.") (internal citations omitted). Further, South Carolina jurisprudence on this issue is clear, "[w]here the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning. In re Vincent J., 333 S.C. 233, 509 S.E.2d 261, 262 (1998) (citing Paschal v. State Election Comm'n, 317 S.C. 434, 454 S.E.2d 890 (1995)). Therefore, the Defendants are entitled to judgment as a matter of law on this issue.

Moreover, SORA does provide specific statutory avenues for removal from the mandate for lifetime registration. Specifically, S.C. Code Ann. § 23-3-430(E), (F), (G) set forth the only lawful mechanism and avenues by which an individual can be removed from the SORA registry. Pursuant to § 23-3-430(E), "SLED shall remove a person's name and any other information concerning that person from the sex offender registry immediately upon notification by the Attorney General that the person's adjudication, conviction, guilty plea, or plea of nolo contendere for an offense listed in subsection (C) was reversed, overturned, or vacated on appeal and a final judgment has been rendered." S.C. Code Ann. § 23-3-430(E). Pursuant to § 23-3-430(F), an offender who receives a pardon "based on a finding of not guilty specifically stated in the pardon" shall be removed. S.C. Code Ann. § 23-3-430(F). And finally, pursuant to § 23-3-430(G) individuals exonerated subsequent to filing a petition for a writ of habeas corpus or a motion for a new trial are removed. S.C. Code Ann. § 23-3-430(G). However, there is no genuine issue of material fact to suggest that Plaintiff meets any of these statutory criteria and, in fact, he concedes that he does not. Accordingly, there is no legal or constitutional basis for the Plaintiff to be removed from the SORA registry and the Defendants are entitled to judgment as a matter of law.

II. The Plaintiff's Claims Regarding SORNA Applicability Are Both Factually and Legally Incorrect

In 2006, Congress passed, as part of the Adam Walsh Act, the Sexual Offender Registration and Notification Act ("SORNA"). It is noteworthy that SORNA compliance, or any provision thereof, is **NOT** mandatory for any of the individual states. SORNA simply provides compliance standards and guidelines that may be adopted by individual states' respective legislative bodies. The Plaintiff alleges that SORNA provides minimum standards that all states must meet and that South Carolina is required to adopt SORNA's tiered system. This is simply incorrect. The South Carolina Legislature is constitutionally empowered to enact laws applicable to South Carolina sex

offenders and is not required to enact SORNA. *See* S.C. Const. art. III, § III, § 1; S.C. Const. art. I, § 8.

South Carolina achieved substantial implementation of SORNA in 2011. *See Attachment 1*. Specifically, South Carolina achieved a certain level of implementation in order to be considered SORNA compliant. Additionally, it is particularly noteworthy that SORNA provides only a baseline of sex offender registration laws and does not prohibit individual states from imposing more stringent requirements for sex offenders. The different areas discussed in Attachment 1 outline the manner in which South Carolina is and is not compliant, while specifically providing that “[w]hile South Carolina is encouraged to work toward rectifying deviations from requirements in order to achieve full implementation of SORNA, this is not required for substantial implementation purposes.” *Id.* The United States Department of Justice, through the Office of Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), reviewed South Carolina’s SORNA implementation, and determined that South Carolina “correctly places its statutes within at least the minimum appropriate SORNA tiers.” Attachment 1, p. 2. Therefore, the Plaintiff is properly classified pursuant to SORA’s registration requirements.

III. Lifetime SORA registration Does Not Violate Plaintiff’s Constitutional Rights to Equal Protection or Due Process

The Plaintiff asserts that a lifetime registration requirement as a sex offender violates his liberty interests. This argument fails as a matter of law. The equal protection clause of the United States Constitution provides that “no state shall ... deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1; *see also* S.C. Const. art. I, § 3. If a statutory provision “does not involve a suspect classification or a fundamental right, . . . the question under equal protection analysis is whether the legislation is rationally related to a

legitimate state purpose.” Curtis v. State, 345 S.C. 557, 574, 549 S.E.2d 591, 600 (2001); Hendrix v. Taylor, 353 S.C. 542, 579 S.E.2d 320 (2003). “The United States Supreme Court has cautioned restraint in the recognition of rights deemed to be fundamental in a constitutional sense.” State v. Dykes, 403 S.C. 499, 744 S.E.2d 505 (2013) (citing Washington v. Glucksberg, 521 U.S. 702 (1997)).

The scope of review is limited “in cases involving a constitutional challenge to a statute because all statutes are presumed constitutional and, if possible, will be construed to render them valid.” Curtis v. State, 345 S.C. 557, 569, 549 S.E.2d 591, 597 (2001). “All statutes are presumed constitutional and will, if possible, be construed so as to render them valid.” Joytime Distributors and Amusement Co., Inc. v. State, 338 S.C. 634, 640, 528 S.E.2d 647, 650 (1999) (citing Davis v. County of Greenville, 322 S.C. 73, 470 S.E.2d 94 (1996)). Further, a “legislative act will not be declared unconstitutional unless its repugnance to the constitution is clear and beyond a reasonable doubt.” Joytime Distributors and Amusement Co., Inc. v. State, 338 S.C. 634, 640, 528 S.E.2d 647, 650 (1999) (citing Westvaco Corp. v. South Carolina Dep’t of Revenue, 321 S.C. 59, 467 S.E.2d 739 (1995)). “A legislative enactment will be declared unconstitutional only when its invalidity appears so clearly as to leave no room for reasonable doubt that it violates a provision of the constitution.” Joytime Distributors and Amusement Co., Inc. v. State, 338 S.C. 634, 640, 528 S.E.2d 647, 650 (1999).

The Plaintiff is not part of a suspect class, nor does his placement on the sex offender registry affect a fundamental right. See Hendrix v. Taylor, 353 S.C. 542, 549-50, 579 S.E.2d 320, 324 (2003) (citing Cutshall v. Sundquist, 193 F.3d 466, 483 (6th Cir. 1999)). The Plaintiff does not allege otherwise. Therefore, the “rational relationship” test should be applied to determine whether the sex offender registry laws violate the Plaintiff’s right to equal protection. Hendrix v.

Taylor, 353 S.C. 542, 550, 579 S.E.2d 320, 324 (2003). Under this test, the Plaintiff's classification as a sex offender in South Carolina is justified and does not violate equal protection if "(1) the classification bears a reasonable relation to the legislative purpose sought to be effected; (2) the members of the class are treated alike under similar circumstances and conditions; and (3) the classification rests on some reasonable basis." *Id.* (quoting Curtis v. State, 345 S.C. 557, 574, 549 S.E.2d 591, 599, 600 (2001). "The initial determination of reasonableness in a classification lies with the legislature and will not be set aside by this court unless it is plainly arbitrary." Samson v. Greenville Hospital System, 295 S.C. 359, 367, 368 S.E.2d 665, 669 (1988) (internal citations omitted).

The South Carolina Supreme Court has previously ruled that the SORA registry "complies with the first prong of the test, as the legislative purpose is clearly defined" in the text of the law. Hendrix v. Taylor, 353 S.C. 542, 550, 579 S.E.2d 320, 324 (2003) (citing S.C. Code Ann. § 23-3-400). Classifying an individual as a sex offender is "reasonably related to the legitimate state purpose of protecting the public and aiding law enforcement in limiting the risk that sex offenders pose to communities." *Id.*; see also In re Ronnie A., 355 S.C. 407, 409, 585 S.E.2d 311, 312 (2003). Registration as a sex offender is not a punishment, but rather a regulatory requirement imposed to promote public safety. Williams v. State, 378 S.C. 511, 516, 662 S.E.2d 615, 618 (2008); see also State v. Walls, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002). In addition, all members of the Plaintiff's class, *i.e.* those persons ordered to register pursuant to S.C. Code Ann. 23-3-430 et al., are treated identically. All members of the class "are subject to uniform administrative and legal procedures." Hendrix v. Taylor, 353 S.C. 542, 550, 551, 579 S.E.2d 320, 324 (2003). And, as to the third and final component of the test, classification of the Plaintiff as a sex offender "is reasonable because the purpose of the law is to protect the public welfare and to

assist law enforcement in accomplishing that goal.” Hendrix v. Taylor, 353 S.C. 542, 551, 579 S.E.2d 320, 324 (2003); *see also* S.C. Code Ann. § 23-3-400. As such, the Plaintiff’s SORA registration protects society and aids law enforcement as a matter of law.

The Plaintiff contends the State of South Carolina has enacted burdens and requirements for Sex Offender registrants that violate due process rights because it deprives the Plaintiff’s liberty interests. In order to show the state violated a due process right and deprived an individual of a liberty interest without a hearing, the individual must first “show that he has a constitutionally protected liberty or property interest, and that he has been deprived of that protected interest by some form of state action.” Fleming v. Rose, 338 S.C. 524, 539-40, 526 S.E.2d 732, 740 (Ct. App. 2000), *rev’d on diff. grounds*, 350 S.C. 488, 567 S.E.2d 857 (2002). The Plaintiff incorrectly argues that required lifetime sex offender registration violates his right to due process because, unlike civil collateral consequences associated with other types of criminal charges, there is no administrative procedure avenue for removal in regards to SORA. This argument fails because SORA registration is a non-punitive imposition and is regulatory, as such that no liberty interest is implicated. State v. Walls, 348 S.C. 26, 31, 558 S.E.2d 524 (2002); In re. Ronnie A., 355 S.C. 407, 585 S.E.2d 311 (2003); Hendrix v. Taylor, 353 S.C. 542, 579 S.E.2d 320 (2003); In the Interest of Justin B., a Juvenile under the Age of Seventeen, 419 S.C. 575, 799 S.E.2d 672 (2017)(reaffirming the constitutionality of SORA and reaffirming unequivocally that SORA is not punishment). As such, any due process claim fails as a matter of law.

IV. The Plaintiff's Action Fails to State a Claim.

This action fails to state a claim Rule 12(b)(6) of the South Carolina Rules of Civil Procedure in that the applicable statute of limitations bars this action. In South Carolina, a civil action based upon a liability created by statute, other than a penalty or forfeiture, must commence within three years. *See* S.C. Code Ann. § 15-3-530(2). The Plaintiff was informed of his SORA registration requirement in March 2005, and Plaintiff properly began regularly registering at approximately that same time. As such, in accordance with S.C. Code Ann. § 15-3-530(2), any cause of action for relief commenced when Plaintiff first registered. Therefore, any civil action challenging the Plaintiff's SORA registration must have been commenced no later than 2008. However, this action was not filed until March of 2017. As such, this claim is barred by the applicable statute of limitation and thus fails as a matter of law.

CONCLUSION

For the reasons states above, any to be set forth in any subsequent memorandum of law, and all those advanced at any hearing on this matter; judgement as a matter of law should be granted to the Defendants.

[SIGNATURE PAGE TO FOLLOW]

/s Paul T. Ahearn III

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COLUMBIA, SOUTH CAROLINA
OCTOBER 18, 2018



July 2011

SORNA Substantial Implementation Review State of South Carolina

The U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) would like to thank the State of South Carolina for the extensive work that has gone into its effort to substantially implement Title I of the Adam Walsh Act, the Sex Offender Registration and Notification Act (SORNA). The SMART Office has completed its review of South Carolina's SORNA substantial implementation packet and has determined that the State of South Carolina has substantially implemented SORNA.

In January and April 2011, the South Carolina Law Enforcement Division (SLED) submitted a substantial implementation submission package that included a filled-in copy of the Substantial Implementation Checklist, a tiering reference document, relevant state statutes, relevant state administrative rules, and relevant state policies and procedures. In addition, email and phone correspondence with the South Carolina Law Enforcement Division filled in gaps in information and procedure, which informed our review.¹

Our review of these materials follows the outline of the SMART Office Substantial Implementation Checklist-Revised, and contains 14 sections addressing the SORNA requirements. Under each section, we indicate whether South Carolina meets the SORNA requirements of that section or deviates from the requirements in some way. In instances of deviation, we specify where the departure(s) from a particular requirement does not substantially disserve the purposes of that requirement.

While South Carolina is encouraged to work toward rectifying deviations from requirements in order to achieve full implementation of SORNA, this is not required for substantial implementation purposes. This report is an exhaustive review and is intended to detail every area in which the state has not met SORNA standards.

We encourage you to review the information below, share it with relevant stakeholders in the state, and get back in touch with us to develop a strategy to address these remaining issues.

¹The SMART Office had email and phone correspondence with Natalie Spires, Sex Offender Registry Program Coordinator for SLED; Susan Porter, General Counsel to SLED; Paul Flondarina, Assistant Director and Chief Information Officer of SLED; and Major Richard Hunton, Deputy Director of SLED, between January and July 2011.

I. Immediate Transfer of Information

SORNA requires that when an offender initially registers and/or updates his information in a jurisdiction, that that initial registration information/updated information be immediately sent to other jurisdictions where the offender has to register, as well as to NCIC/NSOR and the jurisdiction's public sex offender registry website.

South Carolina meets all of the SORNA requirements in this section.

II. Offenses that Must Be Included in the Registry

SORNA requires that certain federal, military, and foreign offenses are included in a jurisdiction's registration scheme. In addition, SORNA requires that the jurisdiction capture certain sex offenses, both offenses from its jurisdiction and from other SORNA registration jurisdictions, in its registration scheme. SORNA also requires that certain adjudications of delinquency are included in a jurisdiction's registration scheme.

South Carolina meets all of the SORNA requirements in this section.

III. Tiering of Offenses

The SMART Office has reviewed all statutes identified in the substantial implementation submission package and has identified South Carolina's placement of these statutes within the SORNA three tier levels. South Carolina correctly places its statutes within at least the minimum appropriate SORNA tiers.

South Carolina meets all of the SORNA requirements in this section.

IV. Required Registration Information

SORNA requires that the jurisdiction collect certain pieces of information from and for each offender that it registers, and requires that the jurisdiction keep that registration information, in a digitized form, in its registry.

South Carolina meets SORNA's requirements with respect to the registration information that SORNA requires South Carolina to capture, with some exceptions. South Carolina only requires the collection of temporary lodging information when the sex offender is going to be away from his residence for ten or more days. In addition, South Carolina did not begin to capture DNA from all of its registered sex offenders until 1998; therefore, South Carolina may

not have the DNA of an offender who committed a registerable offense before 1998, unless the circumstances of the crime triggered the collection of DNA under prior law.²

These deviations do not substantially disserve the purposes of the requirements in this section.

V. Where Registration is Required

SORNA requires that the jurisdiction register an offender if the jurisdiction is the one in which he is convicted or incarcerated. In addition, SORNA requires that the jurisdiction register offenders who reside, work, or attend school in the jurisdiction.

South Carolina meets all of the SORNA requirements in this section.

VI. Initial Registration: Timing and Notice

SORNA requires that when an offender is incarcerated within the jurisdiction, registration must occur before release from imprisonment for the registration offense. Similarly, when an offender is sentenced within the jurisdiction, but not incarcerated, SORNA requires that registration occur within three business days of sentencing. Finally, when an offender has been convicted, sentenced, or incarcerated in another jurisdiction (including federal or military court), the jurisdiction must register the offender within three business days of the offender establishing residence, employment, or school attendance within the jurisdiction. SORNA also requires that, during the initial registration process, the jurisdiction inform the offender of his registration duties and require the offender to acknowledge in writing that he understands those duties.

South Carolina meets all of the SORNA requirements in this section.

VII. Initial Registration: Retroactive Classes of Offenders

SORNA requires that each registration jurisdiction have a procedure in place to recapture three categories of sex offenders: those who are currently incarcerated or under supervision, either for the predicate sex offense or for some other crime; those who are already registered or subject to a pre-existing sex offender registration requirement under the jurisdiction's law; and those who reenter the jurisdiction's criminal justice system because of a conviction for some other felony crime (whether or not it is a sex offense).

All South Carolina registrants have been lifetime, with no possibility for early removal, since South Carolina's registration system was first implemented; therefore, any retroactive application will only affect offenders' requirements with regard to appearances and notification. On July 1, 2010, changes to South Carolina's statutes with respect to those requirements went

² If the offender commits a new registerable offense, South Carolina will collect DNA from him.

into effect. By the end of January 2011, a letter had been sent to all offenders who, as best as the state's sheriffs' offices could determine at that point, were affected by these changes, informing them of any revised registration requirements. Currently, all of the state's sheriffs' offices are reviewing the records of all of their offenders to determine which offenders are SORNA Tier III offenders and required to register quarterly, in an attempt to notify those offenders within the next three months. It is anticipated that *all* offenders whose requirements are affected by SORNA implementation will be notified within the next six months. Therefore, while South Carolina cannot guarantee that all offenders who are SORNA Tier III offenders will be notified of any new appearance and notification requirements within the next three months, the state expects to notify all offenders of any new appearance and notification requirements within the next six months.

This deviation does not substantially disserve the purposes of the requirements in this section.

VIII. Keeping the Registration Current

SORNA requires that when an offender resides in a jurisdiction, that sex offender must immediately appear in-person to update his or her name, residence, employment, school attendance, and termination of residence. When an offender works in a jurisdiction, but does not reside or attend school there, SORNA requires that the offender immediately appear in-person to update employment-related information. When an offender attends school in a jurisdiction, but does not reside or work there, SORNA requires that the offender immediately appear in-person to update school-related information.

SORNA also requires that when an offender resides in a jurisdiction, that sex offender must immediately update any changes to his or her email addresses, internet identifiers, telephone communications, vehicle information, and temporary lodging information.

SORNA also requires that when an offender resides in a jurisdiction but indicates to the state that he/she intends to travel outside the United States, that the offender notify the residence jurisdiction at least 21 days in advance of such travel.

In addition, SORNA requires that when an offender notifies the jurisdiction of his intent to relocate to another country to live, work or attend school, or of his intent to travel to another country, the jurisdiction must do three things: immediately notify any other jurisdiction where the offender is either registered, or is required to register, of that updated information; immediately notify the United States Marshals Service, and immediately update NCIC/NSOR.

While it is largely being done in practice, South Carolina will add into its protocol a requirement that an offender appear in person to inform registry officials of termination of school/employment, if South Carolina is just his school and/or employment jurisdiction.

This deviation does not substantially disserve the purposes of the requirements of this section.

IX. Verification/Appearance Requirements

SORNA requires that offenders register for a duration of time, and make in-person appearances at the registering agency, based on the tier of the offense of conviction.

A. Duration of Registration

SORNA requires that offenders register for a duration of time based on the tier of the offense of conviction. Specifically, SORNA requires that SORNA Tier I offenders register for 15 years, that SORNA Tier II offenders register for 25 years, and that SORNA Tier III offenders register for life.

B. Frequency of Registration

SORNA requires that offenders make in-person appearances at the registering agency based on the tier of the offense of conviction. Specifically, SORNA requires that SORNA Tier I offenders appear once a year, that SORNA Tier II offenders appear every six months, and that SORNA Tier III offenders appear every three months.

In addition, SORNA creates certain requirements under which a jurisdiction can allow an offender to have a reduced registration period.

South Carolina meets all of the SORNA requirements in this section.

X. Public Registry Website Requirements

SORNA requires that each jurisdiction maintain a public sex offender registry website and publish certain registration information on that website. SORNA also requires that certain information not be displayed on a jurisdiction's public registry website.

South Carolina meets all of the SORNA requirements in this section.

XI. Community Notification

SORNA requires that each jurisdiction disseminate certain initial and updated registration information to particular agencies within the jurisdiction. In addition, SORNA requires that each jurisdiction also disseminate certain initial and updated registration information to the community.

In terms of law enforcement notification, the only set of agencies that does not currently have direct access to the registry are the solicitors' offices in the state, and SLED is in the

process of notifying each solicitors' office that it can have read-only access to the registry if it so desires.

South Carolina meets all of the SORNA requirements in this section.

XII. Failure to Register as a Sex Offender: State Penalty

SORNA requires that each jurisdiction, other than a federally recognized Indian tribe, provide a criminal penalty that includes a maximum term of imprisonment that is greater than one year for the failure of a sex offender to comply with their registration requirements.

South Carolina meets all of the SORNA requirements in this section.

XIII. When a Sex Offender Fails to Appear for Registration

SORNA requires that when a jurisdiction is notified that a sex offender intends to reside, be employed, or attend school in its jurisdiction, and that offender fails to appear for registration as required, that the jurisdiction receiving that notice inform the originating jurisdiction (the jurisdiction that provided the initial notification) that the sex offender failed to appear for registration.

South Carolina meets all of the SORNA requirements in this section.

XIV. When a Jurisdiction has Information that a Sex Offender may have Absconded

SORNA requires that when a jurisdiction has information that a sex offender may have absconded, that the jurisdiction take certain actions in terms of investigating the abscondence and notifying various law enforcement agencies.

South Carolina meets all of the SORNA requirements in this section.

Conclusion

South Carolina has put forth exceptional work and effort in adopting SORNA and enhancing its sex offender registration and notification system. However, there are provisions identified in this report that should be addressed in order for South Carolina to fully implement SORNA.

We encourage you to contact the SMART Office once you have had the opportunity to review and discuss our findings and have developed a strategy for addressing and adopting the remaining provisions of SORNA.

Appendix: South Carolina State Statutes

The SMART Office has reviewed all South Carolina statutes identified in its substantial implementation submission package and has identified South Carolina's placement of these statutes within the tiering structure created in Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA). Unless indicated in the notes herein, the SMART office has not reviewed any statutes (or subsections) that were not included in the legislation provided by South Carolina.

In reviewing South Carolina Code, the SMART Office understands that South Carolina has two categories of registrants for purposes of its duration of registration and frequency of registration requirements:

Offenders who are required to register for life and appear semi-annually to verify registration information (hereinafter called "the semi-annual offender category").

Offenders who are required to register for life and appear quarterly to verify registration information (hereinafter called "the quarterly offender category").

SORNA Tier I Offenses

SORNA requires that Tier I offenders register for a minimum of 15 years and annually verify registration information. The following offenses listed in South Carolina Code would require, at a minimum, Tier I registration requirements under SORNA.

§ 16-3-600(C) **Assault and Battery, First Degree (specifically §16-3-600(C)(1)(a)(i), where the offender unlawfully injures another person and that injury involves nonconsensual touching of the private parts of an adult, and the touching is with the intent to abuse, humiliate, harass, degrade, or gratify the sexual desire of any person)**

Placement of this statute in the quarterly offender category exceeds SORNA's requirements.

§ 16-3-600(D) **Assault and Battery, Second Degree (specifically §16-3-600(D)(1)(b), where the offender unlawfully injures or offers or attempts to injure another person with the present ability to do so, and that injury involves nonconsensual touching of the private parts of an adult, and the touching is with the intent to abuse, humiliate, harass, degrade, or gratify the sexual desire of any person)**

Placement of this statute in the quarterly offender category exceeds SORNA's requirements.

§ 16-3-910 Kidnapping (where the offender is forcibly confining the victim, such that the elements are equivalent to those of the federal offense of false imprisonment)

Placement of this statute in the quarterly offender category exceeds SORNA's requirements.

§ 16-15-305 Disseminating, procuring or promoting obscenity (where the elements of the offense constitute possession or receipt of child pornography)

Placement of this statute in the semi-annual offender category exceeds SORNA's requirements.

§ 16-17-470(a)(b)(1) Eavesdropping, peeping, voyeurism (where the elements are equivalent to those of the federal offense of video voyeurism, § 18 U.S.C. 1801)

Placement of this statute in the semi-annual offender category exceeds SORNA's requirements.

§ 16-15-410 Third Degree Sexual Exploitation of a Minor

Placement of this statute in the semi-annual offender category exceeds SORNA's requirements.

§ 44-23-1150 Sexual Misconduct with a Inmate, Patient or Offender (where the misconduct involves sexual contact, as defined by § 18 U.S.C. 2246, and the victim is an adult)

Placement of this statute in the semi-annual offender category exceeds SORNA's requirements.

§ 18 U.S.C. 1801 Video Voyeurism of a Minor

Placement of this statute in the semi-annual offender category exceeds SORNA's requirements.

§ 18 U.S.C. 2252 (Receipt/Possession of child pornography)

Placement of this statute in the semi-annual offender category exceeds SORNA's requirements.

§ 18 U.S.C. 2252B Misleading Domain Names on the Internet

Placement of this statute in the semi-annual offender category exceeds SORNA's requirements.

§ 18 U.S.C. 2252C Misleading Words or Digital Images on the Internet

Placement of this statute in the semi-annual offender category exceeds SORNA's requirements.

§ 18 U.S.C. 2423(b) Travel with Intent to Engage in Illicit Sexual Conduct

Placement of this statute in the semi-annual offender category exceeds SORNA's requirements.

§ 18 U.S.C. 2423(c) Engaging in Illicit Sexual Conduct in Foreign Places

Placement of this statute in the semi-annual offender category exceeds SORNA's requirements.

§ 18 U.S.C. 2424 Failure to File a Factual Statement About an Alien Individual

Placement of this statute in the semi-annual offender category exceeds SORNA's requirements.

§ 18 U.S.C. 2425 Transmitting Information About a Minor to Further Criminal Sexual Conduct

Placement of this statute in the semi-annual offender category exceeds SORNA's requirements.

Tier II Offenses

SORNA requires that Tier II offenders register for a minimum of 25 years and semi-annually verify registration information. The following offenses listed in South Carolina Code would require, at a minimum, Tier II registration requirements under SORNA.

§ 16-3-810 Engaging child for sexual performance

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 16-3-820 Producing, Directing or Promoting Sexual Performance by Child

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 16-15-140 Committing or attempting lewd act upon child under sixteen (where the victim is over 13, and the act does not consist of the touching of the victim's naked genitalia)

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 16-15-335 Permitting Minor to Engage in any Act Constituting Violation of this Article

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 16-15-342 Criminal Solicitation of a Minor (to engage in sexual activity)

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 16-15-387 Employment of Person Under Eighteen to Appear in Public in State of Sexually Explicit Nudity

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 16-15-395 First Degree Sexual Exploitation of a Minor

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 16-15-405 Second Degree Sexual Exploitation of a Minor

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 16-15-415 Promoting prostitution of a minor

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 16-15-425 Participating in prostitution of a minor

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 44-23-1150 Sexual Misconduct with a Inmate, Patient or Offender (where the misconduct involves sexual contact, as defined by § 18 U.S.C. 2246, and the victim is 13-17)

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 18 U.S.C. 1591 Sex Trafficking of Children

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 18 U.S.C. 2244 Abusive Sexual Contact (victim 13-17)

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 18 U.S.C. 2251 Sexual Exploitation of Children

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 18 U.S.C. 2251A Selling or Buying of Children

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 18 U.S.C. 2252A Certain Activities Relating to Material Constituting or Containing Child Pornography (not possession or receipt of child pornography)

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 18 U.S.C. 2260 Production of Sexually Explicit Depictions of a Minor for Importation into the United States

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 18 U.S.C. 2421 Transportation of a Minor for Illegal Sexual Activity

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 18 U.S.C. 2422 Coercion and Enticement of a Minor for Illegal Sexual Activity

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

§ 18 U.S.C. 2423(A) Transportation of Minors for Illegal Sexual Activity

Placement of this statute in the semi-annual offender category meets SORNA's requirements with respect to frequency of registration, and exceeds SORNA's requirements with respect to duration of registration.

Tier III Offenses

SORNA requires that Tier III offenders register for life and quarterly verify registration information. The following offenses listed in South Carolina Code would require, at a minimum, Tier III registration requirements under SORNA.

§ 16-3-615(A) Spousal Sexual Battery

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 16-3-658 Criminal Sexual Conduct: Where Victim is Spouse (where the conduct is forcible)

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 16-3-910 Kidnapping (where the elements are equivalent to those of the federal offense of kidnapping, which is § 18 U.S.C. 1201)

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 16-15-20 Incest (where victim is under 16)

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 16-15-120 Buggery

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 16-15-140 Committing or attempting lewd act upon child under sixteen (where the act consists of the touching of the victim's naked genitalia, or where the victim is under 13)

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 16-3-652 Criminal Sexual Conduct in the First Degree

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 16-3-653 Criminal Sexual Conduct in the Second Degree

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 16-3-654 Criminal Sexual Conduct in the Third Degree

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 16-3-655 Criminal Sexual Conduct with Minor

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 16-3-656 Assault with Intent to Commit Criminal Sexual Conduct

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 44-23-1150 Sexual Misconduct with a Inmate, Patient or Offender (where the misconduct involves a sexual act, as defined by § 18 U.S.C. 2246)

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 44-23-1150 Sexual Misconduct with a Inmate, Patient or Offender (where the misconduct involves sexual contact, as defined by § 18 U.S.C. 2246, and the victim is less than 13)

Placement of this statute in the semi-annual offender category does not meet SORNA's requirements with respect to frequency of registration. This offense involves sexual contact against a victim under 13, which is a Tier III offense.

§ 44-53-370 Administering/Distributing a Controlled Substance with the Intent to Commit a Crime

Placement of this statute in the quarterly offender category meets or exceeds SORNA's requirements, because the required tier matches the tier of the underlying offense.

§ 18 U.S.C. 2241 Aggravated Sexual Abuse

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 18 U.S.C. 2242 Sexual Abuse

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 18 U.S.C. 2243 Sexual Abuse of a Minor or Ward

Placement of this statute in the quarterly offender category meets SORNA's requirements.

§ 18 U.S.C. 2244 Abusive Sexual Contact (victim under 13)

Placement of this statute in the quarterly offender category meets SORNA's requirements.

Further Review

South Carolina registers the following offenses; however, those offenses, without the commission of (or the attempt or conspiracy to commit) a sexual offense, do not require registration under SORNA:

- § 16-3-600(E)(1) **Assault and Battery, Third Degree**
- § 16-15-20 **Incest (where the victim is an adult)**
- § 16-15-130 **Indecent Exposure (if the court makes a specific finding to register the offender)**
- § 16-15-305(H) **Disseminating, Procuring or Promoting Obscenity**
- § 16-15-315 **Requiring Receipt of Obscene Material**
- § 16-15-325 **Participation in Preparation of Obscene Material**
- § 16-15-345 **Disseminating Obscene Material to Person Under Age 18**
- § 16-15-355 **Disseminating Obscene Material to Minor Twelve Years of Age or Younger**
- § 16-15-365 **Exposure of Private Parts in Lewd and Lascivious Manner, Aiding or Procuring Person to Perform Such Act, or Permitting Use of Premises for Such Act**
- § 16-15-385 **Disseminating Harmful Material to Minors and Exhibiting Harmful Performance to Minor**
- § 16-17-490 **Contributing to [the] Delinquency of a Minor (if the court makes a specific finding to register the offender)**

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

John Doe,

Plaintiff,

vs.

Mark Keel, Chief, State Law Enforcement
Division, and the State of South Carolina,

Defendants.

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

C/A #: 2017-CP-32-00712

**RESPONSE IN OPPOSITION
TO DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

Plaintiff, John Doe, ("Plaintiff" or "Doe") hereby submit this Response in Opposition to Defendants' Motion for Summary Judgment ("Motion") and would further submit judgment in favor of Defendants is inappropriate.

BACKGROUND

The facts in the light most favorable to the Plaintiff are as follow:

In March 2005, Plaintiff pled guilty to Assault and Battery of a High and Aggravated Nature ("ABHAN"), a common law misdemeanor, and received a probationary sentence. See Complaint, ¶ 16. ABHAN is not identified as an offense for which registration is required. See SC Code Ann. 23-3-430. During his plea colloquy in March 2005, Plaintiff did not admit to or acknowledge any sexual battery as that term is defined in South Carolina Code Annotated Section 16-3-651. See Complaint, ¶ 18. Despite this, Plaintiff was ordered to register as a sex offender and has been doing so in Lexington County since 2005. See Complaint, ¶ 17. Plaintiff has not been convicted of any offenses since March 2005. See Complaint, ¶ 24. Plaintiff successfully completed the term of probation for his March 2005 offense. See Complaint, ¶ 25. Plaintiff has successfully

completed the appropriate sex offender treatment program. See Complaint, ¶ 26. Under current South Carolina law, Plaintiff will be required to register as a sex offender for the remainder of his life. See SC Code Ann. 23-3-430. Under the Sex Offender Registration and Notification Act (“SORNA”), passed by the United States Congress in 2006, Plaintiff’s offense would be classified as a Tier 1 offense and he would be eligible to conclude his registration requirements in March 2015. See Complaint, ¶ 27. Under SORNA, Plaintiff’s registration requirements would expire automatically in March 2020. See Complaint, ¶ 28. As a result of South Carolina’s lifetime registration requirement, Plaintiff is permanently banned from volunteering with most youth events, including those involving his own children, limited employment opportunities, and restrictions on residence and travel. Further, as a result of South Carolina’s lifetime registration requirement, Plaintiff will have no privacy, being labeled a sex offender to the public for the rest of his life. For the reasons set forth herein, Defendants’ motion for summary judgment should properly be granted.

SUMMARY JUDGMENT

Based upon the foregoing facts, Defendants seek judgment as a matter of law on Plaintiff’s claims outlined in the Complaint. Summary Judgment is properly granted only when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. See *Southern Glass & Plastics Co., Inc. v. Kemper*, No. 5021, 2012 WL 3322639, *3 (S.C. August 15, 2012)(citing *Fleming v. Rose*, 567 S.E.2d 857, 860 (2002)). “In determining whether a genuine issue of fact exists, the evidence and all reasonable inferences drawn from it must be viewed in the light most favorable to the nonmoving party.” *Id.* (citing *Sauner v. Pub. Serv. Auth. of S.C.*, 354 S.C. 397, 404, 581 S.E.2d 161, 165 (2003)). “Once the moving party carries its initial burden, the opposing party must come forward with specific facts that show there is a genuine

issue of fact remaining for trial.” *Id.* (quoting *Sides v. Greenville Hosp. Sys.*, 362 S.C. 250, 255, 607 S.E.2d 362, 364 (Ct.App.2004)).

Defendants’ argument is threefold: (1) SC law provides for mandatory lifetime registration and for (limited) ways to be removed from the registry; (2) Plaintiff is properly classified under SORNA’s requirements; and (3) SC law does not violate Plaintiff’s Constitutional due process or equal protection rights. For the reasons set forth herein, Defendants are not entitled to summary judgment

I. South Carolina law

Plaintiffs do not dispute that South Carolina law mandates lifetime registration, or that South Carolina law provides limited situations whereby a defendant may be removed from the registration requirement. None of these removal vehicles apply to Plaintiff; they are limited to situations where a conviction is vacated, or where a defendant is pardoned based upon a finding of innocence. While South Carolina law (SORA) outlines that the purpose of SORA is to “promote the state’s fundamental right to provide for the public health, welfare, and safety of its citizens,” and “provide law enforcement with the tools needed in investigating criminal offenses,” (see SC Code Ann. 23-3-400), the lifetime registration requirement eliminates the possibility of rehabilitation, a primary goal of the criminal justice system. SORA declares that once an offender, always an offender. This is where the Constitutional problems exist for SORA.

Federal law, unlike SORA, provides for a 3 tiered system, classifying offenders based upon the offense of conviction, and thereby the likelihood of reoffending. Under SORA, if a defendant is convicted of an offense not specifically listed but the presiding judge orders registration, the defendant is subject to the lifetime registration requirement. SC Code Ann. 23-3-430(D). Under the Federal version, if a defendant is convicted of an unenumerated offense, they would be

classified as a Tier 1 offender and would have their registration requirements terminate automatically after 15 years, and could have their registration terminated after 10 years. 34 USC 20915(a)(1) and (b)(1). South Carolina is SORNA complaint by having more severe requirements than SORNA. Whether these more severe obligations, and the inability to be removed from the registry for cause, presents the problems with SORA.

II. Constitutional challenge

Plaintiff does not disagree with Defendants that South Carolina courts have found registration is not a punishment, despite the penal and punitive impact of such a requirement. *See State v. Walls* 558 S.E.2d 524, 526 (SC 2002); *Hendrix v. Taylor*, 579 S.E.2d 320, 325 (2003). Federal Courts, viewing other registration requirements, have taken a different view. *See Does I-5 v. Snyder*, 834 F.3d 696 (6th Cir. 2016). If, as the Sixth Circuit has found, the registry is a punishment, a lifetime of registration for unenumerated offenses is cruel and unusual in violation of the Eighth Amendment of the U.S. Constitution and Article 1, Section 15 of the South Carolina Constitution.

As outlined herein, and in the Defendants' motion, the stated purpose of SORA is to "promote . . . the public health, welfare, and safety of its citizens" and "provide law enforcement with the tools needed in investigating criminal offenses." SC Code Ann 23-3-400. Studies have shown, however, that "[t]here is no clear evidence to support that SORNA implementation has made the public safer, deterred any sexual offenses, or contributed to the arrest or discovery of any sex offender." See Ohio Criminal Sentencing Commission, Ad Hoc Committee on Sex Offender Registration, Report and Recommendation, April 2016. "The majority of SORN effectiveness studies have shown very little evidence of reduced recidivism as a result of these laws, and the few studies finding reductions attributable to SORN were conducted in states using empirically derived

risk classification systems and targeted notification strategies.” See The Adam Walsh Act: An Examination of Sex Offender Risk Classification Systems, Kristen M. Zgoba, et al., Sexual Abuse: A Journal of Research and Treatment, p.7. Thus, based upon research, the stated purpose of SORA is not achieved through the instant vehicle.

While Defendants argue a fundamental right is not at issue such that strict scrutiny would apply, such is not the case. Article I, Section 10 of the South Carolina Constitution provides that South Carolinians have a recognized right to privacy. Such would be a fundamental right which implicates strict scrutiny. While in *Hendrix v. Taylor*, 579 S.E.2d 320, 323-24 (S.C. 2003), the Supreme Court rejected a similar claim of a fundamental privacy right, the facts are much different. There, the defendant was convicted of criminal sexual assault in the third degree in Colorado, which our Supreme Court recognized as a public record. Certainly, public records outlining that a defendant was convicted of a sex offense would reduce or eliminate any expectation of privacy in the fact of conviction. Here, however, as an unenumerated offense, the public records only reveal that Plaintiff was convicted of ABHAN, an offense that can be committed in a plethora of ways.

As a fundamental right, “[t]o survive strict scrutiny the Act must meet a compelling state interest and be narrowly tailored to effectuate that interest.” *In re Treatment & Care of Luckabaugh*, 351 S.C. 122, 140–41, 568 S.E.2d 338, 347 (2002)(citing *Washington v. Glucksberg*, 521 U.S. 702, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997)). Based upon the foregoing studies, while the stated purpose of SORA might be a worthwhile and noble goal, the implementation is not narrowly tailored and does not effectuate that interest. This is especially true where, as here, the offense is an unenumerated one which the Federal Government has concluded ten (10) years is a sufficient period of supervision.

Even if the Court concludes that a fundamental interest is not implicated and a rational basis test applies, the registration fails. In *Hendrix*, supra, the Court analyzed a conviction under third degree sexual assault from Colorado, in upholding the law under the rational basis test. No discussion is given, however, to actual studies reflecting the stated purposes of SORA are not accomplished. Instead, the Court merely cites to the language of Section 23-3-400 which proclaims “[s]tatistics show that sex offender often pose a high risk of reoffending.” *Hendrix*, at 324. Studies since implementation reveal the error in this proclamation.

In addition to the foregoing, in 1994, when SORA was originally adopted, under one of the original drafts of SORA adopted in Amendment 125 of House Bill 4820, Plaintiff would not have been required to register, as only the list of enumerated offenses required registration. See Senate Journal for May 11, 1994, Amendment 125, HB 4820. Thus, despite proclaiming the same boilerplate “statistics” analysis, it was not deemed necessary for unenumerated offenses to register. Thus, it hardly seems justifiable that the current registration requirement for unenumerated offenses “bears a reasonable relation to the legislative purpose” or “rests on some reasonable basis.” See *Hendrix*, at 324 (citing *Curtis v. State*, 549 S.E.2d 591, 599-600 (SC 2001)). While “members of the class” could be seen as being treated equally because of the “one size fits all” determination for registration in South Carolina, nothing supports a conclusion that those convicted of unenumerated offenses and those convicted of violent, forcible rape present the same risk of recidivism. Nothing supports a conclusion that both situations present the same likelihood of reoffending. Nothing supports a conclusion that both situations present the same need for protection of the public. Nothing supports a conclusion that both situations are reasonably related to the stated purpose of SORA.

Beyond the foregoing, because SORA fails to provide a way for an unenumerated offender, such as Plaintiff, to be removed from the registry, his due process rights are violated as he is given no opportunity to a procedure whereby he can demonstrate the lack of a likelihood for recidivism. No opportunity to demonstrate good cause why registration is no longer required. No opportunity to petition for removal.

CONCLUSION

For each of these reasons, and for those that will be presented at a hearing on this matter, Plaintiff respectfully submits that summary judgment is not properly granted.

Respectfully submitted,

s/Jonathan M. Milling
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Attorneys for Plaintiffs

December 19, 2018
Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	
	)	C/A #: 2017-CP-32-00712
John Doe,	)	
	)	
Plaintiff,	)	<u>MOTION TO RECONSIDER</u>
	)	<u>ORDER GRANTING</u>
vs.	)	<u>DEFENDANTS' MOTION FOR</u>
	)	<u>SUMMARY JUDGMENT</u>
	)	
Mark Keel, Chief, State Law Enforcement	)	
Division, and the State of South Carolina,	)	
	)	
Defendants.	)	
	)	

Plaintiff, John Doe, (“Plaintiff” or “Doe”), having received the Order Regarding Defendants’ Motion for Summary Judgment issued by this Court on February 8, 2019, but not filed electronically until February 11, 2019 (“Order”), hereby timely moves this Honorable Court, pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, requesting reconsideration of the Order. For the reasons set forth herein, the undersigned submits that this Court should reconsider its decision in this Order, and thereafter deny Defendants’ Motion for Summary Judgment.

As reflected in the Order, the parties appeared on December 19, 2018, and argued their respective positions. After going through the procedural and factual background, the Order addresses the law on Summary Judgment, and what decisions have heretofore been rendered by our appellate courts regarding the Sex Offender Registration Act (SORA). None of these cases, however, addresses the precise issue raised herein. While many of the cited cases address whether SORA is punitive, the more recent case of *Does 1-5 v. Snyder*, 834 F.3d 696 (6th Cir. 2016). In *Snyder*, the Sixth Circuit Court of Appeals gave thorough review to whether registration is punitive before ultimately

finding that it was. *State v. Walls*, 558 S.E.2d 524 (2002), relied upon in the option, merely looks to the recitation of the purpose of SORA outlined by the legislature in concluding registration was not punishment. The Michigan statute at issue in *Snyder* had a similar provision, but the Sixth Circuit thoroughly reviewed Constitutional requirements implicated that South Carolina has not addressed. The stated purpose is not controlling when Constitutional query finds otherwise. Such is the case here.

In addition to the foregoing, as demonstrated in the studies submitted at the hearing, “[t]here is no clear evidence to support that SORNA implementation has made the public safer, deterred any sexual offenses, or contributed to the arrest or discovery of any sex offender.” See Ohio Criminal Sentencing Commission, Ad Hoc Committee on Sex Offender Registration, Report and Recommendation, April 2016. Furthermore, “[t]he majority of SORN effectiveness studies have shown very little evidence of reduced recidivism as a result of these laws, and the few studies finding reductions attributable to SORN were conducted in states using empirically derived risk classification systems and targeted notification strategies.” See The Adam Walsh Act: An Examination of Sex Offender Risk Classification Systems, Kristen M. Zgoba, et al., Sexual Abuse: A Journal of Research and Treatment, p.7. Thus, the facts presented belie the stated purpose of the statute. It is a punishment.

The Order does address the “rational relationship” test, but Doe has submitted that strict scrutiny would apply as a result of the privacy guarantee contained within Article I, Section 10, of the South Carolina Constitution. Doe, being convicted of ABHAN, an unenumerated offense, would not have public records revealing the sexual nature of the offense, as was the case in *Hendrix v. Taylor*, 579 S.E.2d 320, 323-24 (S.C. 2003). Under strict scrutiny, the lifetime registration requirement under SORA, as applied to unenumerated offenses, is not narrowly tailored. Even

under the lesser standard of rational basis, the lifetime registration fails as the studies presented to the Court, which were not tendered in *Hendrix*, reveal the absence of a reasonable relations to the purpose and the requirements.

While the section of the Order entitled “Arguments of Counsel” details arguments presented by the parties, it is unclear whether the Order is adopting the arguments of Defendants, or merely reciting their arguments. Doe would respectfully request clarification on this point. Doe herein has responded to Defendants’ positions regarding the punitive nature of the registration requirement and why SORA fails Constitutional muster under both strict scrutiny and rational basis. This section goes on to outline Defendants’ position on the statute of limitations. As outlined in the Complaint (Paragraph 27) and in Doe’s opposition to Summary Judgment, Doe was not eligible for removal from the registry under SORNA until March 2015, and his registration would not expire automatically until 2020. Thus, Plaintiff’s challenge was not ripe until he was eligible for removal, 2015, and the action was filed within two (2) years of such claim becoming ripe. The statute of limitations is not a bar.

Based upon the foregoing, as well as those arguments presented in Plaintiff’s Response in Opposition to Defendants’ Motion for Summary Judgment and at the hearing on this motion, Doe respectfully moves this Honorable Court for reconsideration of the Order.

Respectfully submitted,

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February 21, 2019
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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	Case No.: 2017-CP-32-00712
John Doe,	)	
	)	
Plaintiff,	)	RESPONSE IN OPPOSITION TO
	)	PLAINTIFF'S MOTION TO
v.	)	RECONSIDER ORDER GRANTING
	)	DEFENDANTS' MOTION FOR
Mark Keel, Chief, State Law Enforcement	)	SUMMARY JUDGMENT
Division, and the State of South Carolina,	)	
	)	
Defendants.	)	

PLEASE TAKE NOTICE THAT the Defendant Mark Keel, Chief, South Carolina Law Enforcement Division (hereinafter "SLED"), and the State of South Carolina, by and through the undersigned attorneys, hereby respond in opposition to the Plaintiff's Motion to Reconsider Order Granting Defendants' Motion for Summary Judgment. The grounds for this opposition and arguments in support of thereof are as follows:

STANDARD OF REVIEW

"Summary judgment is appropriate when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact such that the moving party must prevail as a matter of law." Rules Civ. Proc., Rule 56; Knight v. Austin, 396 S.C. 518, 521-2, 722 S.E.2d 802, 804 (2012). "The purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder." Englert, Inc. v. Leafguard USA, Inc., 377 S.C. 129, 133-4, 659 S.E.2d 496, 498 (2008).

FACTS

It is undisputed that the Plaintiff pled guilty to Assault and Battery of a High and Aggravated Nature (ABHAN) in 2005. It is similarly undisputed that, at that time, the Circuit Court judge ordered Plaintiff to register on the South Carolina Sex Offender Registry Act (SORA)

registry in accordance with S.C. Code Ann. § 23-3-430(D)¹. It appears that the Plaintiff did not challenge the presiding judge's finding of good cause in this matter, and that the Plaintiff has registered continuously since 2005. This lack of challenge is likely due to the fact that, upon information and belief, the Plaintiff was arrested and indicted for violating S.C. Code Ann. § 16-3-653 (Criminal Sexual Conduct in the First Degree) in this matter. However, this arrest and indictment appears to have been ultimately resolved by the plea to ABHAN in 2005 for which the Plaintiff is required to register.

ARGUMENTS

HISTORY OF SEX OFFENDER REGISTRATION

As noted by the South Carolina Supreme Court,

The movement to enact sex offender registration statutes arose after Megan Kanka, a seven-year old child, was raped and murdered in New Jersey by a convicted sex offender who had moved in across the street from her family. The killer enticed the girl to come over to his house in order to see his new puppy. The New Jersey legislature responded to this highly publicized event by declaring a legislative emergency to immediately debate and enact a sexual crimes bill.

On October 31, 1994, Governor Whitman signed the bill, which became known as Megan's Law. N.J. Stat. Ann. 2C:7-1 *et seq.* The law requires sexual criminals to register with local law enforcement.

The United States Congress also reacted to the national outrage over sexual crimes by passing the Jacob Wetterling Crimes Against Children and Sexually Violent Predator Act ("Jacob Wetterling Act"), which President Clinton signed on September 13, 1994. Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program, 42 U.S.C.A. § 14071 (West 1994). **The Jacob Wetterling Act gives states incentives to enact laws that protect the public from sexual criminals by conditioning federal funding under the Public Health and Welfare Code to state enactment of a sex crimes law. 42 U.S.C.A. § 14071(g)(1) and (g)(2). The Jacob Wetterling Act also creates a national sexual offender database, in which the states are required to participate. 42 U.S.C.A. § 14071(b)(2)(B).**

¹ This statute provides that "the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the solicitor."

Hendrix v. Taylor, 353 S.C. 542, 547–48, 579 S.E.2d 320, 322–23 (2003) (emphasis added).

Thereafter, in 1996, Congress passed its own “Megan’s Law” mandating the public disclosure of information about certain sex offenders and empowering the individual states to determine the appropriate confines of such disclosure. *See* “Megan’s Law”, 42 U.S.C. 14071(d). In 2006, Congress passed the “Adam Walsh Child Protection and Safety Act of 2006”, which included the Sex Offender Registration and Notification Act (SORNA). 42 U.S.C. § 16901 *et seq.* This federal law created a new baseline of sex offender registration and notification standards and directed the Department of Justice to establish the Dru Sjodin National Sex Offender Public Website. *Id.*

As such, since the earliest inception of sex offender registration in this country, states have maintained the sovereign right to determine how to best implement sex offender registration in the state subject only to the loss of federal funding for not meeting certain minimum requirements. In addition, the United States Supreme Court has long recognized that “[e]very state is entitled to enforce in its own courts its own statutes lawfully enacted....” Williams v. State of North Carolina, 317 U.S. 287, 295, 63 S.Ct. 2017, 212 (1942). In Sun Oil Co. v. Wortman, the United States Supreme Court acknowledged that a state cannot be compelled by the Full Faith and Credit Clause to substitute the statute of another state when “dealing with a subject matter concerning which it is competent to legislate.” 486 U.S. 717, 722 (1988) (quoting Pacific Employers Ins. Co. v. Industrial Accident Comm’n, 306 U.S. 493, 501 (1939)). In Alaska Packers Association v. Industrial Accident Commission, the United State Supreme Court recognized “that there are some limitations upon the extent to which a state will be required by the full faith and credit clause to enforce even the judgment of another state, in contravention of its own statutes or policy.” 294 U.S. 532, 546-47 (1935). As such, the Plaintiff’s attempts to persuade this court to reject South

Carolina law in favor of federal law must fail. South Carolina maintains the sovereign right to implement SORA as the South Carolina Legislature determines appropriate.

SEPARATION OF POWERS

In addition, for any court to re-write a clear and unambiguous statute would be a clear violation of the South Carolina Constitution's mandate for the separation of powers. *See* S.C. Const. art. I, § 8. The South Carolina Constitution specifically provides that "the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other." S.C. Const. art. I, § 8. The duration of sex offender registration along with virtually every other facet of registration in South Carolina is a matter of public policy that is solely in the province of the South Carolina Legislature. As such, any attempt by any court to invade the Legislature's exclusive province is a violation of the separation of powers and is unconstitutional. *Id.* In addition, the South Carolina Supreme Court has specifically held that

[i]f a statute's language is plain, unambiguous, and conveys a clear meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." Buist v. Huggins, 367 S.C. 268, 276, 625 S.E.2d 636, 640 (2006) (internal quotes and citation omitted). Instead, the words of the statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation. *Id.* Moreover, **"it is beyond this Court's power to effect a change in the statutes enacted by the Legislature."** State v. Corey D., 339 S.C. 107, 120, 529 S.E.2d 20, 27 (2000); *see also* Keyserling v. Beasley, 322 S.C. 83, 86, 470 S.E.2d 100, 101 (1996) (this Court does "not sit as a superlegislature to second guess the wisdom or folly of decisions of the General Assembly").

Key Corporate Capital, Inc. v. County of Beaufort, 373 S.C. 55, 59, 644 S.E.2d 675 (2007) (emphasis added). This entire action seeks for this Court to impermissibly and unconstitutionally act as a "superlegislature" and to add language to an unambiguously worded constitutional statute

based upon policy considerations. As such, this request must fail and this Court correctly held that Defendants are entitled to summary judgment in this matter.

This situation is comparable to legislatively mandated sentences for criminal offenses, whether minimums or maximums. With regard to sentencing for an offense that has a mandatory sentence range, the South Carolina Legislature has unilaterally prohibited judges from sentencing individuals outside the statutorily set amounts. However, these statutory ranges, and more specifically the statutorily mandated minimum sentences are, and have been consistently upheld as being, lawful. See State v. De La Cruz, 302 S.C. 13, 393 S.E.2d 184 (1990); State v. Jones, 344 S.C. 48, 543 S.E.2d 541 (2001); State v. Johnson, 350 S.C. 543, 567 S.E.2d 486 (Ct. App. 2002). In fact, the South Carolina Supreme Court conclusively resolved this issue in *State v. De La Cruz* indicating

[w]e have held in the past that “[t]he penalty assessed for a particular offense is, except in the rarest of cases, **“purely a matter of legislative prerogative,”** and the legislature’s judgment will not be disturbed.” State v. Smith, 275 S.C. 164, 167, 268 S.E.2d 276, 277 (1980) (quoting Rummel v. Estelle, 445 U.S. 263, 100 S.Ct. 1133, 63 L.Ed.2d 382 (1980)). Judicial discretion in sentencing, in suspending sentences, and in designating that sentences run concurrent or consecutive is subject to statutory restriction. See Mistretta v. United States, 488 U.S. 361, ----, 109 S.Ct. 647, 650, 102 L.Ed.2d 714, 725-726 (1989), wherein the United States Supreme Court noted, *16 “Congress, of course, has the power to fix the sentence for a federal crime, and the scope of judicial discretion with respect to a sentence is subject to congressional control.” (Citing United States v. Wiltberger, 18 U.S. (5 Wheat) 76, 5 L.Ed. 37 (1820); Ex Parte United States, 242 U.S. 27, 37 S.Ct. 72, 61 L.Ed. 129 (1916)).

302 S.C. 13, 15-16, 393 S.E.2d 184, 186 (1990) (emphasis added).² Similarly, the duration of an individual’s sex offender registration is **purely a matter of legislative prerogative** and there is no judicial discretion over this duration without violating the South Carolina Constitution and

² It is noteworthy that sex offender registration has been consistently held not to be “punitive in purpose or effect as to constitute a criminal penalty.” State v. Walls, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002). However, the same sentiment would apply to an administrative requirement like registration in terms of the legislative prerogative.

South Carolina law. S.C. Const. art. I, § 8; S.C. Code Ann. §23-3-430; S.C. Code Ann. § 23-3-460 (setting forth lifetime registration in South Carolina in an unambiguously worded statute). As such, this Court was correct to reject the Plaintiff's claims in this matter.

CONSTITUTIONAL CHALLENGES IN THIS ACTION

As an overarching tenet to the constitutional arguments in this case, the Defendants would assert South Carolina law mandates that "all statutes are presumed constitutional and, if possible, will be construed to render them valid." Curtis v. State, 345 S.C. 557, 569, 549 S.E.2d 591, 597 (2001); Joytime Distributors and Amusement Co., Inc. v. State, 338 S.C. 634, 640, 528 S.E.2d 647, 650 (1999); Davis v. County of Greenville, 322 S.C. 73, 470 S.E.2d 94 (1996). Further, a "legislative act will not be declared unconstitutional unless its repugnance to the constitution is clear and beyond a reasonable doubt." Joytime Distributors and Amusement Co., Inc. v. State, 338 S.C. 634, 640, 528 S.E.2d 647, 650 (1999) (citing Westvaco Corp. v. South Carolina Dep't of Revenue, 321 S.C. 59, 467 S.E.2d 739 (1995)). "A legislative enactment will be declared unconstitutional only when its invalidity appears so clearly as to leave no room for reasonable doubt that it violates a provision of the constitution." Joytime Distributors and Amusement Co., Inc. v. State, 338 S.C. 634, 640, 528 S.E.2d 647, 650 (1999). As such, all of the statutes in question must be presumed as constitutional in this action because there is and can be no showing of any legitimately cognizable repugnance to the constitution, much less one that is beyond a reasonable doubt.

Further, the binding precedent in this state, which is set forth below, conclusively resolves this entire action as a matter of law. The most compelling recitation of this precedent was provided by the South Carolina Supreme Court in *In Interest of Justin B.* from 2017 in which the court noted

As the family court indicated, we have already addressed many of the issues Justin B. raises in his challenge to the imposition of sex offender registration

and electronic monitoring requirements. In *State v. Walls*, 348 S.C. 26, 558 S.E.2d 524 (2002), we considered whether the sex offender registry violated the *ex post facto* clauses of the state and federal constitutions. 348 S.C. at 29, 558 S.E.2d at 525. We stated, “For the *ex post facto* clause to be applicable, the statute or the provision in question must be criminal or penal in purpose and nature.” 348 S.C. at 30, 558 S.E.2d at 526. We then held the sex offender registry did not violate the *ex post facto* clause because “it is clear the General Assembly did not intend to punish sex offenders, but instead intended to protect the public from those sex offenders who may re-offend and to aid law enforcement in solving sex crimes.” 348 S.C. at 31, 558 S.E.2d at 526.

In *Hendrix v. Taylor*, 353 S.C. 542, 579 S.E.2d 320 (2003), we considered whether requiring a convicted Colorado sex offender to register in South Carolina violated the equal protection and due process clauses of the state and federal constitutions. 353 S.C. at 547, 579 S.E.2d at 322. As to the equal protection challenge, we found classifying an out-of-state sex offender as a sex offender in South Carolina “did not affect a fundamental right,” and therefore we applied the “rational relationship” test. 353 S.C. at 550, 579 S.E.2d at 324. Under that test, a statutory classification will be constitutional if the “classification bears a reasonable relation to the legislative purpose,” “the members of the class are treated alike under similar circumstances and conditions,” and “the classification rests on some reasonable basis.” *Id.* (quoting *Curtis v. State*, 345 S.C. 557, 574, 549 S.E.2d 591, 600 (2001)). We held requiring an out of state offender to register in South Carolina was “reasonably related to the legitimate state purpose of protecting the public and aiding law enforcement in limiting the risk that sex offenders pose to communities.” *Id.* As to the due process challenge, we followed our holding in *Walls* that the sex offender registry is non-punitive and did not implicate a liberty interest, and therefore held there was no due process violation. 353 S.C. at 552, 579 S.E.2d at 325 (citing *Walls*, 348 S.C. at 31, 558 S.E.2d at 526).

Later that year, we decided *In re Ronnie A.*, 355 S.C. 407, 585 S.E.2d 311 (2003), in which an eleven-year-old challenged the mandatory lifetime registration requirement after he was found to have committed criminal sexual conduct with a minor. We followed *Hendrix*, and held “sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated.” 355 S.C. at 409, 585 S.E.2d at 312 (citing *Hendrix*, 353 S.C. at 552, 579 S.E.2d at 325).

We reiterated our holding in *Walls* that the legislative purpose for the sex offender registry “is to protect the public from those offenders who may re-offend.” *Id.* (citing *Walls*, 348 S.C. at 31, 558 S.E.2d at 526). We then concluded, “The registration of offenders, including juveniles who have proved themselves capable of certain sex offenses, is rationally related to achieving this legitimate objective. Appellant has offered no valid basis upon which to

distinguish juvenile sex offenders for purposes of due process.” 355 S.C. at 409-10, 585 S.E.2d at 312.

Finally, we considered an Eighth Amendment challenge to the section 23-3-540 requirement that juveniles submit to electronic monitoring for life in *In re Justin B.*, 405 S.C. 391, 747 S.E.2d 774 (2013). We held “the General Assembly intended section 23-3-540 as a civil scheme for the protection of the public.” 405 S.C. at 405, 747 S.E.2d at 781. We concluded, “Section 23-3-540’s electronic monitoring scheme bears a clear and rational connection to a non-punitive purpose,” and stated “the continuous monitoring of these offenders supports the General Assembly’s valid purpose of aiding law enforcement in the protection of the community.” 405 S.C. at 407, 747 S.E.2d at 782-83. We held, however, “sex offenders ... are entitled to ‘avail themselves of the section 23-3-540(H) judicial review process.’ ” 405 S.C. at 408, 747 S.E.2d at 783 (quoting *State v. Dykes*, 403 S.C. 499, 510, 744 S.E.2d 505, 511 (2013))....

Justin B.’s age and the resulting public registration does not change our constitutional analysis. The Supreme Court held that an adult does not have a constitutionally protected liberty interest in his reputation. See *Paul v. Davis*, 424 U.S. 693, 712, 96 S.Ct. 1155, 1166, 47 L.Ed.2d 405, 420 (1976) (stating an “interest in reputation ... is neither ‘liberty’ nor ‘property’ guaranteed against state deprivation without due process of law”). A delinquent juvenile’s reputation may be in greater need of protection than the reputation of an adult convicted of a felony sex crime, but the juvenile’s interest in that reputation is still neither liberty nor property. The responsibility of balancing the need to protect a juvenile’s reputation against the need to “to promote the state’s fundamental right to provide for the ... safety of its citizens,” § 23-3-400, falls to the Legislature, not the courts, S.C. Const. art. I, § 8.

V. Conclusion

The requirement that adults and juveniles who commit criminal sexual conduct must register as a sex offender and wear an electronic monitor is not a punitive measure, and the requirement bears a rational relationship to the Legislature’s purpose in the Sex Offender Registry Act to protect our citizens—including children—from repeat sex offenders. The requirement, therefore, is not unconstitutional. If the requirement that juvenile sex offenders must register and must wear an electronic monitor is in need of change, that decision is to be made by the Legislature—not the courts. The decision of the family court to follow the mandatory, statutory requirement to impose lifetime sex offender registration and electronic monitoring on Justin B. is AFFIRMED.

In Interest of Justin B., 419 S.C. 575, 580–82, 586-87, 799 S.E.2d 675, 677–78, 681, *cert. denied*

sub nom. J.D.B. v. South Carolina, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017) (internal citations

omitted) (emphasis added). This decision is binding precedent that ends any constitutional argument in this matter as a matter of law. See Daniels v. City of Goose Creek, 314 S.C. 494, 501, 431 S.E.2d 256, 260 (Ct. App. 1993); S.C. Const. Art. V, § 9.

Nevertheless, the Defendants would also assert the following:

I. Equal Protection

“The initial inquiry in [this as with] any equal protection analysis is whether the plaintiff made ‘a showing that similarly situated persons received disparate treatment.’” State v. Walker, 422 S.C. 89, 92, 810 S.E.2d 38, 40 (2018). The undisputed facts of this case are clear, unequivocal, and incontrovertible; the Plaintiff is in fact treated the SAME as all other similarly situation South Carolina registrants. In addition, the binding precedent of this State indicates that the Plaintiff is not part of a suspect class, nor does his placement on the sex offender registry affect a fundamental right. See Hendrix v. Taylor, 353 S.C. 542, 549-50, 579 S.E.2d 320, 324 (2003) (citing Cutshall v. Sundquist, 193 F.3d 466, 483 (6th Cir. 1999)).

In fact, South Carolina jurisprudence rejects the Plaintiff’s claim that SORA affects a fundamental right and that a strict scrutiny analysis applies. See In Interest of Justin B., 419 S.C. 575, 799 S.E.2d 675, cert. denied sub nom. J.D.B. v. South Carolina, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017) (specifically acknowledging that sex offender classification “did not affect a fundamental right” and upholding the application rational relationship test); State v. Dykes, 403 S.C. 499, 744 S.E.2d 505 (2013); Hendrix v. Taylor, 353 S.C. 542, 579 S.E.2d 320 (2003). If, as the South Carolina Supreme Court held in Justin B., lifetime public SORA registration does not offend a juvenile’s fundamental rights, there is no conceivable argument that such registration offends an adult’s. In Interest of Justin B., 419 S.C. 575, 799 S.E.2d 675, cert. denied sub

nom. J.D.B. v. South Carolina, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017). As such, this argument must fail.

Moreover, the Plaintiff's attempt to distinguish Hendrix from the case at bar similarly fails. In Hendrix, the South Carolina Supreme Court specifically rejected the argument that SORA registration deprives an individual of the fundamental right to privacy protected by the South Carolina Constitution. *See Hendrix v. Taylor*, 353 S.C. 542, 549, 579 S.E.2d 320, 323–24 (2003). The fact that the Plaintiff was convicted of ABHAN as opposed to a more “sexual” sounding offense like Criminal Sexual Conduct is of no consequence. Further, the details of the Plaintiff's offense are a matter of public record in that the arrest and conviction information are available through SLED's publically accessible SLED CATCH system and the incident report underlying this matter is a public record as defined by South Carolina's Freedom of Information Act. *See generally* S.C. Code Ann. § 23-3-15(A)(4) giving SLED the specific and exclusive jurisdiction over the “operation and maintenance of a central, statewide criminal justice data base and data communication system”); S.C. Code Ann. § 23-3-115 (acknowledging such database, which is SLED CATCH [Citizens Access to Criminal Histories] and setting the fee for general access to such); S.C. Code Ann. § 30-4-20(c) (defining “public record” in South Carolina to include all “documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body”); S.C. Code Ann. § 30-4-50(A)(8) (specifically making public “reports which disclose the nature, substance, and location of any crime or alleged crime reported as having been committed”, *i.e.* incident reports). Accordingly, the Supreme Court's rejection of the argument that SORA registration in South Carolina deprives an individual of his or her fundamental right to privacy remains binding jurisprudence. *See Hendrix v. Taylor*, 353 S.C. 542, 549, 579 S.E.2d 320, 323–24 (2003).

Therefore, as correctly held in this Court's prior order, the "rational relationship" test should be applied to determine whether the sex offender registry laws violate the Plaintiff's right to equal protection. Hendrix v. Taylor, 353 S.C. 542, 550, 579 S.E.2d 320, 324 (2003). Under this test, the Plaintiff's classification as a sex offender in South Carolina is justified and does not violate equal protection if "(1) the classification bears a reasonable relation to the legislative purpose sought to be effected; (2) the members of the class are treated alike under similar circumstances and conditions; and (3) the classification rests on some reasonable basis." *Id.* (quoting Curtis v. State, 345 S.C. 557, 574, 549 S.E.2d 591, 599, 600 (2001)).

The South Carolina Supreme Court previously ruled in mandatory binding precedent that the SORA Registry "complies with the first prong of the test, as the legislative purpose is clearly defined" in the text of the law. Hendrix v. Taylor, 353 S.C. 542, 550, 579 S.E.2d 320, 324 (2003) (citing S.C. Code Ann. § 23-3-400). Classifying an individual as a sex offender is "reasonably related to the legitimate state purpose of protecting the public and aiding law enforcement in limiting the risk that sex offenders pose to communities." *Id.*; *see also* In re Ronnie A., 355 S.C. 407, 409, 585 S.E.2d 311, 312 (2003). Registration as a sex offender is not a punishment, but rather a regulatory requirement imposed to promote public safety. Williams v. State, 378 S.C. 511, 516, 662 S.E.2d 615, 618 (2008); *see also* State v. Walls, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002). As such, the Plaintiff unequivocally fails on the first prong.

In addition, all members of the Plaintiff's class, *i.e.* those persons required to register biannually for life, are treated identically. And, all members of the class "are subject to uniform administrative and legal procedures." Hendrix v. Taylor, 353 S.C. 542, 550, 551, 579 S.E.2d 320, 324 (2003). It is indisputable that the Plaintiff is in fact treated identically to all similarly situated

South Carolina registrants, and the Plaintiff does not even attempt to allege otherwise. As such, the Plaintiff unequivocally fails on the second prong.

And, as to the third and final component of the test, the South Carolina Supreme Court has determined in binding precedent that classification of the Plaintiff as a sex offender “is reasonable because the purpose of the law is to protect the public welfare and to assist law enforcement in accomplishing that goal.” Hendrix v. Taylor, 353 S.C. 542, 551, 579 S.E.2d 320, 324 (2003). Further, the Registry accomplishes this goal. *See* S.C. Code Ann. § 23-3-400. The U.S. Supreme Court has specifically noted:

It must be acknowledged that notice of a criminal conviction subjects the offender to public shame, the humiliation increasing in proportion to the extent of the publicity. And the geographic reach of the Internet is greater than anything which could have been designed in colonial times. These facts do not render Internet notification punitive. **The purpose and the principal effect of notification are to inform the public for its own safety, not to humiliate the offender. Widespread public access is necessary for the efficacy of the scheme, and the attendant humiliation is but a collateral consequence of a valid regulation.**

The State’s Web site does not provide the public with means to shame the offender by, say, posting comments underneath his record. An individual seeking the information must take the initial step of going to the Department of Public Safety’s Web site, proceed to the sex offender registry, and then look up the desired information. The process is more analogous to a visit to an official archive of criminal records than it is to a scheme forcing an offender to appear in public with some visible badge of past criminality. The Internet makes the document search more efficient, cost effective, and convenient for Alaska’s citizenry.

Smith v. Doe, 538 U.S. 84, 99, 123 S. Ct. 1140, 1150-51 (2003). South Carolina’s SORA operates virtually identically to the website analyzed by the U.S. Supreme Court in *Smith v. Doe*.

In sum, the South Carolina Legislature has determined unequivocally that the Registry is the appropriate mechanism by which to provide for the public health, welfare, and safety of South Carolina citizens; that the Registry provides law enforcement with tools needed to investigate; and

that sex offenders as a class pose a risk of re-offending. See S.C. Code Ann. § 23-3-400 *et seq.*

And, according to the United States Supreme Court, the Legislature has the authority to do this:

Alaska could conclude that a conviction for a sex offense provides evidence of substantial risk of recidivism. The legislature's findings are consistent with grave concerns over the high rate of recidivism among convicted sex offenders and their dangerousness **as a class**.

Smith v. Doe, 538 U.S. 84, 103, 123 S.Ct. 1140, 1153 (2003) (emphasis added) (rejecting an argument that the Alaska registry law was excessive because it applies to all convicted sex offenders without regard to their future dangerousness). Accordingly, similar to Alaska, the South Carolina Legislature has enacted a Registry that protects all South Carolinians and aids law enforcement. As such, the Plaintiff unequivocally fails the third prong. Accordingly, this Court's previous order should stand.

II. Due Process

This Court was also correct to reject any due process argument in this action. "The substantive due process guarantee ensures that legislation which deprives a person of a life, liberty, or property right [has], at a minimum, a rational basis, and not be arbitrary or overly vague." In re Treatment and Care of Luckabaugh, 351 S.C. 122, 139-40, 568 S.E.2d 338, 346 (2002). As discussed above, the binding precedent in this state has conclusively rejected this claim. The most compelling recitation of the argument on this specific precedent was provided by the South Carolina Supreme Court in *In Interest of Justin B.* from 2017 in which the court noted

As to the due process challenge [in *Hendrix*], we followed our holding in *Walls* that the sex offender registry is non-punitive and did not implicate a liberty interest, and therefore held there was no due process violation. 353 S.C. at 552, 579 S.E.2d at 325 (citing *Walls*, 348 S.C. at 31, 558 S.E.2d at 526).

Later that year, we decided *In re Ronnie A.*, 355 S.C. 407, 585 S.E.2d 311 (2003), in which an eleven-year-old challenged the mandatory lifetime registration requirement after he was found to have committed criminal sexual conduct with a minor. **We followed *Hendrix*, and held "sex offender registration, regardless of**

the length of time, is non-punitive and therefore no liberty interest is implicated.” 355 S.C. at 409, 585 S.E.2d at 312 (citing *Hendrix*, 353 S.C. at 552, 579 S.E.2d at 325).

We reiterated our holding in *Walls* that the legislative purpose for the sex offender registry “is to protect the public from those offenders who may re-offend.” *Id.* (citing *Walls*, 348 S.C. at 31, 558 S.E.2d at 526). We then concluded, **“The registration of offenders, including juveniles who have proved themselves capable of certain sex offenses, is rationally related to achieving this legitimate objective. Appellant has offered no valid basis upon which to distinguish juvenile sex offenders for purposes of due process.”** 355 S.C. at 409-10, 585 S.E.2d at 312.

Justin B.’s age and the resulting public registration does not change our constitutional analysis. The Supreme Court held that an adult does not have a constitutionally protected liberty interest in his reputation. See *Paul v. Davis*, 424 U.S. 693, 712, 96 S.Ct. 1155, 1166, 47 L.Ed.2d 405, 420 (1976) (stating an “interest in reputation ... is neither ‘liberty’ nor ‘property’ guaranteed against state deprivation without due process of law”). A delinquent juvenile’s reputation may be in greater need of protection than the reputation of an adult convicted of a felony sex crime, but **the juvenile’s interest in that reputation is still neither liberty nor property.** The responsibility of balancing the need to protect a juvenile’s reputation against the need to “to promote the state’s fundamental right to provide for the ... safety of its citizens,” § 23-3-400, falls to the Legislature, not the courts, S.C. Const. art. I, § 8.

V. Conclusion

The requirement that adults and juveniles who commit criminal sexual conduct must register as a sex offender and wear an electronic monitor is not a punitive measure, and the requirement bears a rational relationship to the Legislature’s purpose in the Sex Offender Registry Act to protect our citizens—including children—from repeat sex offenders. The requirement, therefore, is not unconstitutional. If the requirement that juvenile sex offenders must register and must wear an electronic monitor is in need of change, that decision is to be made by the Legislature—not the courts. The decision of the family court to follow the mandatory, statutory requirement to impose lifetime sex offender registration and electronic monitoring on Justin B. is **AFFIRMED**.

In Interest of Justin B., 419 S.C. 575, 580–82, 586-87, 799 S.E.2d 675, 677–78, 681, *cert. denied* *sub nom. J.D.B. v. South Carolina*, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017) (emphasis added).

This case is binding precedent.

In addition, there is no viable due process claim based on the lack of individual judicial review of Plaintiff's registration requirement. In fact, the Supreme Court in *Dykes* specifically rejected this argument. See *State v. Dykes*, 403 S.C. 499, 510 n. 9, 744 S.E.2d 505, 511 n. 9 (rejecting Dykes' procedural due process claim under Rule 220, SCACR). The United States Supreme Court has also rejected this argument. See *Connecticut v. Doe*, 538 U.S. 1, 8 (2003) ("rejecting sex offender's due process argument requesting a hearing on his current level of dangerousness, and stating those 'who assert a right to a hearing under the Due Process Clause must show that the facts they seek to establish in the hearing are relevant to the statutory scheme'"). Therefore, the espoused precedent in this state remains binding authority. See *Daniels v. City of Goose Creek*, 314 S.C. 494, 501, 431 S.E.2d 256, 260 (Ct. App. 1993); (decisions of the Supreme Court bind as precedent); S.C. Const. Art. V, § 9. **Specifically, "sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated."** *In re Ronnie A.*, 355 S.C. 407, 409, 585 S.E.2d 311, 312 (2003) (emphasis added); *Hendrix v. Taylor*, 353 S.C. 542, 579 S.E.2d 320 (2003); *In Interest of Justin B.*, 419 S.C. 575, 580-82, 586-87, 799 S.E.2d 675, 677-78, 681, *cert. denied sub nom. J.D.B. v. South Carolina*, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017). As such, the Plaintiff's due process claim fails as a matter of law and this Court's previous order should stand.

III. The Plaintiff's Claims for Excessive Punishment Fail as a Matter of Law

In addition, South Carolina courts have conclusively held that registration pursuant SORA is **not** punishment. See *State v. Walls*, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002); *Hendrix v. Taylor*, 353 S.C. 542, 552, 579 S.E.2d 320, 325 (2003) (finding that "the length of time one must be listed on the sex offender registry is non-punitive, and it cannot constitute a deprivation of a constitutionally protected liberty interest."); *In re Ronnie A.*, 355 S.C. 407, 409, 585 S.E.2d 311,

312 (2003) (finding that “sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated.”); In Interest of Justin B., 419 S.C. 575, 580–82, 586-87, 799 S.E.2d 675, 677–78, 681, *cert. denied sub nom. J.D.B. v. South Carolina*, 138 S. Ct. 483, 199 L. Ed. 2d 360 (2017). This precedent does not change with online publication of Registry information on the internet, which, of course, occurred prior to such decisions. *See supra*.

Moreover, the South Carolina Legislature also made it abundantly clear that the intent of SORA is “to promote the state’s fundamental right to provide for the public health, welfare, and safety of its citizens” and to “provide law enforcement with the tools needed in investigating criminal offenses.” S.C. Code Ann. § 23-3-400. In that regard, the South Carolina Supreme Court has held that registration as a sex offender is not a punishment, but rather is a regulatory requirement imposed to promote public safety. *See Williams v. State*, 378 S.C. 511, 516, 662 S.E.2d 615, 618 (2008). As such, any claim asserting that SORA registration constitutes punishment of any kind, much less excessive punishment, fails as a matter of law. Accordingly, this Court’s prior order should stand.

THE PLAINTIFF’S CLAIMS FAIL AS A MATTER OF LAW

In addition, the Plaintiff’s claims fail as a matter of law. South Carolina’s SORA registration is for life. *See* S.C. Code Ann. § 23-3-460 (mandating registration “for life”). This lifetime mandate is set forth in clear and unequivocal statutory language. As such, this specific statutory language is determinative and leaves no room for judicial interpretation. *See Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000); Charleston County Sch. Dist. v. State Budget and Control Bd., 313 S.C. 1, 437 S.E.2d 6 (1993) (“The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.”); In re Vincent J., 333 S.C. 233, 509 S.E.2d 261 (1998) (“Under the plain meaning rule, it is not the court’s place to change the meaning of

a clear and unambiguous statute.”) (internal citations omitted). Further, South Carolina jurisprudence on this issue is clear, “[w]here the statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning. In re Vincent J., 333 S.C. 233, 509 S.E.2d 261, 262 (1998) (citing Paschal v. State Election Comm’n, 317 S.C. 434, 454 S.E.2d 890 (1995)). Therefore, the Defendants are entitled to judgment as a matter of law on this issue.

Moreover, SORA does provide specific statutory avenues for removal from the mandate for lifetime registration. Specifically, S.C. Code Ann. § 23-3-430(E), (F), (G) set forth the only lawful mechanism and avenues by which an individual can be removed from the SORA registry. Pursuant to § 23-3-430(E), “SLED shall remove a person’s name and any other information concerning that person from the sex offender registry immediately upon notification by the Attorney General that the person’s adjudication, conviction, guilty plea, or plea of nolo contendere for an offense listed in subsection (C) was reversed, overturned, or vacated on appeal and a final judgment has been rendered.” S.C. Code Ann. § 23-3-430(E). Pursuant to § 23-3-430(F), an offender who receives a pardon “based on a finding of not guilty specifically stated in the pardon” shall be removed. S.C. Code Ann. § 23-3-430(F). And finally, pursuant to § 23-3-430(G) individuals exonerated subsequent to filing a petition for a writ of habeas corpus or a motion for a new trial are removed. S.C. Code Ann. § 23-3-430(G). However, there is no genuine issue of material fact to suggest that Plaintiff meets any of these statutory criteria and, in fact, he concedes that he does not. Accordingly, there is no legal or constitutional basis for the Plaintiff to be removed from the SORA registry and the Defendants are entitled to judgment as a matter of law.

Additionally, the fact that the Plaintiff did not plead guilty to an offense specifically enumerated in S.C. Code Ann. § 23-3-430(C), but rather was ordered by a Circuit Court judge in

accordance with S.C. Code Ann. § 23-3-430(D), is of no consequence. The South Carolina Supreme Court has also noted that there are

several [alternative] bases on which to predicate registration in South Carolina: (1) the defendant was convicted in South Carolina of an offense delineated in South Carolina's registry statute, (2) the defendant was convicted of an offense in another jurisdiction for which registration is required in the jurisdiction where the offense occurred, or (3) the defendant was convicted in another jurisdiction of an offense that is similar to a South Carolina offense requiring registration.

In re Shaquille O'Neal B., 385 S.C. 243, 251-52, 684 S.E.2d 549, 554 (2009). Further, "[w]hether an individual must be placed on the sex offender registry is a question of law." Lozada v. S. Carolina Law Enf't Div., 395 S.C. 509, 512, 719 S.E.2d 258, 259 (2011) (citing Noisette v. Ismail, 299 S.C. 243, 247, 384 S.E.2d 310, 312 (Ct. App.1989)). As such, the fact that the Plaintiff was ordered to register in accordance with S.C. Code Ann. § 23-3-430(D) does not change the analysis in this case. Nor does it change the binding precedent that conclusively resolves this case in the Defendants' favor. *See supra*. As such, this Court's prior order should stand.

CONCLUSION

For the reasons stated above, this Court should deny the Plaintiff's Motion to Reconsider Order Granting Defendants' Motion for Summary Judgment.

Respectfully Submitted,

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COLUMBIA, SOUTH CAROLINA
MARCH 4, 2019

1	State of South Carolina	)	In the Court
		)	Of Common Pleas
2	County of Lexington	)	Case No.: 2017-CP-32-00712
		)	
3	John Doe,	)	
		)	
4	Plaintiff,	)	
		)	
5	vs.	)	Transcript of Record
		)	
6	Mark Keel,	)	
		)	
7	Defendant.	)	
		)	
8			

9

December 19, 2018

10

Lexington, South Carolina

11

12 BEFORE:

13

The Honorable Grace Knie, Judge

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15 APPEARANCES:

16

Jonathan McKey Milling, Esquire
Attorney for the Plaintiff

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Adam L. Whitsett, Esquire
Attorney for the Defendant

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MOTIONS

3

Certificate of Reporter

29

EXHIBITS

NO. DESCRIPTION

ID EVDS.

NONE

1 Thereupon, the following proceedings were had,

2 MR. WHITSETT: Good afternoon, Judge.

3 THE COURT: Good afternoon. I'm Judge Knie from
4 Spartanburg. Welcome. We're going to start the motions
5 in just a moment. This is our clerk Ms. Parker, our
6 court reporter is Mr. LeBlanc, and my law clerk is
7 Elizabeth VonKeller. And so I believe in conferring with
8 the clerk there are four motions for the afternoon, three
9 of which involve the same case and so what we were going
10 to do is call the last one first and go ahead and give
11 that person an opportunity to escape, okay, unless I hear
12 an objection from anyone else, okay? All right. So Ms.
13 Parker.

14 THE CLERK: That one is John Doe versus Mark Keel.
15 Case number 2017-CP-32-00712.

16 THE COURT: Okay. This is the defendant's motion.

17 MR. WHITSETT: Thank you, Your Honor.

18 THE COURT: Good afternoon.

19 MR. MILLING: And, Your Honor, I spent the morning
20 drafting a response in opposition that I did not have a
21 chance to file. I've been in court. I was telling Mr.
22 Whitsett I have been in court every day this week already
23 so...

24 THE COURT: Thank you. Yes, sir.

25 MR. WHITSETT: Thank you, Your Honor. May it please

1 the Court.

2 THE COURT: Yes, sir.

3 MR. WHITSETT: My name is Adam Whitsett. I'm
4 General Counsel for the South Carolina Law Enforcement
5 Division here on behalf of the defendants seeking summary
6 judgment in this matter.

7 As sort of initial thoughts on this, there's no
8 relevant factual dispute at all. I think the facts in
9 this matter are, in fact, pretty settled with regard to,
10 the plaintiff pled guilty to an offense for which the
11 Judge required registration and the plaintiff has been
12 registering in accordance with that requirement in
13 accordance with the statute since that time and it's been
14 a number of years. I believe 13 since that occurred.

15 The plaintiff also concedes as we understand and
16 read the complaint that he does not meet any of the
17 statutorily enumerated avenues for removal from the South
18 Carolina Sex Offender Registry that would authorize him
19 to be removed from the registry. So he's required to
20 register, he does not meet any of the statutorily
21 enumerated avenues of relief, and we believe the South
22 Carolina law then mandates registration for life. It is
23 a legislative decision that our legislature has
24 undertaken to mandate a lifetime registration and a
25 lifetime registry and the plaintiff simply does not meet

1 the avenues and there is simply no avenue of relief in
2 this matter.

3 We believe that the binding precedent, and the
4 courts have already resolved the constitutional questions
5 raised in this action, and so without going too deep into
6 them, we covered them in our motion and we would rely on
7 them, but there's simply no equal protection violation,
8 there is no due process violation, and there is simply no
9 Eighth Amendment cruel and unusual punishment violation.

10 Beginning with the first legal challenge to the
11 registry which was back in 2002 in the Walsh case that we
12 have cited in our motion and continuously through the
13 most recent case which was the Justin B. case, a Supreme
14 Court decision of 2017, which is sort of the most recent
15 pronouncement of the authority on this and probably the
16 best authority we have got, and I have got a copy of that
17 case because I will refer to it consistently because they
18 have dealt with all of these issues we believe
19 conclusively on those matters.

20 And so beginning with the Walsh decision in 2002 and
21 continuing consistently our courts have said clearly and
22 unequivocally that sex offender registration is not
23 punishment and certainly cannot rise to the level of
24 cruel and unusual punishment that would render it
25 unconstitutional. It's not even punishment much less

1 cruel and unusual and that's been consistently applied
2 beginning with Walsh in 2002 with every decision that's
3 been entered sort of in the interim through there of
4 which there are many which we have cited and continuing
5 through the Justin B. decision of 2017 which remains the
6 precedent today, it's simply not a punitive act and so
7 there is no constitutional violation that could survive
8 the binding precedent and the authority that currently
9 exists in that regard.

10 Very similarly in the due process argument our
11 courts have said clearly and unequivocally that there is
12 no liberty interest affected or certainly no deprivation
13 of a liberty interest with lifetime registration. The
14 length of time that one is registered simply does not
15 raise that and there is no sort of cogent argument to the
16 contrary given the existing statutes and the existing
17 status of juris prudence in our state.

18 Reading the complaint it sort of seems to pull some
19 of the language that was at issue in the State versus
20 Dykes decision from 2013 in which the dissent did find a
21 fundamental interest in the right to be left alone but
22 that was the dissent of that case. The majority did not
23 find that interest so there is no fundamental right in
24 that case. Dykes was a clearly and easily
25 distinguishable case from the case at bar. First and

1 foremost, it dealt with the electronic monitoring statute
2 which has no application whatsoever to the case today.
3 The issue in that case was the arbitrariness of, there
4 was a petition process for certain individuals charged
5 with certain offenses to seek removal of the electronic
6 monitoring and it was in the court's view sort of
7 arbitrarily drawn who could come off, who couldn't. But
8 that simply has no applicability to the case at bar. It
9 didn't change the standard. It didn't change the due
10 process analysis. It simply has no bearing on the case
11 today and that's most easily identified through the
12 Justin B. decision which came after Dykes which addressed
13 the Dykes rational and which clearly said there is and
14 remains no constitutionally protected liberty interest
15 affected by registration. So there is simply no change
16 that can be seen through that and no recognized interest.

17 Long story short, Justin B. has conclusively settled
18 the majority of the questions in front of Your Honor
19 today and we would rely on that precedent before us.
20 Sort of similar equal protection. The very first
21 challenge to equal protection was the Hendricks case in
22 which the courts and our Supreme Court unequivocally
23 found that registration does meet all three prongs. That
24 it is reasonably related to the legitimate public
25 interest of protecting the public and assisting law

1 enforcement, that all individuals that are similarly
2 situated are treated the same. There is certainly no
3 allegation to the contrary in this case. The plaintiff
4 is subject to the same uniform procedures and
5 administrative as everyone else who is similarly situated
6 so there is no sort of disparate treatment that would
7 apply in this case. And that it is all reasonable and
8 that those procedures and this process is reasonably
9 related to effectuate that legitimate public process.
10 That was all dealt with conclusively in Hendricks and
11 then reaffirmed yet again in the Justin B. decision.

12 Sort of the interesting nuanced argument that was
13 raised in this case is sort of this overlay of the
14 federal SORNA to the state system. And I will credit
15 opposing counsel for sort of coming up, I think it's a
16 clever argument but I do think that the precedent remains
17 the same and I don't believe that the existence of these
18 federal laws change the analysis or change the dynamic
19 whatsoever. South Carolina simply put has the sovereign
20 right to enact its own laws that apply to its own
21 citizens and the Federal Government cannot usurp that or
22 cannot overstep the sovereignty of the State of South
23 Carolina to do this.

24 The federal laws in question, the Adam Walsh, the
25 SORNA, sort of the entire sort of panoply of all of the

1 exceptions and extensions and all that's gone on follows
2 the traditional federal model for legislation. It's the
3 carrot and stick approach. There are some federal
4 minimum standards in a federal floor below which states
5 cannot go if they want certain federal funding. It is
6 not a mandate that states must follow and could not be a
7 mandate that overrides the sovereignty of the states to
8 do and enact laws as they see fit. There are simply
9 floors below which states cannot go if states want
10 federal funding in the certain Byrne's JAG grant
11 programs.

12 To that end the South Carolina legislature has, in
13 fact, gone above these federally mandated floors. They
14 have enacted a registry that certainly complies with all
15 of the prongs of the federal system because they have set
16 minimum standards and because our registry is uniform
17 lifetime throughout we are substantially compliant with
18 SORNA and we have been designated as such since 2011. I
19 believe we attached that with our motion with all of the
20 documentation, been consistently recognized by the U.S.
21 Department of Justice as substantially compliant because
22 we go above the floors. So even if we as a public policy
23 or as a state decided that we did not want to adhere to
24 those federal minimum standards, it's certainly the
25 sovereign right that our legislature could make that

1 decision and some states certainly have but there is no -
2 that does not change our sovereign right. That does not
3 change the existing precedent and the existing public
4 policy in this state.

5 This issue on the length of time on whether we
6 should have tiers, on whether we should have time
7 duration abilities is simply a matter that is solely in
8 the province of our legislature. Our legislature has
9 enacted the public policy to say we want a lifetime.
10 registry for all and so that simply cannot be changed or
11 rewritten absent the legislature getting involved because
12 the precedent, because the courts have already addressed
13 the constitutional concerns so because it is
14 constitutional there is simply no ability or authority to
15 simply rewrite those clear, unequivocal and
16 constitutional statutes in this entire scheme. It's just
17 a matter of public policy. So the argument that we
18 should do more, we should follow SORNA, we should go to
19 tiers are, I'll certainly say, compelling arguments that
20 some hold close and hold dear but we're in the wrong
21 forum to address those. Those are solely arguments to be
22 addressed by our legislature or that could only be
23 addressed by our legislature given the juris prudence
24 that exists and given the clear and unambiguity of the
25 laws in question.

1 So we believe when understanding and appreciating
2 the current precedent and the binding precedent and the
3 courts' sort of previous rejection of the constitutional
4 arguments, that remains binding precedent. The fact that
5 the existence of the federal laws doesn't change that and
6 the fact that we meet all of those sort of simply we
7 believe and would submit entitle the defendant to
8 judgment as a matter of law. There is simply no legal
9 avenue under which the plaintiff can proceed without
10 simply disregarding the binding precedent or following
11 the binding precedent. Because that precedent exists we
12 believe that the summary judgment is appropriate in this
13 case and that adherence to the law is what is mandated in
14 this instance. Thank you.

15 THE COURT: Thank you. Yes, sir.

16 MR. MILLING: Thank you, Your Honor. May it please
17 the Court.

18 THE COURT: Yes, sir.

19 MR. MILLING: Jonathan Milling on behalf of the
20 plaintiff. Judge, a large part of my practice is
21 criminal defense in Federal Court. Up until seven to ten
22 years ago the U.S. Supreme Court had consistently upheld
23 the constitutionality of the sentencing guidelines. Then
24 when counsel began to make unique challenges, fact
25 specific challenges, challenges which caused the

1 Appellate Courts and caused the Supreme Court to review
2 anew the guidelines, they started to look at things
3 differently. We have got in South Carolina a lot of
4 precedent as Mr. Whitsett talked about which talks about
5 different aspects of the Sex Offender Registration Act,
6 that talk about different challenges that have been
7 brought to date.

8 In this case we have got a differently styled
9 challenge here. We have got a challenge because we have
10 got someone who is convicted of an unenumerated offense.
11 An offense that as Your Honor is well aware you don't
12 have to require somebody to register as a sex offender
13 for the rest of their life. It's not one of the
14 specifically enumerated offenses but yet South Carolina
15 has seen fit to do a one size fits all for the person who
16 may have exposed themselves and the person who brutally
17 raped somebody. Somebody who may have been charged with
18 kidnapping or assault and battery of a high and
19 aggravated nature as we have got here is treated in the
20 same way as somebody who is convicted of raping a child.

21 And it frankly is a different situation and for
22 people who are set forth in this unenumerated category
23 they should be treated differently. And the Federal
24 Government when they first started looking at this, when
25 they started enacting SORNA and they started enacting the

1 Adam Walsh Act, they developed a three tier system. A
2 system that was based upon the egregiousness of the
3 offense and linked that to the length of the registration
4 requirement. An offense such as assault and battery of a
5 high and aggravated nature that is not otherwise
6 specified would have fallen into tier 1. My client
7 received a probationary sentence in this case, completed
8 probation, completed as we have outlined in the complaint
9 the required sex offender training.

10 Under the Federal Statute because he has not gotten
11 in trouble he would have been eligible to petition the
12 Court 10 years from the date that he first entered the
13 registry. By operation of law he would have gotten off
14 after 15 years. So Congress reviewing this situation,
15 reviewing the federal studies, reviewing everything that
16 they had available to them sought fit to say, you know
17 what, we recognize that rehabilitation does take place.
18 We recognize that the likelihood that someone might
19 reoffend goes down over time especially for the least of
20 these offenders.

21 South Carolina, when they enacted the Sex Offender
22 Registry Act in 1994, has a boilerplate statement that
23 the purpose is to protect the public. That the purpose
24 is to make sure that law enforcement has the tools
25 available. Well, that's a noble purpose. Certainly one

1 to be lauded but what we have got to do is make sure that
2 the action taken properly does that. And Mr. Whitsett
3 says that there's not a fundamental right at issue here,
4 and he cites to the Hendricks case and I have a copy of
5 the case as well for the Court and the Hendricks case
6 does say in that case that the defendant doesn't have a
7 fundamental right and it cites in footnote 12, talks
8 about our South Carolina Constitution Privacy Right. It
9 was something that was brought up by the defendant in
10 that case, by the petitioner.

11 South Carolina recognizes a privacy right for all of
12 its citizens. The Supreme Court in Hendricks says it
13 doesn't apply here because it would have been a matter of
14 public record in Colorado which is where the defendant in
15 that case was convicted because he was convicted of a sex
16 offense and specifically he was convicted as I recall of
17 criminal sexual conduct in the third degree. Anyone
18 reviewing public record in Colorado that would have seen
19 criminal sexual conduct in the third degree would know
20 that he was convicted of a sex offense. I agree with the
21 Court that there would not be a privacy interest there
22 because that is public record.

23 The difference that we have got here because we are
24 dealing with an unenumerated offense, something that does
25 not require registration, my client was convicted of

1 ABHAN. He was only convicted of an offense that would
2 have demonstrated in the public records that he was
3 convicted or pled guilty to assault and battery of a high
4 and aggravated nature, something that can be committed in
5 any number of different ways. So we don't have the same
6 privacy concerns or the waiver of the privacy concerns
7 that was present in Hendricks because the public record
8 itself doesn't show that my client committed a sex
9 offense. And so if we look at that and say my client has
10 got a privacy interest in having the public not digging
11 into his background, things that are outside of the
12 public record, then we get to strict scrutiny.

13 And so we have got a situation where the legislature
14 can enact laws and I don't disagree with Mr. Whitsett in
15 that South Carolina can certainly enact anything that
16 they want to but they have got to do it the right way.
17 And here it's got to be rationally related and narrowly
18 tailored. Arguably it may be rationally related. Yeah,
19 registering or requiring people to register for a period
20 of time at least may help protect the public. It may
21 assist law enforcement. Having the public notification
22 stretches that further and gets to a point where whether
23 or not it is narrowly tailored. Having a lifetime
24 requirement where somebody who was convicted of assault
25 and battery of a high and aggravated nature never has the

1 ability to get off the registry, no matter what they
2 could demonstrate to the Court, fails to demonstrate that
3 it is narrowly tailored to meet those purposes outlined
4 in the statute.

5 Beyond that, Your Honor, if we look at how South
6 Carolina says based upon studies there is a likelihood of
7 reoffending or may be a likelihood of reoffending,
8 studies that have been done since that time demonstrate
9 that that's not really the case. There was a study that
10 was done in Ohio by the Criminal Sentencing Commission
11 that did a report recommendation in 2016 and it clearly
12 outlines in its conclusions that there is no clear
13 evidence to support that SORNA implementation has made
14 the public safer, deterred any sexual offenses, or
15 contributed to the arrest or discovery of any sex
16 offender. I have got a copy of that that I'm passing up.

17 What I have passed up to the Court, Your Honor, is
18 the complete packet. There are several appendices which
19 I did not attach. I can provide that to Mr. Whitsett if
20 he would like that after the fact.

21 But this government sanctioned test or study was
22 done to try and determine whether or not there were any
23 benefits and they said no. There are no benefits to be
24 gleaned from this situation. Another study which was
25 done by Kristin Zagola is on the Adam Walsh Act, an

1 examination of sex offender risk classification systems.
2 I have a copy of that that I would like to pass up as
3 well.

4 These studies show that there is no deterrent effect
5 to justify this so contrary to what the State of South
6 Carolina has said in its original version of the act, it
7 said it in the current version of the act, studies don't
8 really show that people certainly of the lowest tier are
9 at a significant risk of reoffending.

10 As I started getting ready for this hearing I looked
11 and started to research the different versions of this
12 statute and I was able to come across the Senate Journal
13 for May 11th of 1994, and it appears to be when Senators
14 Richter and Wilson proposed an Amendment 125 to HR4820
15 which ultimately became this statute and it's interesting
16 to note that we have got the same original language, and
17 I'll pass a copy up to Your Honor, we have the same
18 original language which talks about the desire to protect
19 the public, which talks about the need to give law
20 enforcement additional tools, and talks about these
21 studies that are out there but it doesn't require
22 registration for assault and battery of a high and
23 aggravated nature. It sets forth a list of specifically
24 enumerated offenses but doesn't provide for, as I read
25 it, the ability to require registration for someone else

1 who is not convicted of one of those offenses.

2 So if the legislature using the same basis, same
3 theoretical studies wants to come in and say, well, based
4 upon everything we have looked at we think in this
5 original version that these people who are convicted of
6 these offenses need to register for the rest of their
7 life, something more needs to be coming out to show that
8 other offenses require registration for the rest of their
9 life especially when the Federal Government has looked at
10 the same situation and said these other tier 1 people
11 shouldn't be required to register for the rest of their
12 life. Fifteen years is sufficient. Ten years is good if
13 they have demonstrated good behavior.

14 If we look at whether or not under the strict
15 scrutiny test as applied to the unenumerated offenses
16 this passes mustard, it simply doesn't. But, Judge, even
17 if we look at the rational basis test using the same
18 analysis and using the same studies requiring somebody to
19 register as a sex offender who has committed one of these
20 unenumerated offenses, requiring them to register for the
21 rest of their life, does not bear a reasonable relation
22 to the purpose because there are other ways, more
23 legitimate ways to ensure that the public is safe, to
24 ensure that law enforcement tools are there than having
25 these unenumerated people out there to be ostracized

1 because that's essentially what is happening. They are
2 excommunicated from society because of the restrictions
3 on where they can go because they are not able to even
4 coach or be around their children's school activities.
5 Restrictions on where they can live and the public
6 spurning they receive as a result of this especially when
7 you look at the fact that they are all treated exactly
8 the same whether it's somebody who has a tier 3, or I'm
9 sorry, a tier 1 offense or a tier 3 offense, the ABHAN
10 versus the forcible rape. It just doesn't serve a
11 rational basis without giving somebody in the
12 unenumerated class the ability to get off, to petition
13 the Court and to demonstrate that the public is no longer
14 at risk, that safeguards aren't required any longer.

15 Your Honor, I recognize that South Carolina law has
16 found that this is not a punishment in each of the cases
17 that Mr. Whitsett has cited. Other jurisdictions have
18 taken a different view. I cited in my memorandum the
19 Sixth Circuit case of Does one through five versus
20 Snyder, and that's 834 Federal Third 696, and I have got
21 a copy that I can pass up to Your Honor. And there the
22 Sixth Circuit looks at it, Michigan's version of it and
23 just says, listen, it is a punishment. How these people
24 are treated it is a punishment. It looks like a
25 punishment. It acts like on punishment. And while the

1 State may want to call it something else it doesn't
2 change the fact that at its core it is still a
3 punishment.

4 I would just submit that as it relates to the
5 unenumerated cases, because these offenses do not
6 automatically require registration, there is a privacy
7 interest that these individuals have implicating strict
8 scrutiny. There are fundamental rights that these
9 individuals have implicating strict scrutiny. And when
10 we look at the Sex Offender Registration Act as it
11 relates to these unenumerated offenses, it doesn't pass
12 constitutional mustard, especially when we look at these
13 studies which are out there which we have handed up to
14 the Court which clearly show that the registration
15 doesn't promote public safety. It doesn't promote law
16 enforcement in their investigations or aid them in their
17 investigations because they will always have that
18 information. This is a punishment and we would just
19 submit that summary judgment at this stage is
20 inappropriate.

21 THE COURT: Thank you, sir.

22 MR. WHITSETT: Thank you, Your Honor. May it please
23 the Court.

24 THE COURT: In reply. Yes, sir.

25 MR. WHITSETT: Please. Touching on just sort of

1 the, some of the facets of the argument opposing counsel
2 has made, I would just like to point out my
3 understanding, and I have not seen this Senate Journal
4 until today, but my understanding of the registry is that
5 it did not, this could not have become the actual law.
6 In 1994 the initial version of it was in the Senate
7 Appropriations Act. It wasn't until a year or two later
8 that it actually became the law so I don't believe that
9 this is -- And I don't believe that he was attempting to
10 -- I think just the way that I understand it, I don't
11 think that this was ever the official pronouncement of
12 law. I think this was an introduction of a possibility.
13 Some of this certainly does mirror versions that were in
14 place at certain points in time. But I don't believe
15 that that was ever actually the law.

16 I do think contrary to the arguments made here today
17 our Supreme Court has thought through this issue. The
18 Justin B. decision was made after all of these studies,
19 after all of this was done. I would point out none of
20 these studies were done in or for the State of South
21 Carolina analyzing South Carolina law or analyzing the
22 applicability of it. Now, mind you, I have seen them for
23 the first time today. I think they're irrelevant
24 honestly, Your Honor, because the Justin B. decision was
25 issued in 2017 after all of these similar arguments were

1 made and the Court went through and I do have a copy for
2 opposing counsel and a copy for Your Honor because it is
3 so directly on point with this issue (proffering.)

4 THE COURT: Thank you.

5 MR. WHITSETT: Because in Justin B. the Court went
6 through the history and Justin B. much more of a
7 compelling type argument than the case today was a
8 juvenile, was an adjudication, was not a conviction, and
9 in that context the Court still held even on an offense
10 that would otherwise never make a public criminal history
11 record because a juvenile adjudication and the sealing of
12 juvenile records in publicizing that and putting it on
13 the registry did not raise a privacy issue and did not
14 raise a reputational issue.

15 What the Court said, and I'll just quote it because
16 I don't think I can say it any better, "Justin B.'s age
17 and the resulting public registration does not change the
18 constitutional analysis. The Supreme Court held that an
19 adult does not have a constitutional protected liberty
20 interest in reputation. Interest in reputation is
21 neither liberty nor property guaranteed against state
22 deprivation without due process alone. A delinquent
23 juvenile's reputation may be in greater need of
24 protection than the reputation of an adult convicted of a
25 felony sex crime but the juvenile's interest in that

1 reputation is still neither liberty nor property. The
2 responsibility of balancing the need to protect the
3 juvenile's reputation against the need to promote the
4 State's fundamental right to provide for the safety of
5 its citizens falls to legislature, not the courts."

6 They concluded that case by saying, "The requirement
7 that adults and juveniles who commit criminal sexual
8 conduct must register as a sex offender, wear an
9 electronic monitor, is not a punitive measure and the
10 requirement bears a rational relationship to the
11 legislative purpose of the Registry Act to protect our
12 citizens including children from repeat sex offenders.
13 The requirement is therefore not unconstitutional. If
14 the requirement that juvenile sex offenders must register
15 or wear an electronic monitor is in need of change, that
16 decision is to be made by the legislature not the
17 courts." They ultimately upheld the Family Court in that
18 instance.

19 So I do not believe that there is any solace or any
20 authority by which we can even get to a strict scrutiny
21 analysis. I believe the precedent that would apply that
22 certainly does not change by a registration that goes
23 under 23-3-430(d) which authorizes any court upon good
24 cause shown by the Solicitor to put an individual on the
25 registry and for that registry to apply the same across

1 the board, I do not believe that changes the
2 constitutional analysis, I do not believe that that
3 triggers the reputational interest. If it doesn't do
4 that for a juvenile who would ultimately otherwise have a
5 non public completely sealed record, it certainly cannot
6 change that for an individual whose criminal record was
7 always going to be made public. That simply does not
8 change the analysis or shift the analysis and I think
9 what Justin B. and what the Justin B. court said still
10 holds and still rings true.

11 With regard to some of these restrictions that
12 opposing counsel has said with regard to school
13 activities, living, public, the laws in place that apply
14 to the plaintiff do not require any residency
15 restriction. There is no legal requirement that the
16 government imposes affecting school activities. None of
17 that derives or exists in the law. None of that is
18 imposed by the government or by the law. It simply
19 doesn't apply in this instance. The residency
20 restrictions are very narrowly tailored to a number of
21 offenses. This is not one of them so there is no
22 residency restriction and that cannot have any bearing on
23 this case, sort of similar to a restriction on school
24 activities or coaching or volunteering. None of that
25 arise or derives out of the law and none of that comes

1 from the law so that simply cannot be imposed. That's
2 not a government imposed restriction that affects
3 anything applicable in this case.

4 What we have here is essentially a reverse equal
5 protection argument. My client is not like everyone else
6 so he shouldn't be treated like everyone else and that is
7 not the basis for a legitimate constitutional challenge.
8 Because it applies across the board uniformly to everyone
9 it certainly does survive the constitutional analysis and
10 is equally applied to all. Whether we should do it
11 differently is simply a matter for the legislature. The
12 legislature is certainly free to do that. This is one of
13 the most discussed and talked about facets of our law and
14 this is one of the most litigated facets of our law but
15 our courts have consistently and uniformly taken the view
16 that this is constitutional, that this is rationally
17 related to the public purpose to protecting the public.

18 What the registry ultimately does is give
19 information to the public from which the public can make
20 informed decisions. It certainly also assists law
21 enforcement in doing that but it is simply information
22 provided to the public for public safety and is informed
23 decision making by the public and putting this
24 information out there is certainly rationally related to
25 that public interest, does, in fact, protect the public

1 and the courts have consistently held that time and time
2 again. It does assist law enforcement. That's been
3 recognized and upheld time and time again in these
4 studies, and they do not change that fundamental facet of
5 our statute and that precedent that still exists and that
6 currently exists.

7 Again, if there is to be a change in this clear,
8 unequivocal, and constitutional statute, it has to come
9 from the legislature. We're simply in the wrong forum to
10 enact that. The binding precedent of the State says very
11 clearly and unequivocally, it survives equal protection,
12 there is no liberty interest affected, there is no due
13 process violation, it is not punishment much less cruel
14 and unusual punishment and there is simply no authority
15 or jurisdiction for a court to simply rewrite this
16 constitutional clear and unambiguous statute and so we
17 believe that summary judgment is appropriate in this
18 case. Thank you.

19 THE COURT: Thank you. Okay. Very briefly, sir.

20 MR. MILLING: Yes, Your Honor. Frankly, I just
21 wanted to point out with regards to the Senate record, I
22 simply wanted to say I was not saying that it is binding
23 on the Court as far as now or anything like that. This
24 is what the original version was that I have come across.
25 If they saw fit at that point in time to justify it in

1 this manner, then there are other ways and other
2 justifications that are appropriate. The Zagola report
3 actually does allow South Carolina as one of the four
4 states which was studied as part of that test and this
5 Justin B. case, the defendant was convicted of criminal
6 sexual conduct with a minor in the first degree as
7 opposed to an unenumerated offense which is what we have
8 got in this case so...

9 THE COURT: Okay. All right.

10 MR. WHITSETT: Your Honor, I didn't mean to -- I
11 wasn't implying that he was handing up --

12 THE COURT: Yes. I know that you weren't. Okay.
13 All right. I am going to review all of this. These are
14 very interesting issues and I'm certain that probably
15 every Circuit Court Judge in this state has thought about
16 some of this at some point when ordering sex offender
17 registry in their court and so again, this is very, very
18 interesting and it has been my habit this week to take a
19 lot of things under advisement. That is not unique to
20 this and I will issue written instructions to each of you
21 at the same time and in this matter because you all are
22 so well versed, both of you, in what we're talking about
23 and the law the instructions quite frankly will probably
24 be instructions for one of you to draft an order and so I
25 will do that as quickly as I can. I'm trying to do them

1 in the order that I'm hearing cases to be very
2 disciplined and move through the list that way and so
3 this is the last afternoon of my non jury. Well, I do
4 have one tomorrow morning so I say that only to say that
5 you all are down the line a little bit. Thank you all
6 for your presentation.

7 MR. WHITSETT: Thank you, Your Honor.

8 MR. MILLING: Thank you, Your Honor. I'll go ahead
9 probably tomorrow morning and file what I submitted
10 earlier just to make sure that it's a part of the record
11 if that's okay.

12 THE COURT: Yes, sir. That is fine and I already
13 started writing on the copy that you gave me so it would
14 be better if you filed it. Nice to see you.

15 MR. WHITSETT: Thank you, Your Honor.

16 MR. MILLING: Thank you, Your Honor.

17 WHEREUPON, THE HEARING WAS CONCLUDED.

18

19

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25

1 CERTIFICATE OF REPORTER
2 (STATE OF SOUTH CAROLINA)
3 (COUNTY OF LEXINGTON)
4

5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,
6 and Official Circuit Court Reporter for the Eleventh Judicial
7 Circuit in and for the State of South Carolina, do hereby
8 certify that I reported the proceedings in the before
9 captioned case in the Court of Common Pleas in and for the
10 State of South Carolina on the 19th day of December, 2018.

11 I FURTHER CERTIFY that the forgoing 28 pages
12 constitute a true and accurate record of said proceedings.

13 I FURTHER CERTIFY that I am neither related, counsel
14 to, nor of interest to any party hereto.

15 IN WITNESS WHEREOF, I have hereunto set my hand at
16 Lexington County, this 2nd day of June, 2019.

17

18

By:s/ Steven E. LeBlanc

19

20

Steven E. LeBlanc, Sr., R.P.R.
Eleventh Circuit Court Reporter
State of South Carolina.

21

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Ad Hoc Committee on Sex Offender Registration

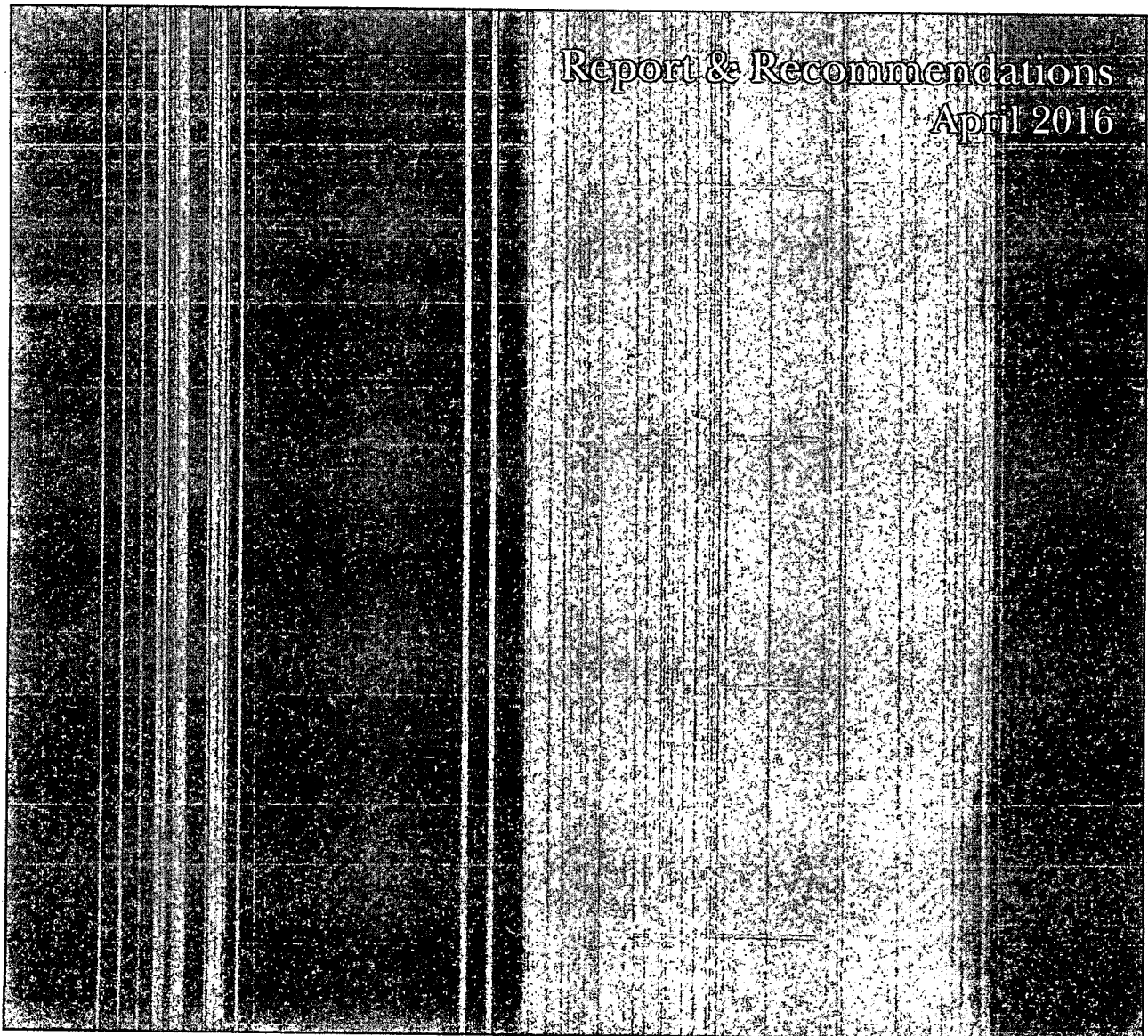


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APPENDICES

Appendix A: Sex Offender Grand Total Report

Appendix B: Sexual Offender Registration Violations Data Brief

Appendix C: FY2015 JAG Recommendations for Funding by County

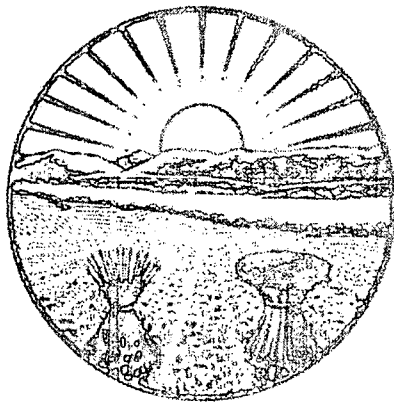
Appendix D: SORNA Adult Registration Requirements Chart

** Note: This page is legal-sized (8.5 x 14")*

Appendix E: SORNA Juvenile Registration Requirements Chart

** Note: This page is legal-sized (8.5 x 14")*

Appendix F: SORN Quick Reference Guide (Revised March 2016)



I. Executive Summary

The Ohio Criminal Sentencing Commission identified the administration and application of current sex offender registration laws as one of its priorities for 2015 and created an Ad Hoc Committee to address the topic. The Recodification Committee assigned workgroups to chapters 2907 and 2950 of the Ohio Revised Code and those groups are working in collaboration with the Sentencing Commission Ad Hoc committee. The combination of the groups include representation from sheriffs, prosecutors, defense, Department of Rehabilitation and Correction, victims, judges, the Judicial Conference and the Attorney General's Office.

The underlying questions are straightforward, does the current sex offender registration process fulfill its purpose to protect the public and reduce recidivism? Does the current sex offender registration law meet the spirit of how it was intended? There is no research that links registration and reduced recidivism. The front line implication of the laws, the difficulty in the implementation and administration validate the need for reform.

The current offense-based system is not a transparent, accountable risk-based system that allows judicial discretion in placement of an offender within a tier and/or to determine the offense is such that registration furthers the interest of justice. Movement toward a risk-based system will create safer communities, protect the public, ensure effective offender management and punishment, advance criminal justice outcomes and ease administrative burden and conserve fiscal resources while improving efficiency, accuracy and efficacy of sex offender registration.

There is no clear evidence to support that SORNA implementation has made the public safer, deterred any sexual offenses, or contributed to the arrest or discovery of any sex offender. Many officials, nationally as well as in Ohio, conclude that the offense-based tier system "pulls too many offenders onto the registry" and overlooks others who are most at risk to reoffend. This costs taxpayers millions of dollars, compromises public safety and dilutes the validity of the registry to the point of ineffectiveness.

The mandates of the Adam Walsh Act (AWA) virtually eliminate the judiciary from exercising any discretion in controlling sex offenders. The AWA prohibits judges from considering each offender as an individual and de-emphasizes individualized risk assessments as a tool for managing and monitoring convicted offenders. Applying risk principles to individualized sentencing allows scant resources to be directed to those at greatest risk for re-offense¹.

There are four strategies which can incorporate scholarly findings into sex offender management practices, all of which necessitate restoring some discretion to the judiciary in sanctioning sex offenders. First, legislation should be modified to authorize judges to determine when individual low-level sex offenders will be subject to registration duties. Second, laws should permit judges to consider risk assessments in managing sex offenders. Third, legislation should enable judges to deregister first time sex offenders after a reasonable period of full compliance with registration obligations. Finally, sex offender management should incorporate the proven practices associated with problem-solving courts².

¹Mary Katherine Huffman*, *Moral Panic and the Politics of Fear: The Dubious Logic Underlying Sex Offender Registration Statutes and Proposals for Restoring Measures of Judicial Discretion to Sex Offender Management*, p42, [footnote 181], p44 The California Sex Offender Management Board recently recommended that the sex offender registration system in California follow the risk principles of correction in order for resources to be directed to those who pose the highest risk of reoffending. See California Sex Offender Management Board 2014 Annual Report, *supra* note 118. *Judge, Montgomery County, Ohio Common Pleas Court; Adjunct Professor, University of Dayton School of Law; B.A., Wright State University, M.A., University of Nevada – Reno, J.D., University of Dayton.

² Huffman, *supra* note 1, p44-45

The construct of the AWA impinges on the role of the judge in effective offender management by limiting consideration to offense type only. Consistent with the principles of correctional intervention, the dossier of information the judiciary may consider in fashioning individualized sanctioning should be multi-dimensional, whereas the mandates of the AWA rely on a single, static factor: offense type. Judges must weigh the competing purposes of sentencing, which include rehabilitation, incapacitation, deterrence and retribution³.

Therefore, a hybrid system of sex offender registration is recommended. A hybrid system provides mandatory registration for serious, high-risk offenders, while giving trial courts discretion for first time low-level offenders after consideration of an appropriate risk assessment. Therefore, the essential elements of implementing a hybrid risk and offense based system include:

1. Review current Tier-based offense classifications for potential adjustment.
2. Maintain the child victim offender provisions.
3. Retain tier-based offense classifications and prescribed registration periods, but allow the option for deregistration, based on empirical evidence, data, and other factors. The provision for deregistration can be similar to the judicial release process and should specify the number of applications an offender may file and the time between applications.
4. Tier 3 offender registration and offenders with a prior conviction for a sexual offense should remain offense-based and mandatory. Allow the option for deregistration after a period of time, sufficient empirical evidence, data, and other factors [must register with the County Sheriff every 90 days for life. In addition, must register any change of residential address, place of employment, or enrollment in a school or institution of higher education].
5. Tier 2 offender registration should be risk-based, determined by the trial court with a presumption in favor of registration, using a clear and convincing standard and a validated, dynamic sex offender specific risk assessment and evaluation. Tier 2 offender registration should include the option for deregistration after a period of time, sufficient empirical evidence, data and other factors. Maintain the registration period with current law [register with the County Sheriff every 180 days for a period of 25 years].
6. Tier 1 offender registration should be risk-based, determined by the trial court using a clear and convincing standard and a validated, dynamic sex offender specific risk assessment and evaluation and include the option for deregistration after a period of time, sufficient empirical evidence, data and other factors. Maintain the registration period with current law [register with the County Sheriff at least once annually for a period of 15 years].
7. The explanation of the registration requirements and potential penalties should be part of a meaningful colloquy at the time of plea and sentencing, thereby providing meaningful notice to the offender. The requirement to read a form on the record should be eliminated; rather the form should be signed and reviewed by defendant and counsel.

³ Huffman, *supra* note 1, p43

8. Clarify, define, and simplify the tolling of registration to provide for consistency and accuracy of registration periods.
9. Consider a centralized/State system and one county registration, by redefining jurisdiction to "State".
10. There is no empirical evidence to support that public safety is enhanced through residency restrictions that are based on the offense and imposed uniformly on all offenders. A judge should be able to impose residency restrictions based on risk and the circumstances of the offense.
11. Maintain in-person registration for verification, annual registration, and change of address. For all other changes allow electronic/on-line updates. Also:
 - A. Clarify days – business, consecutive
 - B. Address consequence/penalty for failure to update i.e. email address
 - C. Specify Sheriff may make exception to process requirements if person is incapacitated
 - D. Clearly define residence, temporarily domiciled and clarify number of days
 - E. Specify secondary residence for registration purposes is permitted
12. Include an option for deregistration after a period of time, sufficient empirical evidence, data and other factors should be applied to *all* offenders, i.e. applied retroactively and subject to process and limitations suggested in 1(B). There is no option to change assigned Tier. Clearly articulate policy and specify impact of statutory revision(s) to current registrants.
13. Eliminate dual registration requirements for subsequent offenses – i.e. 2950.07(C) and specify the default registration period is to the most serious and/or longer period.
14. Specify that community notification occur at the time of the initial registration and then annually unless there is a change in address.
15. Failure to Register penalties: For first offense, violation of registration (2950.04, 2950.05, 2950.06) should be a F5 if the underlying offense was an F3, F4, or F5. Subsequent violations of registration offense should be an F4. Violation of registration should be a F3 if underlying offense was a F1 or F2. No violation of registration offense should include mandatory prison time.
16. Recommend and implement statewide forums for ongoing public education and prevention to include victim specific events and engagements. Such events should be funded through reinvesting and reallocating cost savings from implementing a more efficient, public safety minded, risk-based registry for Tier 1 and 2 offenders. If JAG funding for victim programs is impacted, the legislature should ensure adequate, substitute funding for those programs from the State budget.

II. Ad Hoc Committee Members*

- *Jill E. Beeler*, Ohio Public Defender's Office, Sentencing Commission Advisory Committee Member – Chair
- *Chrystal Alexander*, Office of Victim Services – DRC, Sentencing Commission Member
- *Sara Andrews*, Sentencing Commission
- *Kari Bloom*, Ohio Public Defender's Office, Sentencing Commission Advisory Committee Member
- *Jo Ellen Cline*, Sentencing Commission
- *Mark Denning*, Defiance County Sheriff's Office
- *Derek DeVine*, Seneca County Prosecutor, Sentencing Commission Member
- *Julie Doepke*, Hamilton County Probation, Ohio Victim Witness Association
- *Judge Michael Donnelly*, Cuyahoga County Court of Common Pleas
- *Judge Gary Dumm*, Circleville Municipal Court, Sentencing Commission Member
- *Katie Hanna*, Ohio Alliance to End Sexual Violence
- *Kelly Heile*, Butler County Prosecutor's Office
- *Cyara Hotopp*, OSU School of Law, Criminal Sentencing Commission intern
- *Judge Mary Katherine Huffman*, Montgomery County Court of Common Pleas
- *Matthew A. Kanai*, Ohio Attorney General's Office
- *Brian Martin*, Department of Rehabilitation and Correction (DRC), Sentencing Commission Advisory Committee Member
- *Charles McConville*, Knox County Prosecutor
- *James McFarland*, Knox County Sheriff's Office
- *Karhlton Moore*, Office of Criminal Justice Services, Sentencing Commission Advisory Committee Member
- *Marta Mudri*, Ohio Judicial Conference
- *Sheriff A. J. Rodenberg*, Clermont County, Sentencing Commission Member
- *Judge Nick Selvaggio*, Champaign County Court of Common Pleas, Sentencing Commission Member
- *Sheriff David Shaffer*, Knox County
- *Judge Jim Slagle*, Marion County Court of Common Pleas
- *Judge Kenneth Spanagel*, Parma Municipal Court, Sentencing Commission Member
- *Sheriff Larry Sims*, Warren County
- *Erin Waltz*, Supreme Court of Ohio Law Library

*Member participation is not unqualified endorsement of the Ad Hoc Committee final recommendations.

III. Background

Since 1963, Ohio has had a sex offender registration statute (former ORC §2950, 130 Ohio Laws 669). Since 1994, when seven year old Megan Kanka of Hamilton, New Jersey, was raped and murdered by a convicted sex offender who lived in her neighborhood, states throughout the United States have adopted “Megan’s Laws” that provide community notice about sex offenders. Ohio’s original SORN Law, House Bill 180, was adopted in 1996. Ohio’s Megan’s Law was then amended by Senate Bill 175 which became effective on May 7, 2002. The law authorized a judge to classify offenders based on their likelihood to commit a sexual offense again, a “risk-based classification.”

On June 30, 2007, Senate Bill 10 was signed into law in Ohio to implement the federal Adam Walsh Child and Safety Protection Act of 2006. The purpose of the Adam Walsh Act (AWA) is to create stricter requirements for SORN Law in hopes of preventing offenders from slipping through the cracks and hurting children. Senate Bill 10 created an “offense-based classification system”. The offense-based classification system turns on the tier of the offense committed ranging from least severe (Tier I) to most severe (Tier III) in determining an offender’s registration and notification requirements⁴.

In January 2010, Ohio was the only state in compliance with the Sex Offender Registration and Notification Act (SORNA), the Title I portion of the Adam Walsh Child Protection and Safety Act of 2006. SORNA is a three-tiered system, ranking sex offenders based upon the severity of the committed offense. Each tier requires a different time span for which the sex offender must be registered and imposes distinct verification appearance requirements. While jurisdictions need not label their sex offenders according to SORNA’s three-tiered system, a jurisdiction must ensure that sex offenders who meet the substantive criteria for placement in a particular tier are, at a minimum, subject to “the duration of registration, frequency of in-person appearances for verification, and extent of website disclosure that SORNA requires for that tier.”⁵

The County Sheriff is responsible under Ohio law for the registration of sex offenders. Sex offenders must register with the County Sheriff on scheduled periodic basis, which is determined by their sex offender Tier classification. In addition, sex offenders must register with the County Sheriff any change of residential address, place of employment, or enrollment in a school or institution of higher education.

Tier sex offender classifications are determined based upon criminal conviction of offenses and criteria outlined in the table below.⁶ The Sentencing Commission has also created a SORN quick reference guide, APPENDIX F.

Tier I - Sex offenders must register with the County Sheriff at least once annually for a period of 15 years. In addition, must register any change of residential address, place of employment, or enrollment in a school or institution of higher education.

⁴ SORN Law after SB10 – Ohio Criminal Sentencing Commission

⁵ http://www.nylslawreview.com/wp-content/uploads/sites/16/2015/06/Volume-59-4.Wang_.pdf

⁶ Information from Franklin County Sheriff’s Office <https://sheriff.franklincountyohio.gov/services/sex-offender-registry/sex-offender-classification.cfm>

Tier I Offenses

1. Importuning 2907.07
2. Unlawful Sexual Conduct with a Minor 2907.04 (B)(2), unless consensual, case then not registration offense
3. Voyeurism 2907.08 (C) and (D) against a minor
4. Sexual Imposition 2907.06
5. Gross Sexual Imposition 2907.05 (A)(1)-(3) (5)
6. Illegal Use of a Minor in Nudity-oriented Material or Performance 2907.323 (A)(3) (AWA non-Ohio)
7. Voyeurism 2907.08 (A)(B) & (E) (Ohio, non-AWA)
8. Child Enticement 2905.05 (sexual motivation) (Ohio, non-AWA)

Tier II - Sex offenders must register with the County Sheriff every 180 days for a period of 25 years. In addition, must register any change of residential address, place of employment, or enrollment in a school or institution of higher education.

Tier II Offenses

1. Compelling Prostitution 2907.21
2. Pandering Obscenity Involving a Minor 2907.321
3. Pandering Sexually Oriented Material Involving a Minor 2907.322
4. Illegal Use of a Minor in Nudity-oriented Material or Performance 2907.323 (A)(1) & (2)
5. Child Endangering 2919.22 (B)(5)
6. Kidnapping with Sexual Motivation 2905.01 (A)(1)(3)(5)
7. Unlawful Sexual Conduct with a Minor 2907.04 (B)(1)(3)(4)
8. Any Sexual Offense that occurs after the offender has been classified as a Tier I sex offender

Tier III - Sex offenders must register with the County Sheriff every 90 days for life. In addition, must register any change of residential address, place of employment, or enrollment in a school or institution of higher education.

Tier III Offenses

1. Rape 2907.02
2. Sexual Battery 2907.03
3. Aggravated Murder with Sexual Motivation 2903.01
4. Murder with Sexual Motivation 2903.02
5. Unlawful Death or Termination of Pregnancy As A Result of Committing or Attempting to Commit a Felony with Sexual Motivation 2903.04
6. Kidnapping of Minor to Engage in Sexual Activity 2905.01(A)(4)
7. Kidnapping of Minor, Not By Parent 2905.01(B)
8. Gross Sexual Imposition 2907.05 (A)(4) (Under 13)*
9. Felonious Assault with Sexual Motivation 2903.11**
10. Any Sexual Offense that occurs after the offender has been classified as a Tier II sex offender

* Federal offense is victim under 16

Note: Tier III sex offenders are also subject to community notification, which means upon a change of residential address, the County Sheriff will provide notice to a neighborhood within 1,250 feet of the sex offenders residential address. The County Sheriff will also provide notice to schools, registered day-care providers, and law enforcement agencies within the 1,250 foot radius.

IV. Data

The number of registered sex offenders in Ohio at any given time changes every day. On November 9, 2015 it was 18,690 actively registering offenders⁷. A breakdown with the numbers of offenders in each category is attached, Appendix A. The number of sexually oriented offenders incarcerated in the Department of Rehabilitation and Correction (DRC) on November 1, 2015 was 10,141¹. The number of offenders incarcerated with a Chapter 2907 sex offense as the current most serious offense was 7,233 and the number incarcerated with a Chapter 2907 or sex offender registration violation offense as the current most serious offense was 7,775.⁸

Furthermore, DRC trend data on prison commitments pre and post Adam Walsh shows 547 inmates incarcerated for violating sex offender registration laws. Inmates convicted of **2950.04 – Duty to Register**, **2950.05 – Notice of residence address change** and **2950.06 – Periodic verification of current residence address** offenses have increased from 318 inmates (4.3% of total sex offender population) in July 2006 to 547 inmates (7% of the total sex offender population) as of January 1, 2016, resulting in a prison bed impactⁱⁱ of about 250 beds. The overall population has since stabilized to about 550. The combination of 2950. 04, 05, 06 is third most frequently admitted sex offenses today– behind rape and sexual imposition. The trajectory over time and peak in 2008-2009 mirrors intake explosion in prison population in general and is consistent with broader pattern, however after 2008-2009 there has not been a subsequent decline like for other commitments.⁹ This information is further illustrated in the attached data brief Appendix B.

V. Analysis

As noted, in January 2010, Ohio was the only state in compliance with the Sex Offender Registration and Notification Act (SORNA), the Title I portion of the Adam Walsh Child Protection and Safety Act of 2006. July 27, 2011 was the implementation deadline for the comprehensive national system for the registration of sex offenders. The Sex Offender Monitoring, Apprehending, Registering and Tracking (SMART) office that administers SORNA requirements identified the following jurisdictions as meeting the compliance deadline: States of Alabama, Colorado, Delaware, Florida, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nevada, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee and Wyoming, and the United States territory of Guam, the Commonwealth of Northern Mariana Islands and the U.S. Virgin Islands¹⁰.

That list of compliant states remains unchanged as of today¹¹.

In an April 2009 National Consortium for Justice Information and Statistics survey on State Compliance with the Sex Offender Registration and Notification Act, eight states (California, Florida, Iowa, Maine, Nevada, Oregon, Vermont, and West Virginia) were concerned with implementation costs or restricted by their state budget.¹² Five states – Arizona, Arkansas, California, Texas and Nebraska – have neither complied with SORNA nor applied to use JAG funds to come into compliance. Arizona made a states' rights argument against implementation as an unfunded federal mandate and expressed the state's sex offender registry does a better job of protecting the public than a system imposed by the federal government. California and Texas referenced economic reasons for their decision not to comply. Nebraska attempted to

⁷ Information provided from the Ohio Attorney General's Office.

⁸ Information provided from the Ohio Department of Rehabilitation and Correction

⁹ Department of Rehabilitation and Correction data

¹⁰ <http://www.ncsl.org/research/civil-and-criminal-justice/adam-walsh-child-protection-and-safety-act.aspx>

¹¹ <http://www.smart.gov/sorna.htm>

¹² <http://www.search.org/files/pdf/SORNA-StateComplianceSurvey2009.pdf>

comply with SORNA in 2010 by changing its sex offender registry to categorize offenders by their convictions rather than by the individualized risk assessments previously used.¹³

Many states found not complying was less costly, like the state of New York. In a letter to Linda Baldwin, director of the U.S. Justice Department's Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, Risa Sugarman, director of the state's Office of Sex Offender Management, said: "The costs would be far greater than the loss" of federal funding. Officials also purported that the state's current policies for sex offender registration were sufficient for maintaining public safety. "New York believes that our present laws and risk assessment method provide our citizens with effective protection against sexual predators," Sugarman said. The state "will continue its commitment to ensuring that our citizens are protected from sexual predators by the enforcement of all of our laws and the continued cooperation with your office."¹⁴

The SMART Office is responsible for determining, on a case-by-case basis, whether a jurisdiction has substantially implemented SORNA's baseline requirements. In assessing compliance, the SMART Office considers the totality of a jurisdiction's rules governing the operation of its registration and notification program, including statutes and administrative policies and procedures.¹⁵ Failure to substantially implement SORNA results in a 10 percent reduction in a state's allotted Byrne Memorial Justice Assistance Grant (JAG) funding. Notably, in 2006, it was determined to be more costly—in every state—to implement SORNA than to lose 10 percent of JAG funding.¹⁶

The Office of Criminal Justice Services, Department of Public Safety maintains the JAG funding for Ohio. Funded JAG applications for CY2016 include 186 unique projects in 63 counties for a total amount of \$4,418,731.30¹⁷. The request for proposal illustrating the program areas funded and the specific programs by county by dollar amount are noted in Appendix C.

Ohio remains in substantial compliance and, in fact, often exceeds the baseline SORNA requirements. See charts Appendix D and E.

In 2011, SMART Office officials told a U.S. House Judiciary Subcommittee "that SORNA's tiered classification system [was] a barrier for at least 11 states."¹⁸ Currently, at least half of the fifty states use risk-based assessment systems to classify sexual offenders (rather than the SORNA three-tier system).¹⁹ Moreover, comprehensive studies have shown that actuarial risk assessment scores consistently outperform the SORNA tier system in accurately predicting sexual re-offending.²⁰ Some states—for example, Montana and New York—have explained that their refusal to comply with SORNA is based on SORNA's mandate to adopt the federal three-tier system.²¹

¹³ <https://www.prisonlegalnews.org/news/2014/sep/19/some-states-refuse-implement-sorna-lose-federal-grants/>

¹⁴ <http://www.governing.com/blogs/fedwatch/States-Find-SORNA-Non-Compliance-Cheaper.html>

¹⁵ http://www.smart.gov/sorna_tools.htm#sornaguidelines

¹⁶ <http://www.ncsl.org/research/civil-and-criminal-justice/adam-walsh-child-protection-and-safety-act.aspx>

¹⁷ Data from the Office of Criminal Justice Services, Department of Public Safety

¹⁸ Wang, *supra* note 5, footnote 142

¹⁹ Wang, *supra* note 5, footnote 146

²⁰ Wang, *supra* note 5, footnote 147

²¹ Wang, *supra* note 5, footnote 148

There is no clear evidence to support that SORNA implementation has made the public safer, deterred any sexual offenses, or contributed to the arrest or discovery of any sex offender. Many officials, nationally as well as in Ohio, conclude that the offense-based tier system “pulls too many offenders onto the registry” and overlooks others who are most at risk to reoffend. Although the system costs taxpayers millions of dollars annually, it compromises public safety by diluting the validity of the registry to the point of ineffectiveness.

This phenomenon is demonstrated every day in Ohio courtrooms. Consider the data collected in Courtroom 19-A, Judge Michael P. Donnelly, Cuyahoga County Court of Common Pleas, which suggests legislative intent is frustrated and circumvented in the administration of sex offense cases. As an example, between the years 2008 and 2014 more than 236 defendants, many of whom were indicted with multiple offenses, if convicted of the indicted offenses, would have been subject to some level of registration. None of the 236 pled to the indictment and only four pled to offenses that required Tier I reporting. Forty-one of the 236 were imprisoned in DRC facilities; some were jailed with most sentences suspended; and most of the 236 were placed on community control. In other words, an offense-based registry invites a bargained plea to avoid registration and thwarts the public policy purposes and principles of sentencing, which are punishing the offender and protecting the public.

At the same time, sex offense cases that are considered less egregious often result in long registration periods, as in the case of Travis Blankenship, *State v. Blankenship*, Slip Opinion No. 2015-Ohio-4624. Blankenship, 21, and a 15-year-old girl identified as M.H. started talking online in 2011 through the social media site PhoneZoo.com. During one conversation, they shared their ages. The two met and became involved sexually. M.H. stated that their sexual relationship was consensual. Blankenship was charged with unlawful sexual conduct with a minor. He pled guilty, and was sentenced to five years of community control.²² Current law requires him to be classified as a Tier II sex offender and to register for 25 years, or until he is 46 years old.

Despite the various efforts to precisely define the term, there is no distinct cohort of sex offenders. Sex offenders and sexual crimes vary widely. The crimes encompassing sex offenses range from misdemeanors, such as urinating in public, to horrific and brutal crimes, such as sexually motivated murder. Crimes falling within the definition of sexual offenses may be forced or consensual, contact or non-contact, violent or passive. Victims may be known to aggressors, or could be strangers, and they may be children or adults.²³

The AWA virtually eliminates any potential for judicial discretion in the management of convicted sex offenders. Instead, the AWA imposes registration and notification obligations based strictly upon offense type, ignoring individual offender characteristics and circumstances. The AWA also establishes mandatory sanctions for an offender’s failure to register or to notify authorities of changes in the offender’s information. Even though the federal legislation now mandates specific sex offender regulations, the financial and physical burden of sex offender registration and monitoring falls on local jurisdictions.²⁴

²² Court News Ohio <http://www.courtnewsoriohio.gov/cases/2015/SCO/1112/140363.asp#.VroZ-Z0o6Uk>

²³ Huffman, *supra* note 1, p 10

²⁴ Huffman, *supra* note 1, p 30

VI. Operational Impact, Cost to Administer

In attempting to comply with SORNA, states and local sheriff departments incur significant costs in various areas, including: additional personnel; software installation and maintenance; additional jail and prison space; increased court and administrative needs; law enforcement, including the need to verify information at more frequent intervals; staff overtime and legislative costs associated with adopting and monitoring state laws. Some sheriffs' offices have dedicated deputies for sex offender registration, compliance and monitoring. Other departments incur the incidental/marginal costs of equipment, vehicles, and the verification, compliance monitoring during the normal course of patrol and other duties, similar to civil process duties.

	County population ²⁵	Registered sex offenders ²⁶	salary	Uniform /equip	Vehicle includes equip & maintenance	overtime	Supplies (office, postage)	Total annual cost
Defiance County	38,510	237	Includes benefits \$94,094	\$2,000	\$32,500	\$10,000	\$4,000	\$142,594.00
Warren County ⁱⁱⁱ	221,659	427	\$57,230.10	----	----	----	----	\$57,230.10

ⁱ Includes inmates with both 2907 offenses and a small number of non-2907 offenses with motivation present, or those with a prior sexually oriented offense.

ⁱⁱ Bed impact = admissions and length of stay

ⁱⁱⁱ Do not track some costs such as, fuel, time in court, vehicle maintenance, supplies

²⁵ http://www.ohio-demographics.com/counties_by_population

²⁶ Data provided by the Ohio Attorney General's Office 04-11-16

APPENDICES

Appendix A

Sex Offender Grand Total Report

Appendix B

Sexual Offender Registration Violations Data Brief

Appendix C

FY2015 JAG Recommendations for Funding by County

Appendix D

SORNA Adult Registration Requirements Chart

** Note: This page is legal-sized (8.5 x 14")*

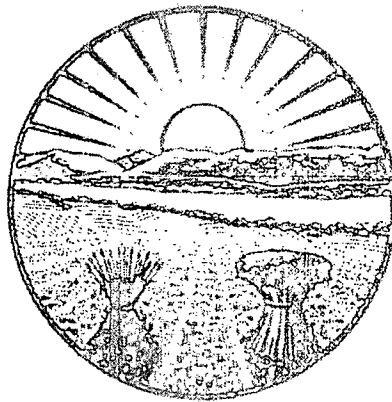
Appendix E

SORNA Juvenile Registration Requirements Chart

** Note: This page is legal-sized (8.5 x 14")*

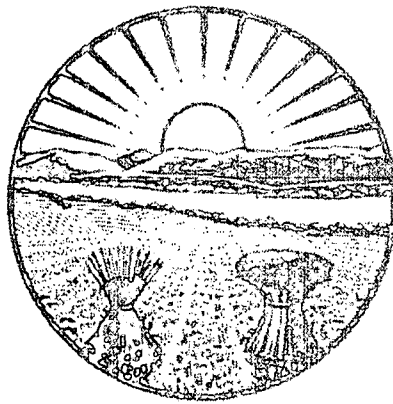
Appendix F

SORN Quick Reference Guide (Revised March 2016)



Total Sex Offender Report
Grand Total Report: All Offenders
11/09/2015

	Juvenile Offenses	Total
None	0	1
(Pre AWA) Aggravated Sexually Oriented Offense	3	47
(Pre AWA) Child Victim Offender	2	56
(Pre AWA) Child Victim Predator	0	16
(Pre AWA) Habitual Child Victim Offender	0	3
(Pre AWA) Habitual Sex Offender	20	733
(Pre AWA) Sexual Predator	59	3,892
(Pre AWA) Sexually Oriented Offender	385	6,694
Pending	1	23
Pre AWA	0	1
Tier I Child Victim Offender	36	121
Tier I Sex Offender	381	2,630
Tier II Child Victim Offender	38	240
Tier II Sex Offender	178	3,119
Tier III Child Victim Offender	32	78
Tier III Sex Offender	104	1,037
Total Sex Offenders	1,238	18,690





CRIMINAL SENTENCING COMMISSION

Chief Justice Maureen O'Connor, Chair • Sara Andrews, Director

Quick Facts

- Ohio is only one of 17 states that has substantially implemented SORNA.
- The spike in ODRC commitments in 2008-09 mirrored all commitments to ODRC; but registration commitments peaked later and have remained stable since 2012.
- Ohio's restriction against residing within 1,000 feet of any school premise is not required under federal law.

Sexual Offender Registration Violations 2000-2015

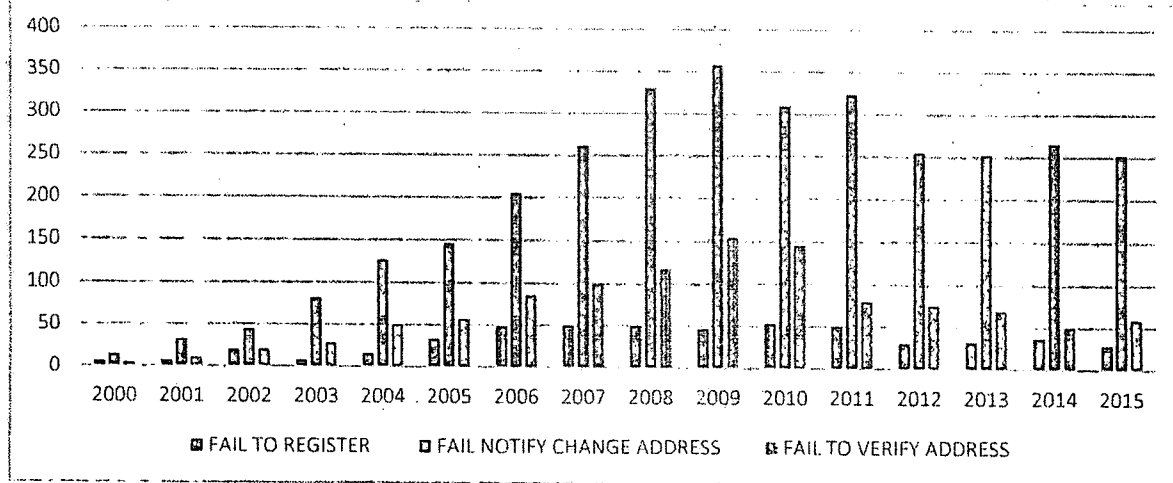
On January 1, 2008 SB10 (127th GA) became effective. The bill made changes to the state's Sex Offender Registration and Notification (SORN) law to bring Ohio into compliance with the national Adam Walsh Child Protection and Safety Act of 2006. The Sex Offender Registration and Notification (SORN) Law imposes a series of duties and restrictions upon a person who is convicted of or pleads guilty to a "sexually oriented offense" that is not a "registration-exempt sexually oriented offense" or to a "child-victim oriented offense." Among the duties and restrictions is the requirement that a person who is convicted of or pleads guilty to any such offense register a residence address and a school, institution of higher education, or work address, provide notice of a change of address and register the new address, and periodically verify the registered address. There is also a restriction against residing within 1,000 feet of any school premises.

Ohio is only one of 17 states that has substantially implemented SORNA.

Commitments increased since passage of SB 10 – Adam Walsh.

- There has been a significant increase in incarceration for registration violations since SB 10 – Adam Walsh law passed in 2008; from 318 (July 2006) to 547 (January 2016).
- The combination of 2950. 04, 05, 06 is third most frequently admitted sex offenses among those currently incarcerated today– behind rape and sexual imposition.
- Over the past four years the number of commitments has stabilized to an average 32.5 individuals for failure to register; 256.75 individuals for failure to notify change of address; and 64 individuals for failure to verify address.
- The trajectory over time and peak in 2008-2009 mirrors intake explosion in prison population in general and is consistent with broader pattern. While overall prison commitments declined substantially after FY 2007, registration commitments peaked much later and have remained relatively stable since 2012."

Figure 1: Commitments to ODRC under ORC 2950.04, 2950.05 and 2950.06, FY 2000-FY 2015

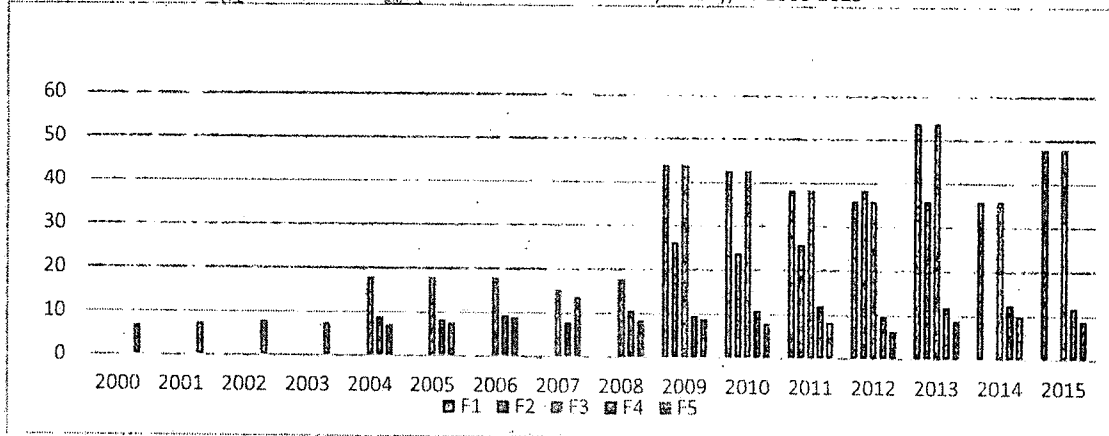


Source: Ohio Department of Rehabilitation and Corrections

The length of commitment has increased since the passage of SB 10 – Adam Walsh.

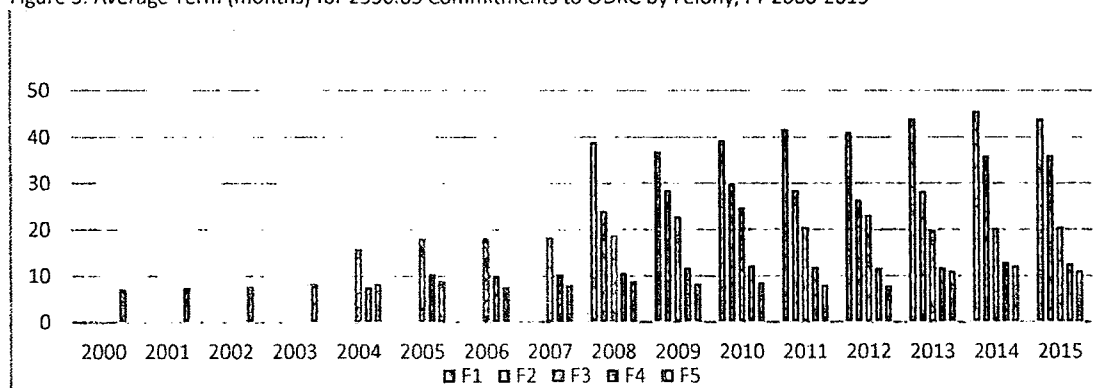
- The addition of first and second degree felonies with the passage of the SORN law has dramatically increased the average incarceration time.
- In the seven years (FY2001-07) prior to the passage of SORN the average term of incarceration under 2950.04 was 11.1 months in the seven years after (FY2009-15) it was 19.3 months; a 74% increase. (Figure 2)
- In the seven years (FY2001-07) prior to the passage of SORN the average term of incarceration under 2950.05 was 12.2 months in the seven years after (FY2009-15) it was 19.4 months; a 59% increase. (Figure 3)
- In the seven years (FY2001-07) prior to the passage of SORN the average term of incarceration under 2950.06 was 11.6 months in the seven years after (FY2009-15) it was 19.0 months; a 64% increase. (Figure 4)

Figure 2: Average Term (months) for 2950.04 Commitments to ODRC by Felony, FY 2000-2015



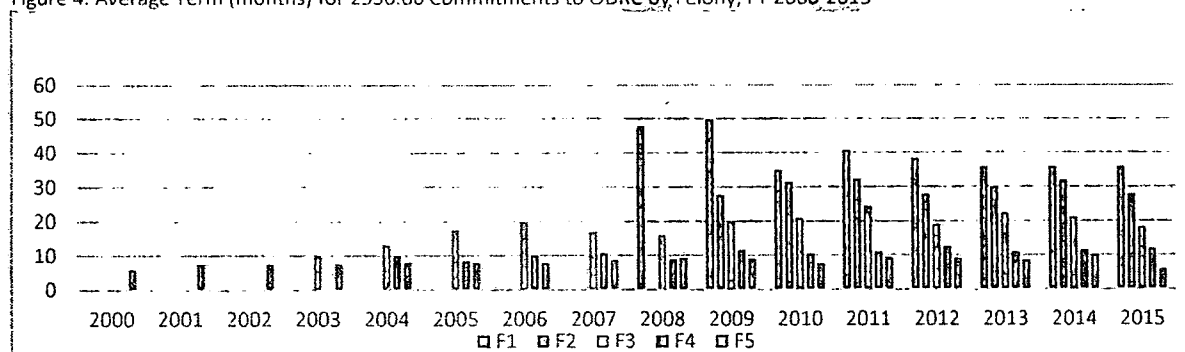
Source: Ohio Department of Rehabilitation and Corrections

Figure 3: Average Term (months) for 2950.05 Commitments to ODRC by Felony, FY 2000-2015



Source: Ohio Department of Rehabilitation and Corrections

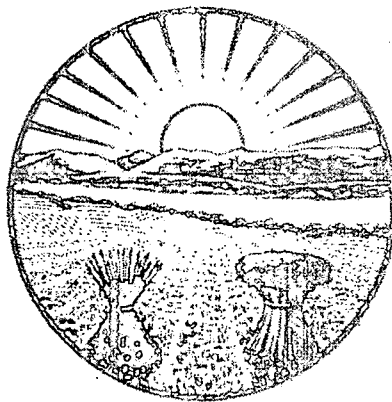
Figure 4: Average Term (months) for 2950.06 Commitments to ODRC by Felony, FY 2000-2015



Source: Ohio Department of Rehabilitation and Corrections

1000 Ft. Residency Restrictions.

- The federal SORN law does not require residency restrictions, the General Assembly first enacted sex offender residency restrictions effective July 31, 2003. The restrictions allowed municipalities to prohibit sex offenders from residing within 1,000 feet of any "school premises." In 2007, the General Assembly expanded the law to prevent sex offenders from residing within 1,000 feet of a preschool or child day-care center (ORC 2950.034).
- The US Department of Justice issued a report in October 2014 stating "The evidence is fairly clear that residence restrictions are not effective. In fact, the research suggests that residence restrictions may actually increase offender risk by undermining offender stability and the ability of the offender to obtain housing, work, and family support." (U.S. DOJ Office of Justice Programs, *Sex Offender Management Assessment and Planning Initiative (SOMAPI)*, NCJ 247059)



Office of Criminal Justice Services

<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
County: Adams								
2015-JG-D01-6875	Adams County Commissioners	Adams County Prosecutor's Office	Adams	Adams County Call To Action	Yes	01/01/2016	12/31/2016	\$10,000.00
Total Number of Adams County Projects: 1						Total Awarded in Adams County:		\$10,000.00
County: Allen								
2015-JG-A01-6409	Allen County Commissioners	Allen County Sheriff's Office	Allen	West Central Ohio Crime Task Force	Yes	01/01/2016	12/31/2016	\$23,000.00
2015-JG-B01-6955	Big Brothers Big Sisters of West Central Ohio, Inc.	Big Brothers Big Sisters of West Central Ohio, Inc.	Allen	Allen County DMC Initiative	Yes	01/01/2016	12/31/2016	\$15,000.00
2015-JG-D01-6677	Crossroads Crisis Center, Inc.	Crossroads Crisis Center, Inc.	Allen	Community DV Response	Yes	01/01/2016	12/31/2016	\$6,666.67
Total Number of Allen County Projects: 3						Total Awarded in Allen County:		\$44,666.67
County: Ashland								
2015-JG-D01-6567	Appleseed Community Mental Health Center, Inc.	Appleseed Community Mental Health Center, Inc.	Ashland	Rape Crisis Domestic Violence	Yes	01/01/2016	12/31/2016	\$21,804.99
Total Number of Ashland County Projects: 1						Total Awarded in Ashland County:		\$21,804.99
County: Ashtabula								
2015-JG-D01-6068	Ashtabula County Commissioners	Ashtabula County Common Pleas Court	Ashtabula	Ashtabula County Drug Court	No	01/01/2016	12/31/2016	\$42,765.78
2015-JG-D01-6678	Homesafe Inc.	Homesafe Inc.	Ashtabula	Family Violence	Yes	01/01/2016	12/31/2016	\$8,571.00
Total Number of Ashtabula County Projects: 2						Total Awarded in Ashtabula County:		\$51,336.78
County: Athens								
2015-JG-B01-6686	Big Brothers Big Sisters of Athens County	Big Brothers Big Sisters of Athens County	Athens	Mentor Appalachia Program (MAP)	Yes	01/01/2016	12/31/2016	\$28,857.82
2015-JG-C01-6848	Health Recovery Services, Inc.	Health Recovery Services, Inc.	Athens	Outpatient Treatment Vinton	Yes	01/01/2016	12/31/2016	\$10,416.50
2015-JG-C01-6853	Health Recovery Services, Inc.	Health Recovery Services, Inc.	Athens	Outpatient Treatment Athens	Yes	01/01/2016	12/31/2016	\$10,416.50
2015-JG-C01-6854	Health Recovery Services, Inc.	Health Recovery Services, Inc.	Athens	Outpatient Treatment Hocking	Yes	01/01/2016	12/31/2016	\$10,416.50

<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
2015-JG-C01-6855	Health Recovery Services, Inc.	Health Recovery Services, Inc.	Athens	Outpatient Treatment Meigs	Yes	01/01/2016	12/31/2016	\$10,416.50
Total Number of Athens County Projects:			5	Total Awarded in Athens County:				\$70,523.82

County: **Auglaize**

2015-JG-C01-6925	Auglaize County Commissioners	Auglaize County Sheriff's Office	Auglaize	Auglaize County Transition (ACT)	Yes	01/01/2016	12/31/2016	\$20,000.00
Total Number of Auglaize County Projects:			1	Total Awarded in Auglaize County:				\$20,000.00

County: **Brown**

2015-JG-A01-6035	Brown County Commissioners	Brown County Prosecutor's Office	Brown	Brown County Drug and Major	No	01/01/2016	12/31/2016	\$25,000.00
Total Number of Brown County Projects:			1	Total Awarded in Brown County:				\$25,000.00

County: **Butler**

2015-JG-A01-6801	Butler County Commissioners	Butler County Sheriff's Office	Butler	Undercover Regional Narcotics	Yes	01/01/2016	12/31/2016	\$37,000.00
2015-JG-B01-6824	Big Brothers, Big Sisters of Butler County	Big Brothers Big Sisters of Butler County	Butler	Mentoring	Yes	01/01/2016	12/31/2016	\$7,000.00
2015-JG-D01-6676	PARACHUTE: Special Advocates for Children	PARACHUTE: Special Advocates for Children	Butler	CASA Advocacy for Child Victims	Yes	01/01/2016	12/31/2016	\$5,000.00
Total Number of Butler County Projects:			3	Total Awarded in Butler County:				\$49,000.00

County: **Champaign**

2015-JG-A02-6016	Village of St. Paris	St. Paris Police Department	Champaign	MARCS Communication	Yes	01/01/2016	12/31/2016	\$9,195.00
2015-JG-A02-6040	Village of St. Paris	St. Paris Police Department	Champaign	St. Paris Police Dept Server	No	01/01/2016	12/31/2016	\$8,187.63
Total Number of Champaign County Projects:			2	Total Awarded in Champaign County:				\$17,382.63

County: **Clark**

2015-JG-B01-6976	Big Brothers Big Sisters of Springfield, Inc.	Big Brothers Big Sisters of Springfield, Inc.	Clark	One to One Youth Mentoring	Yes	01/01/2016	12/31/2016	\$5,000.00
Total Number of Clark County Projects:			1	Total Awarded in Clark County:				\$5,000.00

County: **Clermont**

2015-JG-A01-6250	Clermont County Board of Commissioners	Clermont County Sheriff	Clermont	Narcotics Unit	Yes	01/01/2016	12/31/2016	\$42,000.00
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<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
2015-JG-A02-6046	City of Loveland	City of Loveland Police	Clermont	Loveland Ohio Mobile Video	No	01/01/2016	12/31/2016	\$15,269.00
2015-JG-D01-6017	Clermont County Board of Commissioners	Clermont County Juvenile Court	Clermont	Family Dependency Treatment Court	Yes	01/01/2016	12/31/2016	\$12,300.00
Total Number of Clermont County Projects:			3			Total Awarded in Clermont County:		\$69,569.00

County: **Clinton**

2015-JG-A02-6041	Wilmington	Wilmington PD	Clinton	Wilmington Police Cruiser Cam	No	01/01/2016	12/31/2016	\$17,287.00
Total Number of Clinton County Projects:			1			Total Awarded in Clinton County:		\$17,287.00

County: **Columbiana**

2015-JG-A01-6539	Columbiana County Commissioners	Columbiana County Sheriff's Office	Columbiana	Drug Task Force	Yes	01/01/2016	12/31/2016	\$15,000.00
Total Number of Columbiana County Projects:			1			Total Awarded in Columbiana County:		\$15,000.00

County: **Coshocton**

2015-JG-B01-6063	First Step Family Violence Intervention Services	First Step Family Violence Intervention Services	Coshocton	Primary Prevention Education	No	01/01/2016	12/31/2016	\$27,569.94
Total Number of Coshocton County Projects:			1			Total Awarded in Coshocton County:		\$27,569.94

County: **Crawford**

2015-JG-A02-6957	Crawford County Commissioners	Crawford County Sheriff Office	Crawford	Cruiser Cameras and Video Storage	Yes	01/01/2016	12/31/2016	\$14,677.50
Total Number of Crawford County Projects:			1			Total Awarded in Crawford County:		\$14,677.50

County: **Cuyahoga**

2015-JG-A01-6441	City of Bedford	City of Bedford	Cuyahoga	SEALE Narcotics Task Force	Yes	01/01/2016	12/31/2016	\$30,000.00
2015-JG-A01-6444	City of Cleveland - Department of Public Safety	Cleveland Division of Police	Cuyahoga	Northern Ohio Law Enforcement Task	Yes	01/01/2016	12/31/2016	\$85,000.00
2015-JG-A01-6538	City of Bay Village	Westshore Enforcement Bureau	Cuyahoga	Diversion Prevention	Yes	01/01/2016	12/31/2016	\$33,000.00
2015-JG-A02-6048	City of Lakewood	Lakewood Police Department	Cuyahoga	Personnel for Special	No	01/01/2016	12/31/2016	\$29,003.06
2015-JG-A02-6947	City of Cleveland - Department of Public Safety	Cleveland Division of Police	Cuyahoga	NOVCC Regional Violent Crime	Yes	01/01/2016	12/31/2016	\$50,000.00
2015-JG-B01-6065	Big Brothers Big Sisters of Greater Cleveland	Big Brothers Big Sisters of Greater Cleveland	Cuyahoga	Community-based Mentoring	No	01/01/2016	12/31/2016	\$50,000.00

<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
2015-JG-C01-6924	Cuyahoga County Common Pleas Court, Corrections Planning Board	Cuyahoga County Common Pleas Court, Corrections Planning Board	Cuyahoga	Cuyahoga County TASC	Yes	01/01/2016	12/31/2016	\$21,666.50
2015-JG-D01-6474	Jewish Family Service Association of Cleveland	Jewish Family Service Association of Cleveland	Cuyahoga	Domestic Violence Legal Advocacy	Yes	01/01/2016	12/31/2016	\$8,333.31
2015-JG-D01-6989	Cuyahoga County Treasurer	Cuyahoga County Prosecutor's Office	Cuyahoga	Sexual Assault Victim Advocacy	Yes	01/01/2016	12/31/2016	\$21,996.87
2015-JG-E01-6018	Cuyahoga Metropolitan Housing Authority	Cuyahoga Metropolitan Housing Authority Police Dept.	Cuyahoga	Police Assisted Referral	Yes	01/01/2016	12/31/2016	\$24,701.60
Total Number of Cuyahoga County Projects:		10						Total Awarded in Cuyahoga County: \$353,701.34

County: **Defiance**

2015-JG-A01-6407	Defiance County Commissioners	Defiance County Sheriff's Office	Defiance	Multi-Area Narcotics Unit	Yes	01/01/2016	12/31/2016	\$50,000.00
Total Number of Defiance County Projects:		1						Total Awarded in Defiance County: \$50,000.00

County: **Delaware**

2015-JG-D01-6072	The Justice League	The Justice League	Delaware	Ohio Crime Victims Rights Toolkit	No	01/01/2016	12/31/2016	\$50,000.00
2015-JG-D01-6596	Delaware County	Adult Court Services	Delaware	Mental Health Docket	Yes	01/01/2016	12/31/2016	\$4,166.50
2015-JG-D01-6923	Delaware County	Adult Court Services	Delaware	Drug Court Docket	Yes	01/01/2016	12/31/2016	\$4,166.50
2015-JG-D01-6951	Delaware County Commissioners Office	Delaware County Probate/Juvenile Court	Delaware	Delaware County Juvenile Court	Yes	01/01/2016	12/31/2016	\$19,999.41
Total Number of Delaware County Projects:		4						Total Awarded in Delaware County: \$78,332.41

County: **Fairfield**

2015-JG-A01-6286	Fairfield County Commissioners	Fairfield County Prosecuting Attorney's Office	Fairfield	Major Crimes Unit	Yes	01/01/2016	12/31/2016	\$50,000.00
2015-JG-C01-6975	Fairfield County Sheriff Department	Fairfield County Sheriff Department	Fairfield	Resource Center	Yes	01/01/2016	12/31/2016	\$16,250.00
2015-JG-D01-6589	City of Lancaster	Fairfield Co. Municipal Drug Court	Fairfield	Municipal Drug Court	Yes	01/01/2016	12/31/2016	\$23,333.33
Total Number of Fairfield County Projects:		3						Total Awarded in Fairfield County: \$89,583.33

County: **Fayette**

2015-JG-D01-6300	Fayette County Commissioners	Fayette County Prosecutor's Office	Fayette	Municipal Court Project	Yes	01/01/2016	12/31/2016	\$6,663.98
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SubGrant Number	SubGrantee	Implementing Agency	County	Project Title	Renewal	Start Date	End Date	Award Amount
Total Number of Fayette County Projects:			1	Total Awarded in Fayette County:				\$6,663.98

County: **Franklin**

2015-JG-A02-6057	Perry Township	Perry Township Police	Franklin	Police Communications	No	01/01/2016	12/31/2016	\$6,031.50
2015-JG-A02-6251	Ohio Attorney General	Ohio Attorney General	Franklin	Meth Training	Yes	01/01/2016	12/31/2016	\$17,333.25
2015-JG-A02-6540	Ohio Department of Public Safety	Ohio Homeland Security	Franklin	Ohio Homeland Security Regional	Yes	01/01/2016	12/31/2016	\$54,245.40
2015-JG-A02-6808	Franklin County Board of Commissioners	Franklin County Sheriff's Office	Franklin	ICAC Task Force	Yes	01/01/2016	12/31/2016	\$16,666.67
2015-JG-B01-6058	Big Brothers Big Sisters of Central Ohio	Big Brothers Big Sisters of Central Ohio	Franklin	Added Resources to Strengthen	No	01/01/2016	12/31/2016	\$26,554.38
2015-JG-B01-6059	OhioHealth Research Institute	SARNCO-OhioHealth	Franklin	Sexual Violence Prevention	No	01/01/2016	12/31/2016	\$67,971.60
2015-JG-B01-6317	NAMI Ohio	NAMI Ohio	Franklin	CIT Training	Yes	01/01/2016	12/31/2016	\$5,000.00
2015-JG-B01-6319	Big Brothers Big Sisters of Central Ohio	Big Brothers Big Sisters of Central Ohio	Franklin	Fostering Youth Crime Prevention	Yes	01/01/2016	12/31/2016	\$26,466.00
2015-JG-B01-6547	Ohio School Resource Officers Association	Ohio School Resource Officers Association	Franklin	SRO Basic Training	Yes	01/01/2016	12/31/2016	\$5,000.00
2015-JG-B01-6914	Big Brothers Big Sisters of Central Ohio, Inc.	Big Brothers Big Sisters of Central Ohio, Inc.	Franklin	Union County One-to-One	Yes	01/01/2016	12/31/2016	\$18,660.20
2015-JG-C01-6011	Metropolitan Community Services	Metropolitan Community Services	Franklin	SOLUTIONS Program at	Yes	01/01/2016	12/31/2016	\$18,600.00
2015-JG-C01-6067	Franklin County Board of Commissioners	Mid Ohio Psychological Services	Franklin	Franklin County Women's Healthy	No	01/01/2016	12/31/2016	\$45,000.00
2015-JG-C01-6849	Alvis, Inc.	Alvis, Inc.	Franklin	Growing Choices	Yes	01/01/2016	12/31/2016	\$35,066.50
2015-JG-D01-6308	CASA of Franklin County	CASA of Franklin County	Franklin	Advocating for Children	Yes	01/01/2016	12/31/2016	\$16,685.40
2015-JG-D01-6331	Mount Carmel Health System Foundation	Mount Carmel Health System	Franklin	Children Affected by Violence	Yes	01/01/2016	12/31/2016	\$13,333.33
2015-JG-D01-6332	CHOICES for Victims of Domestic Violence	CHOICES for Victims of Domestic Violence	Franklin	Community Advocate Program	Yes	01/01/2016	12/31/2016	\$35,066.50
2015-JG-D01-6680	Mount Carmel Health System Foundation	Mount Carmel Health System	Franklin	Adult Trauma Treatment	Yes	01/01/2016	12/31/2016	\$26,666.50
2015-JG-D01-6911	The Salvation Army	The Salvation Army	Franklin	Human Trafficking Victim Services	Yes	01/01/2016	12/31/2016	\$45,589.18
2015-JG-D01-6929	The Buckeye Ranch	The Buckeye Ranch	Franklin	Common Ground	Yes	01/01/2016	12/31/2016	\$25,000.00
2015-JG-D01-6930	City of Columbus	Columbus City Attorney's Office	Franklin	Cyber Stalking Investigator	Yes	01/01/2016	12/31/2016	\$21,666.67

<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
2015-JG-D01-6990	Ohio Public Defender's Office	Ohio Public Defender's Off-Athens Branch	Franklin	Case Manager-Athens,	Yes	01/01/2016	12/31/2016	\$22,211.92
2015-JG-D01-6991	Deaf Women Against Violence Everywhere	DWAVE	Franklin	Survivors of DV/SA	Yes	01/01/2016	12/31/2016	\$26,000.24
2015-JG-E01-6375	Ohio Community Corrections Association	Ohio Community Corrections Association	Franklin	2016 Conference	Yes	01/01/2016	12/31/2016	\$3,333.33
2015-JG-E01-6553	Ohio Domestic Violence Network	Ohio Domestic Violence Network	Franklin	Batterers Intervention	Yes	01/01/2016	12/31/2016	\$5,000.00
2015-JG-E01-6830	ACTION OHIO Coalition For Battered Women	ACTION OHIO Coalition For Battered Women	Franklin	Screening, Safety Planning &	Yes	01/01/2016	12/31/2016	\$5,000.00
Total Number of Franklin County Projects:		25						
						Total Awarded in Franklin County:		\$588,148.57

County: **Fulton**

2015-JG-A02-6958	City of Wauseon	Wauseon Police Department	Fulton	Securing Our City	Yes	01/01/2016	12/31/2016	\$11,866.99
Total Number of Fulton County Projects:		1				Total Awarded in Fulton County:		\$11,866.99

County: **Geauga**

2015-JG-D01-6605	WomenSafe, Inc.	WomenSafe, Inc.	Geauga	WomenSafe, Inc.	Yes	01/01/2016	12/31/2016	\$10,333.30
Total Number of Geauga County Projects:		1						
Total Awarded in Geauga County:								\$10,333.30

County: **Greene**

2015-JG-A01-6258	Greene County Commissioners Office	Greene County Sheriff's Office	Greene	Greene County ACE Task Force	Yes	01/01/2016	12/31/2016	\$30,000.00
2015-JG-S01-6060	Family Violence Prevention Center	Family Violence Prevention Center	Greene	School Dating and Domestic Violence	No	01/01/2016	12/31/2016	\$41,051.18
2015-JG-D01-6876	City of Fairborn	Fairborn Prosecutor's Office	Greene	Victim Advocate	Yes	01/01/2016	12/31/2016	\$10,665.82
Total Number of Greene County Projects: -		3						
Total Awarded in Greene County:								\$81,717.00

County: **Guernsey**

2015-JG-D01-6722	Haven of Hope	Haven of Hope	Guernsey	Haven of Hope	Yes	01/01/2016	12/31/2016	\$11,666.50
Total Number of Guernsey County Projects:		1					Total Awarded in Guernsey County:	\$11,666.50

County: **Hamilton**

2015-JG-A01-6259	Springfield Township	Springfield Township Police	Hamilton	Drug Abuse Reduction Task	Yes	01/01/2016	12/31/2016	\$50,000.00
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<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
2015-JG-A02-6037	City of Norwood	Norwood Police Department	Hamilton	In-Car Video Program for Patrol	No	01/01/2016	12/31/2016	\$31,492.50
2015-JG-A02-6256	City of Cincinnati	Cincinnati Police Department	Hamilton	Human Trafficking Working Group	Yes	01/01/2016	12/31/2016	\$30,800.00
2015-JG-A02-6810	City of Cincinnati	Cincinnati Police Department	Hamilton	The Cincinnati Initiative to Reduce	Yes	01/01/2016	12/31/2016	\$16,666.50
2015-JG-B01-6916	Big Brothers Big Sisters of Greater Cincinnati	Big Brothers Big Sisters of Greater Cincinnati	Hamilton	Preventing Substance Abuse	Yes	01/01/2016	12/31/2016	\$13,333.33
2015-JG-C01-6851	Lighthouse Youth Services	Lighthouse Youth Services	Hamilton	Paint Creek Family Advocate	Yes	01/01/2016	12/31/2016	\$10,000.00
2015-JG-C01-6864	Lighthouse Youth Services	Lighthouse Youth Services	Hamilton	Community Management	Yes	01/01/2016	12/31/2016	\$11,666.50
2015-JG-D01-6263	YWCA of Greater Cincinnati	YWCA of Greater Cincinnati	Hamilton	Amend Batterers' Intervention	Yes	01/01/2016	12/31/2016	\$6,666.67
2015-JG-D01-6282	YWCA of Greater Cincinnati	YWCA of Greater Cincinnati	Hamilton	Alliance for Immigrant Women	Yes	01/01/2016	12/31/2016	\$4,666.50
2015-JG-D01-6995	Cincinnati Union Bethel	Cincinnati Union Bethel	Hamilton	Off the Streets	Yes	01/01/2016	12/31/2016	\$50,081.25
2015-JG-D01-6996	The Salvation Army	The Salvation Army	Hamilton	Survivor Services	Yes	01/01/2016	12/31/2016	\$20,760.93
2015-JG-E01-6020	Talbert House	Talbert House	Hamilton	Naloxone for Offenders	No	01/01/2016	12/31/2016	\$61,991.15

County: **Hancock**

2015-JG-B01-6457	Hancock County Commissioners Office	Hancock County Prosecutor's Office	Hancock	Hancock County Prosecutor's Office	Yes	01/01/2016	12/31/2016	\$11,667.88
2015-JG-D01-6594	Hancock County Center for Safe and Healthy Children	Hancock County Center for Safe and Healthy Children	Hancock	Safe Children	Yes	01/01/2016	12/31/2016	\$21,466.94
2015-JG-D01-6674	Council on Domestic Violence, Inc	Council on Domestic Violence, Inc	Hancock	Victims Advocate	Yes	01/01/2016	12/31/2016	\$6,000.02
Total Number of Hancock County Projects:			3	Total Awarded in Hancock County:				\$39,134.84

County: **Hardin**

2015-JG-D01-6272	Hardin County	Hardin County Juvenile Court	Hardin	Family Recovery	Yes	01/01/2016	12/31/2016	\$8,000.00
Total Number of Hardin County Projects:		1					Total Awarded in Hardin County:	\$8,000.00

County: **Harrison**

2015-JG-A02-6050	Village of Cadiz	Cadiz Police Department	Harrison	BWC and iPads	No	01/01/2016	12/31/2016	\$8,752.50
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<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
Total Number of Harrison County Projects:		1				Total Awarded in Harrison County:		\$8,752.50
County: Henry								
2015-JG-D01-6681	The Center for Child and Family Advocacy, Inc.	The Center for Child and Family Advocacy, Inc.	Henry	Victim Therapy Services	Yes	01/01/2016	12/31/2016	\$10,000.00
Total Number of Henry County Projects:		1				Total Awarded in Henry County:		\$10,000.00
County: Highland								
2015-JG-C01-6974	Turning Point Applied Learning Center, Inc.	Turning Point Applied Learning Center, Inc.	Highland	Adult Reentry	Yes	01/01/2016	12/31/2016	\$16,666.67
2015-JG-D01-6071	Highland County Prosecutor's Office Victim Witness Assistance	Highland County Prosecutor's Office Victim Witness Assistance	Highland	Highland County Victim Witness	No	01/01/2016	12/31/2016	\$12,126.21
2015-JG-D01-6309	Highland County Domestic Violence Task Force	Highland County Domestic Violence Task Force	Highland	Project Youth	Yes	01/01/2016	12/31/2016	\$10,999.25
2015-JG-D01-6310	Highland County Domestic Violence Task Force	Highland County Domestic Violence Task Force	Highland	Greenfield Project	Yes	01/01/2016	12/31/2016	\$10,000.00
Total Number of Highland County Projects:		4				Total Awarded in Highland County:		\$49,792.13
County: Hocking								
2015-JG-A02-6047	Hocking County Commissioners	Hocking County Sheriff's Office	Hocking	Tasers for Officer Safety	No	01/01/2016	12/31/2016	\$13,669.57
Total Number of Hocking County Projects:		1				Total Awarded in Hocking County:		\$13,669.57
County: Jefferson								
2015-JG-A02-6055	Village of Yorkville	Yorkville Police Department	Jefferson	Patrol Vehicle for a Safer Community	No	01/01/2016	12/31/2016	\$25,000.00
2015-JG-C01-6299	Jefferson County Commissioners	Eastern Ohio Correction Center	Jefferson	WEDGE	Yes	01/01/2016	12/31/2016	\$11,000.00
Total Number of Jefferson County Projects:		2				Total Awarded in Jefferson County:		\$36,000.00
County: Lake								
2015-JG-A01-6447	Lake County Board of Commissioners	Lake County Narcotics Agency	Lake	Lake County Pharmaceutical	Yes	01/01/2016	12/31/2016	\$42,675.00
2015-JG-A02-6045	City of Eastlake	City of Eastlake Police Department	Lake	Eastlake Police Investigative Fund	No	01/01/2016	12/31/2016	\$25,000.00
2015-JG-A02-6052	Village of Kirtland Hills	Kirtland Hills Police Department	Lake	Kirtland Hills MDT Reaplcement	No	01/01/2016	12/31/2016	\$8,632.50

<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
2015-JG-A02-6912	City of Mentor	Mentor Police Department	Lake	Crime Deterrence Project	Yes	01/01/2016	12/31/2016	\$18,742.70
2015-JG-D01-6460	Lake County Committee on Family Violence, Inc.	Lake County Committee on Family Violence, Inc.	Lake	Court Advocate	Yes	01/01/2016	12/31/2016	\$2,500.00
Total Number of Lake County Projects:			5	Total Awarded in Lake County:				\$97,550.20

County: **Lawrence**

2015-JG-A01-6284	Lawrence County Commissioners	Lawrence County Prosecutor	Lawrence	Lawrence Drug & Major Crimes Task	Yes	01/01/2016	12/31/2016	\$57,403.61
Total Number of Lawrence County Projects:			1	Total Awarded in Lawrence County:				\$57,403.61

County: **Licking**

2015-JG-A01-6285	Licking County	Licking County Sheriff's Office	Licking	Central Ohio Drug Enforcement Task	Yes	01/01/2016	12/31/2016	\$45,000.00
2015-JG-A02-6587	City of Newark	Newark Div. of Police	Licking	Mobile Data Terminals	Yes	01/01/2016	12/31/2016	\$11,820.00
2015-JG-E01-6856	OJACC	OJACC	Licking	OJACC 2016 State Conference Grant	Yes	01/01/2016	12/31/2016	\$1,666.67
Total Number of Licking County Projects:			3	Total Awarded in Licking County:				\$58,486.67

County: **Logan**

2015-JG-A02-6821	Logan County Commissioners Office	Logan County Sheriff's Office	Logan	Patrol Deputies	Yes	01/01/2016	12/31/2016	\$16,666.50
2015-JG-B01-6274	Ohio Crime Prevention Association	Ohio Crime Prevention Association	Logan	Crime Prevention Trainings	Yes	01/01/2016	12/31/2016	\$6,580.98
2015-JG-B01-6880	Ohio Crime Prevention Association	Ohio Crime Prevention Association	Logan	Community Prevention Projects	Yes	01/01/2016	12/31/2016	\$23,566.92
2015-JG-C01-6066	Logan County Commissioners Office	Logan County Sheriff's Office	Logan	Jail Programs	No	01/01/2016	12/31/2016	\$60,000.00
2015-JG-D01-6069	Logan County Commissioners	Logan County Family Court	Logan	Logan County Family Treatment	No	01/01/2016	12/31/2016	\$45,273.23
2015-JG-D01-6619	Logan County Commissioners	Logan County Family Court	Logan	Circles Project	Yes	01/01/2016	12/31/2016	\$9,870.50
Total Number of Logan County Projects:			6	Total Awarded in Logan County:				\$161,958.13

County: **Lorain**

2015-JG-A01-6408	Lorain County Commissioners	Lorain County Sheriff	Lorain	Law Enforcement Task Force Grant	Yes	01/01/2016	12/31/2016	\$61,200.00
2015-JG-A02-6049	City of Amherst	Amherst Police Department	Lorain	Cruiser Camera Project	No	01/01/2016	12/31/2016	\$23,632.00

<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
2015-JG-D01-6950	Lorain County Board of Commissioners	Lorain County Probate Court	Lorain	Lorain County Veterans	Yes	01/01/2016	12/31/2016	\$40,000.00
Total Number of Lorain County Projects:			3					
							Total Awarded in Lorain County:	\$124,832.00

County: **Lucas**

2015-JG-A02-6044	Village of Whitehouse	Whitehouse Police Department	Lucas	Body Worn Video Cameras and In	No	01/01/2016	12/31/2016	\$8,040.00
2015-JG-A02-6051	Waterville Township Police Department	Waterville Township Police Department	Lucas	In Car and Body Worn Cameras	No	01/01/2016	12/31/2016	\$8,090.00
2015-JG-A02-6907	City of Toledo	Toledo Police Department	Lucas	Domestic Violence Unit	Yes	01/01/2016	12/31/2016	\$17,932.99
2015-JG-B01-6728	Family Service of NW Ohio	Family Service of NW Ohio	Lucas	Batterer Intervention	Yes	01/01/2016	12/31/2016	\$19,831.73
2015-JG-B01-6998	Lucas County Commissioners	Lucas County Prosecutor's Office	Lucas	Victims Forum	Yes	01/01/2016	12/31/2016	\$7,298.50
2015-JG-C01-6953	Family Service of Northwest Ohio	Family Service of Northwest Ohio	Lucas	Youth Assessment Center	Yes	01/01/2016	12/31/2016	\$15,000.00
2015-JG-D01-6024	YWCA of Northwest Ohio	YWCA of Northwest Ohio	Lucas	YWCA Empowers Women	Yes	01/01/2016	12/31/2016	\$35,247.64
2015-JG-D01-6872	Family and Child Abuse Prevention Center	Family and Child Abuse Prevention Center	Lucas	Advocacy	Yes	01/01/2016	12/31/2016	\$8,542.09
Total Number of Lucas County Projects:			8					
							Total Awarded in Lucas County:	\$119,982.95

County: **Madison**

2015-JG-D01-6278	A Friend's House	A Friend's House	Madison	Victim Services	Yes	01/01/2016	12/31/2016	\$9,333.00
Total Number of Madison County Projects:			1					
							Total Awarded in Madison County:	\$9,333.00

County: **Mahoning**

2015-JG-A01-6442	Austintown Township	Austintown Police Department	Mahoning	Mahoning Valley Law Enforcement	Yes	01/01/2016	12/31/2016	\$50,000.00
2015-JG-A02-6038	City of Campbell	City of Campbell Police Department	Mahoning	City of Campbell Police Department	No	01/01/2016	12/31/2016	\$25,000.00
2015-JG-A02-6807	Mahoning County Commissioner's Office	Mahoning County Sheriff's Office	Mahoning	MCSO Crimes Against Children	No	01/01/2016	12/31/2016	\$35,000.00
2015-JG-A02-6838	Milton Township	Milton Township Police Department	Mahoning	Information Technology	No	01/01/2016	12/31/2016	\$12,650.00
2015-JG-A02-6965	Austintown Township	Austintown Police Department	Mahoning	Evidence Retention	No	01/01/2016	12/31/2016	\$21,480.00
2015-JG-A02-6970	Austintown Township	Mahoning Valley Crisis Response Team	Mahoning	Crisis Negotiation Training	No	01/01/2016	12/31/2016	\$12,562.50

<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
2015-JG-D01-6927	City of Youngstown	Youngstown Municipal Court	Mahoning	Youngstown Municipal Veterans	Yes	01/01/2016	12/31/2016	\$10,000.00
Total Number of Mahoning County Projects:			7	Total Awarded in Mahoning County:				\$166,692.50

County: **Marion**

2015-JG-B01-6064	Marion City Schools	Marion City Schools	Marion	Marion Mentors	No	01/01/2016	12/31/2016	\$50,000.00
2015-JG-B01-6412	City of Marion	Marion Police Department	Marion	SRO	Yes	01/01/2016	12/31/2016	\$13,333.33
Total Number of Marion County Projects:			2	Total Awarded in Marion County:				\$63,333.33

County: **Medina**

2015-JG-A01-6443	Medina County Commissioners	Medina County Drug Task Force	Medina	Medina County Drug Task Force	Yes	01/01/2016	12/31/2016	\$40,000.00
2015-JG-A02-6001	Medina County Commissioners	Medina County Sheriff's Office	Medina	Body Cameras	Yes	01/01/2016	12/31/2016	\$22,499.00
2015-JG-A02-6042	Medina Township	Medina Township Police	Medina	In Car Cameras	No	01/01/2016	12/31/2016	\$15,871.00
2015-JG-A02-6967	Montville Township	Montville Twp. Police Dept.	Medina	Shared Investigator	Yes	01/01/2016	12/31/2016	\$10,987.98
Total Number of Medina County Projects:			4	Total Awarded in Medina County:				\$89,357.98

County: **Meigs**

2015-JG-A02-6002	Village of Syracuse	Syracuse Police Department	Meigs	Syracuse Police Addition 2016	Yes	01/01/2016	12/31/2016	\$3,698.50
Total Number of Meigs County Projects:			1	Total Awarded in Meigs County:				\$3,698.50

County: **Montgomery**

2015-JG-A01-6803	Montgomery County Board of County Commissioners	Montgomery County Sheriff's Office	Montgomery	R.A.N.G.E. Task Force	Yes	01/01/2016	12/31/2016	\$50,000.00
2015-JG-A02-6265	City of Miamisburg	Miamisburg Police Department	Montgomery	Citizen-Police Initiative	Yes	01/01/2016	12/31/2016	\$47,751.12
2015-JG-D01-6277	Artemis Center	Artemis Center	Montgomery	JAG Victim Advocacy	Yes	01/01/2016	12/31/2016	\$55,999.56
Total Number of Montgomery County Projects:			3	Total Awarded in Montgomery County:				\$153,750.68

County: **Muskingum**

2015-JG-A02-6036	City Of Zanesville	Zanesville PD	Muskingum	MARCS for ZPD	No	01/01/2016	12/31/2016	\$29,475.00
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<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>	
Total Number of Muskingum County Projects:		1				Total Awarded in Muskingum County:		\$29,475.00	
County: Ottawa									
2015-JG-A01-6718	Ottawa County Board Of Commissioners	Ottawa County Sheriff's Office	Ottawa	Ottawa County Regional Task	Yes	01/01/2016	12/31/2016	\$27,186.16	
Total Number of Ottawa County Projects:		1				Total Awarded in Ottawa County:		\$27,186.16	
County: Pickaway									
2015-JG-A02-6056	Village of South Bloomfield	South Bloomfield Police Department	Pickaway	OIBERS MDT Cruiser	No	01/01/2016	12/31/2016	\$9,835.00	
2015-JG-D01-6311	Haven House of Pickaway County Inc.	Haven House of Pickaway County Inc.	Pickaway	Victim Advocacy	Yes	01/01/2016	12/31/2016	\$10,000.27	
Total Number of Pickaway County Projects:		2				Total Awarded in Pickaway County:		\$19,835.27	
County: Pike									
2015-JG-D01-6673	Pike County Partnership Against Domestic Violence	Pike County Partnership Against Domestic Violence	Pike	Appalachian Victim Advocacy	Yes	01/01/2016	12/31/2016	\$36,965.85	
Total Number of Pike County Projects:		1				Total Awarded in Pike County:		\$36,965.85	
County: Portage									
2015-JG-C01-6949	Family & Community Services, Inc.	Family & Community Services, Inc.	Portage	On Track to Recovery	Yes	01/01/2016	12/31/2016	\$21,665.02	
2015-JG-D01-6467	The Children's Advocacy Center of Portage County, Inc.	The Children's Advocacy Center of Portage County, Inc.	Portage	CAC	Yes	01/01/2016	12/31/2016	\$8,333.11	
2015-JG-E01-6963	Northeast Ohio Medical University	Northeast Ohio Medical Univeristy	Portage	Cross-Systems Mapping	Yes	01/01/2016	12/31/2016	\$21,666.50	
Total Number of Portage County Projects:		3				Total Awarded in Portage County:		\$51,664.63	
County: Putnam									
2015-JG-A02-6620	Putnam County Commissioners Office	Putnam County Sheriff's Office	Putnam	DNA	Yes	01/01/2016	12/31/2016	\$20,380.93	
Total Number of Putnam County Projects:		1				Total Awarded in Putnam County:		\$20,380.93	
County: Richland									
2015-JG-A01-6404	City of Mansfield	Mansfield Police Dept	Richland	METRICH Enforcement Unit	Yes	01/01/2016	12/31/2016	\$103,550.00	

<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
2015-JG-B01-6952	Richland County Job and Family Services	Mansfield UMADAOP	Richland	Richland County Youth Mentoring	Yes	01/01/2016	12/31/2016	\$30,000.00
Total Number of Richland County Projects:			2					Total Awarded in Richland County: \$133,550.00

County: **Ross**

2015-JG-A01-6494	Ross County Commissioners	Ross County Sheriff	Ross	U.S. 23 Major Crimes Task Force	Yes	01/01/2016	12/31/2016	\$25,000.00
2015-JG-B01-6062	South Central Ohio Big Brothers Big Sisters Association	South Central Ohio Big Brothers Big Sisters Association	Ross	South Central Ohio Big Brothers Big	No	01/01/2016	12/31/2016	\$23,447.70
Total Number of Ross County Projects:			2					Total Awarded in Ross County: \$48,447.70

County: **Scioto**

2015-JG-A01-6027	City of Portsmouth	Portsmouth Police Department	Scioto	Southern Ohio Drug Task Force	Yes	01/01/2016	12/31/2016	\$25,000.00
2015-JG-A02-6039	Scioto County Commissioners	Scioto County Sheriff's Office	Scioto	MDT Replacement	No	01/01/2016	12/31/2016	\$20,826.00
2015-JG-A02-6819	City of Portsmouth	Portsmouth Police Department	Scioto	Safety and Investigative	No	01/01/2016	12/31/2016	\$10,000.00
Total Number of Scioto County Projects:			3					Total Awarded in Scioto County: \$55,826.00

County: **Stark**

2015-JG-A01-6448	Stark County Commissioners	Stark County Sheriff	Stark	Stark County Metropolitan BWC and MDT	Yes	01/01/2016	12/31/2016	\$45,000.00
2015-JG-A02-6053	Village of Magnolia	Magnolia Police Department	Stark		No	01/01/2016	12/31/2016	\$9,460.00
2015-JG-B01-6454	Stark County Commissioners	Stark County Prosecutor's Office	Stark	Crime Prevention Specialist / CIRV	Yes	01/01/2016	12/31/2016	\$8,333.15
Total Number of Stark County Projects:			3					Total Awarded in Stark County: \$62,793.15

County: **Summit**

2015-JG-A01-6401	County of Summit	Summit County Sheriff's Office	Summit	Drug Unit	Yes	01/01/2016	12/31/2016	\$55,000.00
2015-JG-A02-6005	City of Akron	Akron Police Department	Summit	Increasing Communication and	No	01/01/2016	12/31/2016	\$23,167.50
2015-JG-A02-6941	City of Stow	Stow Police Department	Summit	Body-Worn Cameras	No	01/01/2016	12/31/2016	\$23,100.00
2015-JG-D01-6028	Community Legal Aid Services	Community Legal Aid Services	Summit	Legal Assistance to Victims Program	Yes	01/01/2016	12/31/2016	\$39,576.00
2015-JG-D01-6461	Summit County	Summit County Prosecutor's Office	Summit	Victim Advocacy	Yes	01/01/2016	12/31/2016	\$8,333.32

<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
2015-JG-D01-5464	Victim Assistance Program	Victim Assistance Program	Summit	24 Hour Crime Scene Response	Yes	01/01/2016	12/31/2016	\$28,910.36
2015-JG-D01-6670	Battered Women's Shelter	Battered Women's Shelter	Summit	Specialized Justice Advocate	Yes	01/01/2016	12/31/2016	\$42,355.30
Total Number of Summit County Projects:						7		
						Total Awarded in Summit County:		\$220,442.48

County: **Trumbull**

2015-JG-A01-6446	Trumbull County Commissioners	Trumbull County Sheriff's Office	Trumbull	TAG Task Force	Yes	01/01/2016	12/31/2016	\$66,000.00	
2015-JG-A02-6043	Hubbard Township Board of Trustees	Hubbard Township Police Department	Trumbull	Tasers	No	01/01/2016	12/31/2016	\$4,310.37	
2015-JG-D01-6007	Trumbull County Commissioners	Trumbull County Juvenile Court	Trumbull	Juvenile Drug Court	Yes	01/01/2016	12/31/2016	\$24,961.08	
2015-JG-D01-6070	City of Newton Falls	Newton Falls Treatment Court	Trumbull	Newton Falls Municipal	No	01/01/2016	12/31/2016	\$50,000.00	
Total Number of Trumbull County Projects:			4	Total Awarded in Trumbull County:					\$145,271.45

County: **Tuscarawas**

2015-JG-A01-6802	Tuscarawas County Board of Commissioners	Tuscarawas County Sheriff's Office	Tuscarawas	Drug Task Force	No	01/01/2016	12/31/2016	\$25,000.00
2015-JG-B01-6061	Big Brothers Big Sisters of East Central Ohio	Big Brothers Big Sisters of East Central Ohio	Tuscarawas	One to One Youth Mentoring	No	01/01/2016	12/31/2016	\$23,169.27
Total Number of Tuscarawas County Projects:		2	Total Awarded in Tuscarawas County:					\$43,169.27

County: **Union**

2015-JG-A02-6008	Union County	Union County	Union	Taser Replacement Project	No	01/01/2016	12/31/2016	\$12,867.26
2015-JG-A02-6054	Richwood Police Department	Richwood Police Department	Union	Public Safety Vehicle	No	01/01/2016	12/31/2016	\$25,000.00
Total Number of Union County Projects:		2	Total Awarded in Union County:					\$37,867.26

County: **Vinton**

2015-JG-D01-6302	Shepherd's House	Shepherd's House	Vinton	Shepherd's House Inc.	No	01/01/2016	12/31/2016	\$15,885.00
Total Number of Vinton County Projects:		1					Total Awarded in Vinton County:	\$15,885.00

County: **Warren**

2015-JG-A01-6252	Warren County Commissioners	Greater Warren County Drug Task Force	Warren	Drug Task Force	Yes	01/01/2016	12/31/2016	\$40,000.00
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<u>SubGrant Number</u>	<u>SubGrantee</u>	<u>Implementing Agency</u>	<u>County</u>	<u>Project Title</u>	<u>Renewal</u>	<u>Start Date</u>	<u>End Date</u>	<u>Award Amount</u>
Total Number of Warren County Projects:		1					Total Awarded in Warren County:	\$40,000.00

County: **Wayne**

2015-JG-A01-6445	Wayne County Commissioners	MEDWAY Drug Enforcement Agency	Wayne	Narcotics Task Force	Yes	01/01/2016	12/31/2016	\$45,000.00
2015-JG-A02-6030	City of Wooster	Wooster Police Department	Wayne	Use of Force Simulator	No	01/01/2016	12/31/2016	\$26,943.87
2015-JG-B01-6723	Liberty Center Connections	Liberty Center Connections	Wayne	Safe Dates	Yes	01/01/2016	12/31/2016	\$21,873.07
Total Number of Wayne County Projects:		3					Total Awarded in Wayne County:	\$53,816.94

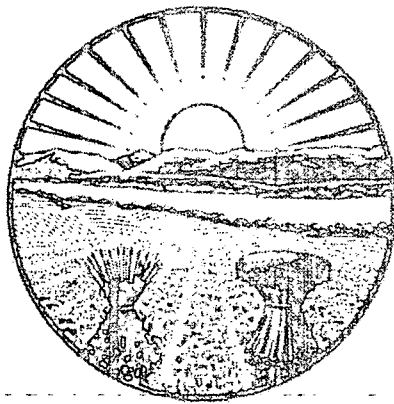
County: **Wood**

2015-JG-A02-6411	Board of County Commissioners	Wood County Sheriffs Office	Wood	Combating Human Trafficking	Yes	01/01/2016	12/31/2016	\$10,468.54
Total Number of Wood County Projects:		1					Total Awarded in Wood County:	\$10,468.54

Total Number of Projects: 186

Grant Total: \$4,418,731.30

153



Adult Registration Requirements

	Classification Level	Registration-Eligible Offenses (includes attempt or conspiracy)	Registration and Verification Requirements	Penalties for Failure to Comply ¹		
Tier	Tier I	A sex offender other than a Tier II or Tier III sex offender.	▪ Must register in person in each jurisdiction where the registrant resides, is employed, and is a student. "Jurisdiction" is defined as a state. ▪ Must supply the following information: name and aliases; social security number; residence address; name and address of employer(s); name and address of place(s) where registrant is a student; license plate number and description of any vehicle owned or operated by registrant; internet identifiers and addresses; telephone numbers; travel and immigration documents; date of birth; current photograph, fingerprints and palm prints; DNA sample; driver's license or state identification card; professional licenses. ▪ Within three (3) business days after a change of name, residence, employment, or student status, must appear in person in one (1) jurisdiction to inform jurisdiction of change. That jurisdiction must then notify other jurisdictions in which the person is required to register. ▪ Must immediately report changes in vehicle information, temporary lodging information, phone numbers, and internet identifiers. The jurisdiction that receives this information must then notify other jurisdictions in which the person is required to register. ▪ Must provide information about any place in which the registrant is staying away from his residence for seven (7) or more days. ▪ The internet registry shall include instructions on how to seek correction of information that an individual contends is erroneous.	Penalty must include a maximum term of imprisonment that is greater than one (1) year.		
Verification Frequency	Every year					
Duration ²	15 years ³					
Community Notification	No ⁴					
Internet Registry	Not required ⁵					
Residency Restriction	No					
Tier	Tier II	An offense punishable by imprisonment for more than one year and: A. Is comparable to or more severe than the following offenses, when committed against a minor: sex trafficking, coercion and enticement, transportation with intent to engage in criminal sexual activity, abusive sexual contact; B. Involves use of a minor in a sexual performance, solicitation of a minor to practice prostitution, production or distribution of child pornography; or C. Occurs after the offender becomes a Tier I sex offender				
Verification Frequency	Every 6 months					
Duration	25 years					
Community Notification	No					
Internet Registry	Yes					
Residency Restriction	No					
Tier	Tier III	An offense punishable by imprisonment for more than one year and: A. Is comparable to or more severe than: aggravated sexual abuse or sexual abuse, abusive sexual contact against a minor under 13; B. Involves kidnapping of a minor, unless committed by parent or guardian; or C. Occurs after the offender becomes a Tier II sex offender				
Verification Frequency	Every 3 months					
Duration	Life					
Community Notification	No					
Internet Registry	Yes					
Residency Restriction	No					

¹ The federal offense of failure to register requires that the registrant "knowingly" fail to register or update a registration as required.

² SORNA does not require the registration period to be tolled if the registrant is subsequently imprisoned.

³ Can be reduced by 5 years, if registrant not convicted of subsequent felony or sex offense; successfully completes supervised release, probation, or parole; and successfully completes appropriate sex offender treatment.

⁴ Only individuals who request personal notification must be notified each time a registrant registers or updates their registration. This applies to all Tiers.

⁵ Only Tier I offenders who committed an eligible offense against a minor must be included on the internet registry.



Juvenile Registration Requirements

	Classification Level	Registration-Eligible Offenses	Registration and Verification Requirements	Penalties for Failure to Comply ¹
Tier	Tier I	No requirement to register juveniles for Tier I offenses.	▪ Must register in person in each jurisdiction where the registrant resides, is employed, and is a student. "Jurisdiction" is defined as a state. ▪ Must supply the following information: name and aliases; social security number; residence address; name and address of employer(s); name and address of place(s) where registrant is a student; license plate number and description of any vehicle owned or operated by registrant; internet identifiers and addresses; telephone numbers; travel and immigration documents; date of birth; current photograph, fingerprints and palm prints; DNA sample; driver's license or state identification card; professional licenses. ▪ Within three (3) business days after a change of name, residence, employment, or student status, must appear in person in one (1) jurisdiction to inform jurisdiction of change. That jurisdiction must then notify other jurisdictions in which the person is required to register. ▪ Must immediately report changes in vehicle information, temporary lodging information, phone numbers, and internet identifiers. The jurisdiction that receives this information must then notify other jurisdictions in which the person is required to register. ▪ Must provide information about any place in which the registrant is staying away from his residence for seven (7) or more days. ▪ The internet registry shall include instructions on how to seek correction of information that an individual contends is erroneous.	Penalty must include a maximum term of imprisonment that is greater than one (1) year.
Tier	Tier II	No requirement to register juveniles for Tier II offenses.		
Tier	Tier III	Committing, attempting, or conspiring offenses that cover: ²		
Frequency	Every 3 months	• Engaging in a sexual act ³ with another by force or threat of serious violence		
Duration⁴	Life ⁵	• Engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim		
Community Notification	No			
Internet Registry	No			
Residency Restriction	No			

¹ The federal offense of failure to register requires that the registrant "knowingly" fail to register or update a registration as required.

² If the juvenile is 14 years of age or older at the time of the offense.

³ "Sexual act" is defined as any degree of genital or anal penetration, and any oral-genital or oral-anal contact.

⁴ SORNA does not require the registration period to be tolled if the registrant is subsequently imprisoned.

⁵ Can be eliminated after 25 years, if registrant not convicted of subsequent felony or sex offense; successfully completes supervised release, probation, or parole; and successfully completes appropriate sex offender treatment.



SORN QUICK REFERENCE GUIDE

(Recent changes are in red font)

SEX OFFENDER REGISTRATION & NOTICE (SORN): Provides local information on sex offenders & child-victim offenders under the Federal Adam Walsh Act (AWA), implemented in Ohio by S.B. 10 (RC Ch. 2950), **effective 1.1.08.**

ADULT OFFENDERS SUBJECT TO SORN: Any person: (1) who is convicted of a sexually orientated offense or child-victim offense; (2) whose offense is in Tier I, Tier II, or Tier III (below); (3) who has a duty to register; & (4) who was convicted in Ohio or convicted elsewhere and moved to Ohio.

- o **Sexual Predator Hearing No Longer Required.** Classification now automatic for adults based on tier of offense.
- o **Sexually Orientated Offenses:** Include violations of comparable offenses in other jurisdictions, under former law, & any attempt, complicity, or conspiracy to commit these offenses (§2950.01(E), (F), & (G)).
 - o **Tier I:** Importuning (§2907.07); Unlawful sexual conduct with a minor, if nonconsensual, offender is < 4 years older than victim, and has no prior 2907.02, 2907.03, 2907.04, or former 2907.12 conviction (§2907.04); Voyeurism (§2907.08); Sexual imposition (§2907.06); Certain gross sexual impositions (§2907.05(A)(1)-(3), (5)); Illegal use of minor in nudity-orientated material or performance (§2907.323 (A)(3)); Child enticement with sexual motivation (§2905.05(B)); Pandering obscenity (§2907.32); Menacing by stalking with sexual motivation (§2903.211(A)(3)); Unlawful restraint with sexual motivation (§2905.03(B)). 2012 HB 262 added promoting prostitution (§2907.22), to list of Tier I offenses.
 - o **Tier II:** Compelling prostitution (§2907.21); Pandering obscenity involving a minor (§2907.321); Pandering sexually orientated material involving a minor (§2907.322); Illegal use of a minor in nudity-orientated material or performance (§2907.323(A)(1) & (2)); Unlawful sexual conduct with a minor when offender is 4 or more years older or is < 4 years older and has prior 2907.02, 2907.03, 2907.04, or former 2907.12 conviction (§2907.04); Gross sexual imposition if victim < 13 (§ 2907.05(A) (4)); Child endangering (§2919.22(B)(5)); Kidnapping with sexual motivation (§2905.01(A)(1)-(3), (5)); Kidnapping if victim > 18 (§2905.01(A)(4)); Abduction with sexual motivation (§2905.02(B)); Any sexual offense occurring after offender is classified in Tier I; Any pre-AWA habitual offender unless reclassified after §2950.031 or §2950.032 hearing. 2014 HB 130 added soliciting; after positive HIV test; driver's license suspension

- ((§2907.24(A)(3)) to list of Tier II offenses, and rewrote §2950.01(F)(1)(g) as “A violation of §2905.32 of the Revised Code that is described in division (A)(11)(a), (b), or (c) of this section,” effectively modifying the inclusion of trafficking in persons (§2905.32) to comport with changes to the offense.
- **Tier III:** Rape (§2907.02); Sexual battery (§2907.03); Agg. murder or murder with sexual motivation (§2903.01 & §2903.02); Unlawful death or termination of pregnancy as result of committing or attempting a felony with sexual motivation (§2903.04(A)); Kidnapping of minor for sexual activity (§2905.01(A)(4)); Kidnapping of minor by non-parent (§2905.01(B)); Gross sexual imposition with direct touching of genitalia of victim < 12 (§2907.05(B)); Felonious assault with sexual motivation (§2903.11); Any pre-AWA predator unless reclassified after §2950.031 or §2950.032 hearing; Any sexual offense occurring after offender is classified as Tier II or III; Anyone convicted of a Sexually Violent Predator Specification (§2971.03). 2012 SB 160 added sexually motivated voluntary manslaughter ((§2903.03(B)) to list of Tier III offenses.
 - **Child Victim Oriented (CVO) Offenses:** Include violations of comparable offenses in other jurisdictions, under former law, & any attempt, complicity, or conspiracy to commit these offenses (§2950.01(C), (E), (F), & (G)).
 - **Tier I:** Any of these offenses committed without sexual motivation: Kidnapping (§2905.01(A)(1), (2), (3) or (5)); Abduction (§2905.02(A)); Unlawful restraint (§2905.03(A)); Child enticement (§2905.05(A)).
 - **Tier II:** Any CVO offense occurring after offender is classified in CVO Tier I; Any pre-AWA Habitual CVO offender unless reclassified after §2950.031 or §2950.032 hearing.
 - **Tier III:** Any CVO offense occurring after offender is classified in CVO Tier II or III; Any pre-AWA CVO predator, unless reclassified after §2950.031 or §2950.032 hearing.

JUVENILE OFFENDERS SUBJECT TO SORN: The following may apply to juvenile offenders 14 or older at the time of the offense and not classified as serious youthful offenders:

- If child was 14 or 15 at the time of the offense, the child is classified as JOR at judge’s discretion unless the child had a prior sex offense or child-victim offense adjudication in which the child must be classified as JOR (§2152.82 (A) & §2152.83(A))
- If child was 16 or 17 at the time of the offense, the child is classified as a JOR (§2152.83(A))
- Victim & community notification requirement is given at judge’s discretion (§2152.82(B))

Serious youthful offenders & Public Registry Qualified Juvenile Offender Registrant (PRQJOR):

- A child who is 14 or older and adjudicated a delinquent of rape, sexual battery, gross sexual impositions, or aggravated murder or kidnapping with sexual motivation

OFFENDER'S DUTY TO REGISTER: The court at sentencing, the juvenile court at specified times, and DRC before a release, must apprise sexually oriented & CVO offenders of these duties (§2950.03(A)):

- o **When & Where:** Offenders must personally register at the sheriff's office (§§2950.04, 2950.041, & 2950.07):
 - o Immediately after sentencing or disposition;
 - o Within 3 days of entering a county, if the offender intends to stay more than 3 days;
 - o Immediately upon arriving in a county to attend school;
 - o If employed for more than 3 days or for at least 14 days in a calendar year;
 - o If in Tier III, the offender also must send a letter of intent to reside in a county at least 20 days before establishing residency there (§2950.03(G)).
- o **How:** Submit a recent photograph and a completed form that contains name(s), birth date, SSN, & other info based on the offender's status, including notice of incarceration or current address; employer's or school's name & address; license plate number of each vehicle owned or driven for employer; drivers' license info; occupational license(s) held; email identities & addresses; a declaration if they are a Tier III offender or Public Registration Qualified Juvenile Offender Registrant (PRQJOR), *etc.* (§2950.13(B) & (C)).
- o **Duration:** Offenders must **verify** their addresses with the sheriff as follows (§2950.06 & §2950.07(B)):

Adults: Tier I Offenders: Annually for 15 years; Tier II Offenders: Every 180 days for 25 years; Tier III Offenders: Every 90 days for life.	Juveniles: Tier I Offenders: Annually for 10 years; Tier II Offenders: Every 180 days for 20 years; Tier III Offenders: Every 90 days for Life.
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- o **Changes:** Offenders have an ongoing duty to promptly send written notice to the sheriff of any change in home, school, & work address, vehicle info, email address, & phone number (§2950.05).

FAILURE TO REGISTER OR VERIFY: If the most serious underlying offense by an **adult** is (§2950.99(A)(1)(a)):

- o Aggravated murder or murder, failure is an F-1;
- o An F-1, F-2, F-3, or F-4, failure is a felony of the same degree;
- o An F-5 or a misdemeanor, failure is an F-4;
- o If the offender has a prior conviction or adjudication for failing to register or verify, if the most serious offense is:

- Aggravated murder or murder, failure is an F-1, with a mandatory prison term of at least 3 years;
- An F-1, F-2, or F-3, failure is a felony of the same degree, with a mandatory prison term of at least 3 yrs.;
- An F-4 or F-5, failure is an F-3, with a mandatory prison term of at least 3 years;
- A misdemeanor, failure is an F-4;
- The offense can be punished as a violation of community control, post-release control, or parole.
- 2011 HB 86 substituted “subject to divisions (C) to (I) of section 2967.19 of the Revised Code” for “is not restricted by division (B) of section 2929.14 of the Revised Code” in Section (A)(2)(b), effectively prohibiting any prison term to be reduced to less than three years if the offender was previously convicted of certain sexually oriented offenses.

If a **juvenile** fails to register or verify, the offender is subject to a delinquency charge based on the offense.

- Parents of offenders who are < 18 may be prosecuted if their child fails to comply (§2950.03(B)(1)(c)(ii)).

PRE-2008 OFFENDERS: In 2007, the Ohio AG had to notify adults & juveniles covered by prior law of new tier status.

- **Challenges:** Offenders had to challenge their new tier classification in common pleas or juvenile court within 60 days of receiving the notice (§2950.031(E) & §2950.032(E)).
- **Retroactivity:** Offenders covered by pre-2008 SORN Law must comply with the new law, even if their former registration periods were shorter (§§2950.03(H), §2950.033, & 2950.06(B)(4)), unless successfully challenged.

RESIDENCY RESTRICTIONS: Adult offenders required to register under SORN Law are prohibited from residing within 1,000 feet of any school premises, child daycare center, or pre-school (§2950.034).

- In addition to homes, condominiums, & apartments, residency includes nursing homes, adult care facilities, residential group homes, homeless shelters, hotels, motels, boarding houses, & facilities run by housing agencies.
- Municipalities & townships around the state have enacted further ordinances restricting how close sex offenders may reside in relation to places where children congregate.

SHERIFF'S DUTIES: The sheriff must:

- Forward offender SORN registration information & updates to BCI&I (§§2950.04(D), 2950.05(E), & 2950.06(E));
- Notify the offender's school or jobsite (and the law enforcement agency with jurisdiction there) of the offender's registration (§2950.04(D) & §2950.06(E));

- If a registrant fails to verify, sheriff must send a warning the next day that give's the person 7 days to verify or face arrest and prosecution (§2950.06(G));
- Include a chart of the new tiers on a website (§2950.081(C)).

PUBLIC RECORDS: Registration materials are public records open to inspection and inclusion on the AG's Bureau of Criminal Identification & Investigation's (BCI&I) eSORN registry database, below (§2950.081(A)).

SORN REGISTRY & INTERNET DATABASE: BCI&I must:

- **For Law Enforcement:** Maintain a state **registry of sexual & child victim offenders**, and a related database for use by law enforcement (§2950.08(A)), that includes (§2950.13(A)(1) & (13)): Registry info forwarded by sheriffs, including offenders name* & address*; School & work address* & name; Release info from DRC & DYS; SORN modification orders; Whether a criminal or juvenile SYO conviction; Citation for offender's crime with statutory text*; & Offender's tier*, community supervision status*, criminal history, BCI&I tracking number; finger & palm prints*, DNA*, outstanding warrants*, & SORN compliance status*. (* = info available to public)
- **For the Public:** Pre-school & day-care administrators
- President & chief law enforcement officer of any state university within the county
- All county sheriffs & chief of local law enforcement agencies in the county
 - **Notification to Victims:**
Victims of Tier III offenders, PRQJORS, & Tier III juvenile offender registrants who were subject to this provision previously, are entitled to know where the person that offended against them is living, working, or attending school.
- **AG'S RULES:** If the U.S. AG finds that Ohio isn't in substantial compliance with the AWA, S.B. 10 authorizes Ohio's AG to make rules to bring Ohio into compliance (§2950.132). Maintain a public **internet database website** on offenders who register with sheriffs—searchable by offender, county, zip code, & school district, with a link to the sheriff's office—that includes (§2950.04(D) & §2950.13(A)(11)): List of registered offenders; Registry items marked by * above; Address of offender's school & job; Offender's photograph & license plate number; Chart of the new tiers;
 - **Exclusions** from the public website: Material provided by a juvenile who is not public registry qualified (§2950.081(B)); Victim's identity; Offender's SSN, driver's license number, or law enforcement tracking number; Name of offender's school or workplace (§2950.13(A)(11)).

DRC & DYS DUTIES:

- Before releasing a covered offender, DRC must provide similar info to BCI&I and the relevant sheriff (§2950.14).
- Each department's parole authority must verify registration within 3 days of an offender's release from an institution (§2950.042).

COMMUNITY & VICTIM NOTIFICATION:

- **Tier I & II Offenders:** Community & victim notification not applicable.
- **Tier III Offenders:**
 - **Community Notification** if not waived by the Court: Within 5 days the sheriff must notify certain community groups upon learning a Tier III adult or juvenile offender who is subject to the community notification requirement, is registered. These groups include, but are not limited to (§2950.11(F)(2)):
 - Residence or property owners living within 1,000 feet of the offender
 - Executive director of the county public children services agency
 - Superintendent of each board of education of a school district
 - Principal & superintendent of school that a delinquent offender attends
 - Hiring officer of each chartered nonpublic school in the county, or that a delinquent offender attends



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Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?

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Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?

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Abstract

Sex offenders have become targets of some of the most far-reaching and novel crime legislation in the United States. Two key innovations have been registration and notification laws, which, respectively, require that offenders provide identifying information to law enforcement and mandate that this information be made fully public. We study how registration and notification affect the frequency and incidence across victims of reported sex offenses. We present evidence that registration reduces the frequency of reported sex offenses against local victims (for example, neighbors) by keeping police informed about local sex offenders. Notification also appears to reduce crime, not by disrupting the criminal conduct of convicted sex offenders, but by deterring nonregistered offenders. We find that notification may actually increase recidivism. This latter finding, consistent with the idea that notification imposes severe costs that offset the benefits to offenders of forgoing criminal activity, is significant, given that notification's purpose is recidivism reduction.

1. Introduction

Criminal recidivism poses a serious risk to public safety. As many as two-thirds of released inmates return to prison within a few years (Langan and Levin 2002), and data from the National Corrections Reporting Program show that approx-

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imately 40 percent of all criminals sent to U.S. prisons over the last 20 years were already convicted felons. Recently, victims' advocates and others have argued that persons convicted of sex offenses are highly likely to reoffend by committing another sex crime (Langan, Schmitt, and Durose 2003; Vásquez, Maddan, and Walker 2008). Although criminal behavior typically declines steeply with age after an individual's early 20s, the decline for sex offenses may be more gradual (Hanson 2002). Partly for these reasons, and because of certain high-profile crimes that occurred in the late 1980s and early 1990s, sex offenders have become the focus of considerable legislation and public spending aimed at reducing their recidivism.

In the 1990s, two types of laws targeting sex offender behavior proliferated across the United States. A federal mandate in 1994 (the Jacob Wetterling Act, named after the victim of a crime in Minnesota) directed states to create registries containing information about convicted sex offenders for use by law enforcement. In 1996, another federal law (Megan's Law, named after Megan Kanka, a victim in New Jersey) began to require that states provide public notification of the identities and addresses of sex offenders to local residents or other at-risk groups. The basic motivations for registration and notification, respectively, were to aid law enforcement in supervising and apprehending sex offenders who might recidivate and to help local households protect themselves by monitoring and avoiding offenders in their neighborhoods.

Despite their now widespread use, it is unclear whether sex offender registration and notification laws have reduced criminal behavior by sex offenders or whether these laws have advanced any other criminal justice goals (such as increasing the probability of an arrest, conditional on the report of a sex offense). It is also unknown whether sex offenders respond to these laws in possibly unexpected or adverse ways—for example, by selecting different rather than fewer victims. The answers to these questions are important not only for evaluating the costs and benefits of registration and notification laws but also for understanding how an important group of known criminals responds to changes in legal sanctions.¹

The first studies that sought to measure the impact of registration and notification laws compared the recidivism rates of offenders released just before and after registration and notification laws became effective in Iowa and Wash-

ference, the 2008 Conference on Empirical Legal Studies, and the National Bureau of Economic Research Working Group on the Economics of Crime. Reid Aronson, Erik Johnson, Rembrand Koning, Nicholas Lee, Elias Walsh, Oliver Welch, and Julia Zhou provided excellent research assistance. Prescott gratefully acknowledges the John M. Olin Center for Law and Economics at the University of Michigan Law School for supporting this project. Rockoff thanks the Paul Milstein Center for Real Estate at Columbia Business School for research support.

¹ Empirical work provides some support for the claim that criminals in general react to changes in expected punishment (Levitt 1998; Kessler and Levitt 1999; Nagin 1998). However, it is unclear whether this is true for all types of individuals (see McCrary and Lee [2005] for information on juvenile offenders), and whether these results extend to sex offenders in particular is unknown (Bachman, Paternoster, and Ward 1992).

ington (Schram and Milloy 1995; Adkins, Huff, and Stageberg 2000). Although neither study found a statistically significant difference in the frequency of subsequent arrests for sex offenses between these two groups, both studies relied on small samples of offenders. More recent studies examine the relationship between the timing of legislation and changes in the annual frequency of sex offenses across states, using data from the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting (UCR) Program (Shao and Li 2006; Agan 2007; Vásquez, Maddan, and Walker 2008). Taken together, these studies find little evidence that such laws have had any meaningful influence on the overall number of sex offenses.²

Although we also use the timing of changes in state laws to study the impact of sex offender registration and notification on criminal behavior, we are able to offer new evidence regarding a number of different questions because our analysis differs significantly from previous research in both the data we use and the methodology we employ. First, we conducted extensive research into the sex offender legislation of various states and found that prior studies had used incorrect legal dates or had mischaracterized many of these laws. Understanding the timing and scope of this body of law is not easy, in part because sex offender laws have evolved over time as a result of legislative amendments and judicial decisions.³ We also take advantage of information on the exact dates when laws became effective by using monthly data and allowing for variation in crime frequency within years, in contrast to earlier work using annual data.

Second, unlike existing research, our analysis distinguishes between sex offender registration laws and sex offender notification laws. Notification laws mandate the dissemination of information about sex offenders (for example, criminal history, physical description, and home address) to the public. Registration laws, by contrast, require that sex offenders provide these specifics to some division of government (such as the local police), but the information is otherwise kept confidential. While registration requirements are intended solely to aid law enforcement in monitoring offenders and apprehending known recidivists, notification laws aim to reduce crime through greater public awareness of nearby offenders, which facilitates offender avoidance, public monitoring, and public identification of a suspect in the event that a convicted sex offender commits a new crime (Prentky 1996; Pawson 2002; Levenson and D'Amora 2007). We also differentiate among the various features of notification laws,

² Only Shao and Li (2006) report any evidence that offender registration laws caused a statistically significant reduction in sex offenses. However, their findings are sensitive to empirical specification, and they group registration and notification laws together as a single treatment. Agan (2007) offers some evidence that posting sex offender information on the Internet reduces the number of arrests for sex offenses, but her results are similarly sensitive and are open to alternative interpretations.

³ We describe the history of sex offender registration and notification laws in Section 2 and provide basic information about these enactments in Tables A1 and A2.

including public access to a paper registry, public access to a searchable Internet site, or active community notification.⁴

Third, we use variation in the number of offenders who are actually registered with authorities to identify different ways that registration and notification laws might influence criminal behavior. For instance, notification laws were designed to reduce recidivism by making people aware of nearby sex offenders, but notification may also reduce crime by enhancing the punishment for first-time or nonregistered sex offenders, whose crimes and personal information will be made public if they are caught and convicted. To distinguish these possibilities, we exploit the fact that although a notification law should have little effect on recidivism when a registry is empty, any effect on the behavior of nonregistered individuals should be invariant to registry size.

Finally, we examine the impact of these laws on the offender-victim relationship mix in addition to the effect, if any, on the overall frequency of reported sex offenses. Neither registration nor notification was intended to vary the incidence of sex offenses across different types of victims, but some observers suspect that notification laws might simply displace crime by changing the population of victims that sex offenders target (see Prentky 1996; Filler 2001). We also study changes in the probabilities that an arrest is made when a sex offense is reported and that the offense is not prosecuted, despite arrest, because the victim refuses to cooperate or the prosecution declines to pursue the case.

We find evidence that actual registration of released sex offenders is associated with a significant decrease in crime. This result is in line with predictions from a simple model of criminal behavior in which providing information on offenders to local authorities increases monitoring and therefore the likelihood of punishment for recidivism. Moreover, the decrease in the overall frequency of reported sex offenses associated with registration is primarily due to reductions in attacks against local victims who are known to an offender (namely, friends, acquaintances and neighbors). The frequency of sex offenses committed by strangers appears to be unaffected by registration, indicating little substitution by sex offenders from local to more distant victims.

We also find that the implementation of a notification law, regardless of the number of registered offenders, is associated with a reduction in the frequency of sex offenses. One potential explanation for this effect, also consistent with our model, is that notification deters potential (nonregistered) offenders by increasing the punishment for committing a sex crime. Importantly, we detect no evidence that notification laws (as opposed to registration laws) curtail crime by reducing recidivism among convicted sex offenders; the estimated effect of notification is actually weaker when a state applies the law to a large number

⁴ Shao and Li (2006) do not differentiate between notification and registration laws. Vásquez, Maddan, and Walker (2008) explicitly state that they examine both registration and notification laws but do not distinguish between the two in their empirical work. Agan (2007), on the other hand, recognizes the distinction with respect to availability of registry information on the Internet but nevertheless does not include or consider other kinds of notification.

of offenders. This finding is potentially consistent with a number of explanations. However, as we argue below, the evidence on balance supports the existence of a relative utility effect in which convicted sex offenders become more likely to commit crimes when their information is made public because the associated psychological, social, or financial costs make crime-free life relatively less attractive.

The rest of the paper proceeds as follows. In Section 2, we summarize the variation in the timing and scope of state registration and notification laws. Section 3 illustrates the potential effects of registration and notification using a simple model of criminal behavior and explains our basic empirical methodology. Section 4 describes our data. We present our results in Section 5 and robustness checks in Section 6. We conclude in Section 7.

2. The Evolution of Sex Offender Registration and Notification Laws

To characterize sex offender registration and notification laws properly for our empirical work, we painstakingly researched the evolution of these laws in states covered in the 1990s by National Incident-Based Reporting System (NIBRS) data, which we use in our analysis.⁵ We divide the legal changes that we study into four categories: registration, public access to a paper registry, Internet registry availability, and active community notification.

Registration requires that sex offenders provide authorities with identifying information upon release from custody or probation. Until notification laws were enacted, this information was treated as confidential. Police increase surveillance of registered offenders and can more easily locate, investigate, and apprehend them when necessary. The remaining three categories of laws—public access to a paper registry, Internet registry availability, and active community notification—are designed to make information about offenders available to the public rather than to assist the police directly. The public can, in theory, reduce sex offender recidivism by avoiding convicted offenders and reporting suspicious behavior.

Since the late 1980s and early 1990s, states have typically progressed from using basic registration laws to relying on more restrictive and varied forms of public access and from restrictive public access to publication of sex offender

⁵ See the Appendix. Determining accurate effective dates proved difficult. When we compare our dates to those used by Shao and Li (2006), Agan (2007), and Vásquez, Maddan, and Walker (2008), we find a low rate of agreement. Among the 50 states and the District of Columbia, there are only 12 instances (14 instances) in which all studies agree on the exact date (calendar year) that registration became effective. For example, Utah's first generally applicable sex offender registry became effective May 10, 1983. Shao and Li (2006) use May 19, 1987, a date that we cannot locate in legislative history but that is close to the April 27 effective date of a 1987 law that recodified and amended the registration law. Agan (2007) uses July 1, 1984, which likely refers to a 1984 law that also amended the original 1983 enactment, but the effective date for that law was February 16, 1984. Vásquez, Maddan, and Walker (2008) use 1996, when Utah passed a notification law granting public access to registry information.

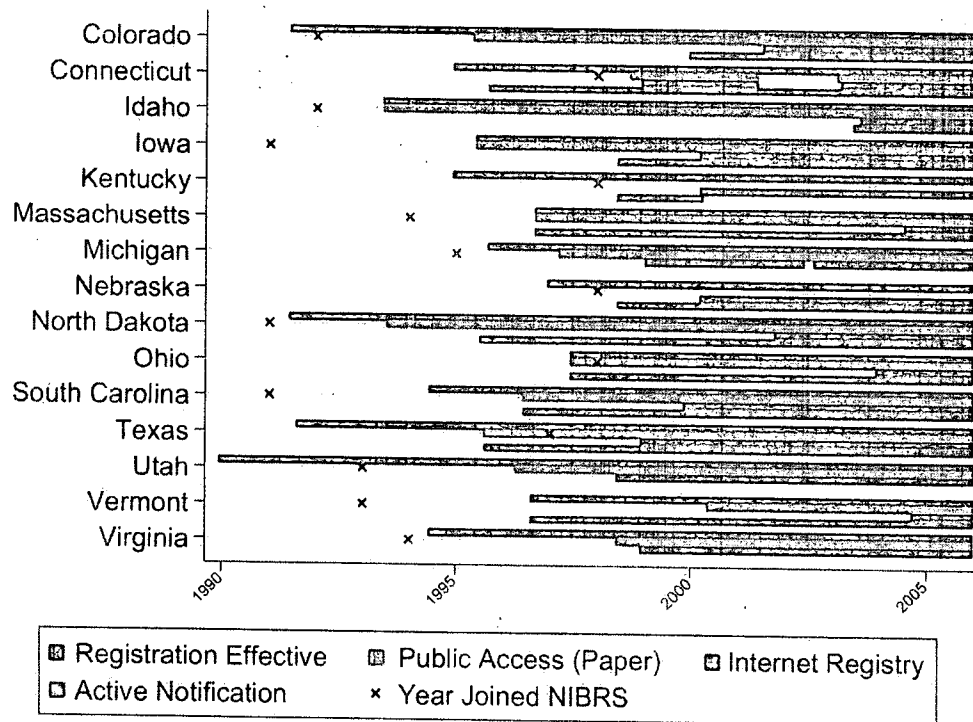


Figure 1. Effective dates of registration and notification laws in 15 early National Incident-Based Reporting System (NIBRS) states.

registration information on the Internet.⁶ Many states also implemented active community notification regimes, such as announcing the release or arrival of sex offenders in local newspapers.⁷ At each new stage, states also determined whether to make their laws or the changes to their laws retroactive in their application. Retroactivity provisions specify which offenders are subject to these laws in terms of the timing of an offender's conviction or release from custody.⁸ We use all of this cross-state variation—in exact timing, scope, retroactivity, and registry size—to identify the causal effects of registration and notification laws.

Figure 1 shows the effective dates of registration laws, laws allowing public

⁶ Sex offender Web registries typically allow the public to search for offenders using an individual's name or alias or to search for all offenders living near a specific address.

⁷ Other examples of active community notification include personal visits made by police officers or letters sent to former victims or other persons considered to be at risk, as well as opt-in provisions, which allow citizens to request notification if a certain sex offender or one satisfying certain conditions is released or moves.

⁸ For example, the registration law in Massachusetts, effective October 1996, required anyone convicted of a qualifying sex offense on or after August 1, 1981, to register. As a result, nearly 8,000 offenders were registered when the registry became effective (*Boston Globe* 1996). Other states made their laws prospective. For instance, Michigan's registration law, effective October 1, 1995, required registration of individuals convicted or released on or after that date. As a result, when the law became effective, Michigan's registry was empty.

access to a paper registry, and laws requiring active community notification, as well as the dates on which substantially complete Internet registries became publicly accessible for our NIBRS states (see also Tables A1 and A2) and the year in which agencies from each state began reporting to NIBRS. Although sex offender laws have evolved in a similar fashion from state to state, Figure 1 demonstrates that the timing and content of these laws vary considerably. For example, Iowa began registration and (limited) public access simultaneously in 1995 but did not have any form of active notification until 1998 or an Internet site until 2000. Texas, by contrast, began registration in 1991, instituted public access and active notification in 1995, and launched an Internet site in 1999.

Endogeneity in the timing of the adoption of these laws is unlikely to be a problem for several reasons. First, unlike with most criminal laws, where rising crime rates might lead to increases in penalties or police spending, many state sex offender laws were passed quickly in response to one or two well-publicized and usually gruesome incidents. Indeed, many sex offender enactments are named after the victim who sparked the legislative effort, and sex offense rates (like rates of other crimes) actually declined in the 1990s, the period during which most of these laws were passed. Second, federal mandates passed in 1994 and 1996 (motivated in part by specific crimes against individual children in Minnesota and New Jersey) required states to institute registration and notification regimes. These federal laws left states with discretion as to substance and timing but had minimum requirements and imposed deadlines. Finally, the timing of the state laws was also partly dictated by preexisting legislative schedules that were unrelated to offense trends (for example, the North Dakota and Texas legislatures meet regularly only once every 2 years).⁹

3. Conceptual Model and Empirical Framework

To generate testable hypotheses and to aid in the interpretation of our empirical results, we consider a simple model of criminal behavior. Criminal offenses committed by individual i against victim j are governed by a victim-specific probability of punishment (p_{ij}) and targeting costs (c_{ij}), a level of punishment if convicted (f_i), and utility from committing crime relative to engaging in legal behavior (u_i) that is invariant across victims.¹⁰ Victim specifics are important in

⁹ Whether a sex offender law is made retroactive is also unlikely to be endogenous to crime rates. Criminal laws with retroactive features can violate the U.S. Constitution or its state counterparts. The decision whether to make a law retroactive in any particular state turns in significant part on governing judicial opinions in that state.

¹⁰ This model is adapted from the structure of Becker (1968). The utility term is an analogue to Becker's (1968, p. 177) concept of the individual's "willingness to commit an illegal act." The assumption that the relative utility of criminal behavior is invariant across victims may not be true in a strict sense (a particular offender, for example, may prefer targeting a stranger to a neighbor, conditional on actual costs), but any variation can be reinterpreted as a difference in victim-specific targeting costs. In any event, because we focus on the changes in these terms caused by registration and notification laws, the assumption is not critical to motivating or interpreting our empirical work.

this model because the sex offender laws that we consider were intended to make it difficult for offenders to victimize people in their vicinity—neighbors, acquaintances, and the like. By assumption, the number of offenses is increasing in the relative utility of crime commission (u_i) (or decreasing in the relative attractiveness of choosing legal behavior) and decreasing in the costs of targeting a victim (c_{ij}), punishment probability (p_{ij}), and punishment severity (f_i):

$$O_{ij} = O_{ij}(c_{ij}, p_{ij}, f_i, u_i). \quad (1)$$

Registration and notification laws are likely to influence the number of offenses through several specific channels. Registration may enhance the ability of police to monitor and apprehend registered sex offenders, increasing the probability of punishment (p_{ij}) for registrants—in particular, when registered offenders target neighbors because local police will be more likely to connect victims to known offenders. Registration may also affect forward-looking, nonregistered individuals because punishment (f_i) now includes a higher future probability of detection.¹¹ However, as long as registry information remains confidential, registration alone should not alter the costs of targeting victims (c_{ij}) or the utility of committing a crime (u_i).

Notification—via physical access to registry information, an Internet registry, or active notification—may also affect criminal behavior. With a notification law in place, punishment for sex offenses includes the public airing of a sex offender's personal information and criminal history. This publicity can lead to negative consequences for sex offenders, including loss of employment, housing, or social ties; harassment; and psychological costs such as increased stress, loneliness, and depression (see Zevitz and Farkas 2000a; Tewksbury 2005; Levenson and Cotter 2005). Consequently, for nonregistered sex offenders, the passage of a notification law increases punishment severity (f_i) because any subsequent sex offense conviction would newly subject such offenders to this sort of notoriety.¹²

By contrast, registered sex offenders living under notification regimes, whatever their behavior, already suffer from these kinds of publicity costs. Although committing another offense may prolong an offender's registration term by adding time in the distant future—the federal minimum registration period is 10 years—many states have lifetime registration for violent sex offenders, and some states have lifetime registration for virtually all sex offenses. Moreover, the consequences of notification (for example, difficulty of finding employment) may cause registered sex offenders to commit more crimes than they would have otherwise (Freeman-Longo 1996; Prentky 1996; Winick 1998; Presser and Gun-

¹¹ Implementing a registry might also decrease the probability of punishment (p_{ij}) for first-time offenders if the police shift resources toward monitoring registrants and away from detection of new crimes. Unfortunately, we cannot determine whether this occurs.

¹² We use the terms "nonregistered" and "potential" offenders to refer to individuals who have never committed a sex offense, individuals who have committed sex offenses but who have never been convicted, and individuals who were previously convicted of sex offenses but who, for some reason, are not required to register (for example, offenders released before the passage of a nonretroactive registration law).

nison 1999; Edwards and Hensley 2001). In the context of our model, punishment (f_i) would remain constant (or increase slightly) for registered sex offenders, while the relative utility of criminal behavior (u_i) would increase because law-abiding behavior would typically involve more harassment, stress, loneliness, and unemployment.¹³

In addition, by allowing local residents, friends, and acquaintances to identify and avoid registered sex offenders, notification may increase the costs for these offenders of targeting this particular subset of potential victims (c_{ij}). Indeed, a major motivation for the passage of the federal Megan's Law was the belief that Megan Kanka would have avoided her fate had her parents been notified of her eventual attacker's presence in the neighborhood. However, it is unclear whether an increase in the costs of targeting a subset of potential victims reduces the overall number of sex offenses. Notification may instead "accomplish nothing more than changing the neighborhood in which the offender looks for victims" (Prentky 1996, p. 295), simply displacing crime rather than reducing it.¹⁴

Although we lack information on whether any particular crime in our data was committed by a registered sex offender, we can use the ideas described above to identify and distinguish the different effects of registration and notification regimes on the criminal behavior of both registered and nonregistered offenders by using variation in the number of individuals on state sex offender registries. Specifically, any effect of registration on the overall frequency of crime due to an increase in the probability of punishment should be small when relatively few offenders are registered and should grow in magnitude with the size of the registry. The potential impact of registration on the punishment level (f_i) for forward-looking, nonregistered individuals, however, would not depend (or would depend very little) on the size of the registry. Likewise, notification may increase the level of punishment (f_i) facing nonregistered sex offenders, reducing aggregate crime irrespective of the size of the sex offender registry.¹⁵ Notification may also have several offsetting effects on the behavior of registered sex offenders by increasing the costs of targeting local victims (c_{ij}), increasing the probability of punishment for local crimes (p_{ij}), slightly increasing the level of punishment

¹³ Although we conceive of these burdens on offenders as increasing the relative utility of criminal behavior, one could also think of them as reducing punishment levels because they make life in prison seem relatively more attractive. Either interpretation of a higher u_i leads to an increase in the number of offenses committed by a registrant in our model.

¹⁴ In addition to increasing the costs of targeting local victims, notification may increase vigilance and the monitoring of a registered sex offender's actions in his neighborhood. This community-policing effect (Lieb 1996) could increase the likelihood of apprehension if an offender attacks a local victim. Again, if the likelihood of punishment increases only for crimes against local victims, offenders may simply offend in other neighborhoods. Crime displacement has been an important consideration in other empirical research on the response of criminals to changes in their environments (Jacob, Lefgren, and Moretti 2004; Di Tella and Schargrodsky 2004; Iyengar 2007).

¹⁵ This response may in turn affect the distribution of offender-victim relationships if an offender's probability of punishment is correlated with his relationships to victims. For example, the reporting rate to police and, hence, the probability of punishment may be lower for sex crimes committed against children by members of their family (Filler 2001).

(f_i), and increasing the relative utility of crime commission (u_i). The overall tally of these effects for the level of crime is indeterminate, but, again, any net impact is likely to grow in magnitude with registry size.

To conduct this analysis, we estimate the following reduced-form equation:

$$\begin{aligned} \text{Crime}_{jt} = & \alpha_j + \gamma_t + \lambda X_{jt} \\ & + \sum_s D_{jt}^s [\beta_0 \mathbf{Rg}_t^s + \beta_1 \mathbf{Nt}_t^s + (\beta_2 \mathbf{Rg}_t^s + \beta_3 \mathbf{Nt}_t^s) \times \text{RgSize}_{jt}] + \varepsilon_{jt}. \end{aligned} \quad (2)$$

Crime_{jt} is a measure of crime frequency (for example, offenses per 10,000 people) for reporting area j in time period t . A reporting area fixed effect (α_j) captures any persistent heterogeneity in crime across areas, and a time effect (γ_t) accounts for secular changes in crime over time. We control for time-varying reporting area characteristics (X_{jt}) that are likely to influence crime levels. Vectors $\mathbf{Rg}_t^s$ and $\mathbf{Nt}_t^s$ indicate whether state s had a sex offender registry or a notification law in place during time period t , and RgSize_{jt} is a measure of registry size in area j in time period t . The indicator D_{jt}^s denotes that reporting area j is located in state s .

The coefficient β_0 represents the deterrence effect of a registration law on the criminal behavior of nonregistered offenders and should be negative if the requirement to register that follows a first sex offense conviction makes punishment for subsequent crimes more likely.¹⁶ A stronger prediction of our model, however, is that β_2 should be negative. Registration reduces crime by increasing the probability that each registered sex offender is punished if he commits another crime and therefore should reduce crime by more when there are more registered sex offenders—that is, when the registry is large.¹⁷

The coefficient β_1 captures the effect of notification on nonregistered sex offender behavior and should also be negative, reflecting the significant threat that the consequences of notification pose to the well-being of nonregistered

¹⁶ Registration laws in Massachusetts and South Carolina retroactively affected large numbers of released offenders, and Texas and Utah joined the National Incident-Based Reporting System (NIBRS) well after their registries had begun. As a consequence, the identification of β_0 —the effect on crime frequency of a registry with no registrants—relies on less in-sample variation than the number of states in our sample suggests.

¹⁷ In theory, registry size could influence the behavior of nonregistered offenders if they respond either to contemporaneous registry size or the expected size of the registry in the future. In that case, β_2 and β_3 would embody mixes of deterrence and recidivism reduction. Potential offenders might believe that resources devoted to tracking offenders would outpace or, instead, lag behind the growth in registry size; that a large registry would overwhelm the public with information or, alternatively, make the public more aware; or that growth in the number of registrants would reduce the stigma against sex offenders or just make it worse. We know of no evidence that potential offenders consider or are even aware of registry sizes in determining their behavior, and to us it seems improbable that more than a few of them have any such knowledge or take into account such information. Still, although we interpret β_2 and β_3 as recidivism effects, some small portion of the effects that we identify may be attributable to nonregistered offender behavior.

individuals.¹⁸ By contrast, there is no clear prediction for the sign of β_3 , given the potentially offsetting effects notification may have on the behavior of those individuals who are already subject to its requirements. Finding that β_3 is negative would signify that notification reduces the availability of victims and would bolster claims made by the proponents of these laws that they protect the public from sex offender recidivism. However, if offenders shift to other victims or commit more crimes because public disgrace has made criminal activity relatively more attractive than law-abiding behavior, our estimate of β_3 could be close to zero or even positive.¹⁹

We can also use equation (2) to examine the impact of registration and notification on the distribution of relationships between sex offenders and their victims (for example, friend, neighbor, or stranger). As a general matter, registration and notification laws apply equally to all covered sex offenses and without regard to the type of offender-victim relationship involved. Therefore, any increase in punishment for nonregistered offenders (β_0 and β_1) should, all else equal, produce similar effects across all relationship types. With respect to the behavior of registered sex offenders, however, a registry's crime-reducing impact (β_2) should be greater for offenses against local victims as a result of increased local monitoring, with a smaller effect for distant-relationship offenses or, potentially, a positive effect if the law merely induces substitution away from local victims. How the effect of notification laws on registered sex offenders' behavior (β_3) should vary across offender-victim relationship types is unclear. If the increased cost of targeting local victims predominates, we should observe fewer crimes against local victims and either no change or an increase in the number of crimes against strangers. However, if growth in the relative utility of

¹⁸ The identification of β_1 relies significantly on out-of-sample variation because only a few of the NIBRS states passed a statute requiring full notification at the same time as their registration law, and most states did not do so until several years after their registration laws became effective. Nevertheless, our data do include a considerable number of observations in which the number of registered offenders per 10,000 people is quite low relative to the sample mean. For example, the sample mean of registry size among observations with a full notification law in place is 17.3 offenders per 10,000 people, while the 10th percentile is approximately 5.7 offenders per 10,000 people, and the 10th percentile within each state is equal to or less than six offenders per 10,000 people in seven of the 15 NIBRS states. Our estimates suggest that enacting a notification law with this low number of registered individuals would still have a negative and statistically significant effect on the frequency of sex crime.

¹⁹ One concern with the use of registry size is the potential for bias due to reverse causation because registry size is determined in part by the number of sex offenses committed in the past. In practice, however, registry size is primarily a function of how long the registry has been in existence, the degree to which the registration law applied retroactively to previously released offenders, the inclusion or exclusion of offenders convicted of less serious crimes, and overall compliance with the registration law. In addition, the lag with which new offenders are added to the registry is likely to be quite long. For individuals sent to prison in 2002 whose first listed offense was rape, sexual assault, or child molestation, the median sentence lengths were 120, 72, and 68 months, respectively, and the fraction with a sentence of 1 year or less was 1.7, 2.5, and 1.8 percent, respectively (authors' calculations using data from the 2002 National Corrections Reporting Program [U.S. Department of Justice 2006]). Thus, only a very small amount of growth in registry size is due to recent convictions, and any short-run change in the frequency of sex offenses driven by other factors is unlikely to be correlated with short-run changes in registry size.

crime commission is paramount, an increase in the frequency of sex offenses across all victim types seems probable because the change in the relative utility of crime commission is unlikely to be specific to victim type.

When examining arrests and dropped cases, we use incident-level data to estimate equations that are similar in form to equation (2). For example,

$$\text{Arrest}_{ijt} = \alpha_j + \gamma_t + \lambda X_{ijt} + \sum_i D_i [\delta_0 \mathbf{Rg}_i^* + \delta_1 \mathbf{Nt}_i^* + (\delta_2 \mathbf{Rg}_i^* + \delta_3 \mathbf{Nt}_i^*) \times \text{RgSize}_{ijt}] + \varepsilon_{ijt} \quad (3)$$

An incident in reporting area j is denoted by i . Incident-level variables (X_{ijt}) include details about the crime known to police (for example, characteristics of the victim, the offender, and their relationship; the offense type; and the number of victims and offenders involved). The other variables are incident-level analogues to the regressors in equation (2).

When predicting the effect of registration and notification laws on arrest patterns, police behavior becomes as relevant as any response by potential offenders. Neither type of law should directly influence the likelihood of arrest for nonregistered individuals (δ_0 and δ_1) through changes in police conduct because, by definition, police do not have any special knowledge of the identities or whereabouts of these individuals and presumably are not monitoring them.²⁰ If the punishment level (f) increases, however, potential offenders may offend less, substituting away from crimes against marginal victims for which the probability of punishment (p) is relatively high. This prospect suggests that any change in the likelihood of arrest (δ_0 and δ_1) should mirror the direction of any effects of these laws on offense frequency (β_0 and β_1).

The predicted impact on arrest rates for sex offenses committed by registered sex offenders is also ambiguous. Registration should increase arrest rates through enhanced monitoring and easier apprehension (δ_2), but registrants may respond to their registration by forgoing offenses against victims when being arrested is relatively more likely. Therefore, the effect on arrest rates should be positive if there is no change in recidivism but small if registered offenders offend less or select victims such that the probability of punishment for any crime remains low. A similar analysis applies to notification. A direct effect (δ_3) on registered offenders, by way of community policing, should increase the probability of arrest. However, if local victims use notification information to avoid known criminals, becoming more costly to target (c), offenders may attack only that subset of local victims that ensures the probability of punishment will be sufficiently low, causing average observed arrest rates to decrease. In addition, if notification renders legal behavior relatively less attractive (u), arrest probabilities

²⁰ If monitoring registrants or responding to citizen complaints about registrants becomes so expensive or time consuming that the police are not able to investigate crimes or perform other activities likely to deter crime, then nonregistered sex offenders might eventually perceive these changes and react to the reduced probability of punishment by committing more crimes.

may increase as offenders become willing to commit comparatively brash crimes for which the probability of punishment was previously too great.

In general, therefore, the impact of these policies on arrest probabilities depends fundamentally on the effect of registration and notification laws on overall crime frequency. As we explain below, we find little evidence of a direct connection between these laws and our arrest variables, but the patterns that emerge from our analysis of arrest data (and of dropped cases) do serve to confirm the robustness of our offense frequency findings.²¹ Table 1 provides a summary of the predicted relationships between the registration and notification variables in equations (2) and (3) and the model parameters and outcomes of interest.

4. Data

Our primary data source, NIBRS, is part of the FBI's UCR Program but presents several opportunities for research that are unavailable with standard UCR data. First, NIBRS links information on victims, offenders, and arrestees for each incident. As a result, we can examine the impact of registration and notification laws on the relationship mix of offenders and victims and on the ability of police to secure an arrest for a reported crime, in addition to measuring the effects that these laws have on reported crime frequency. Second, the timing information for each incident is superior in NIBRS, which allows us to better exploit within-year variation in the effective dates of sex offender laws in our empirical work. Although UCR data are available by month, they only contain information on when an incident was reported, whereas NIBRS data supply the date on which an incident occurred.²²

The NIBRS data do have significant limitations, however. First, like most crime data, NIBRS data contain only information on incidents recorded by police. Changes in reported crime may be driven by true changes in victimization or by changes in reporting behavior. (We return to this issue when interpreting our findings.) A second limitation is that NIBRS data started to become available

²¹ We also examine cases that are dropped by prosecutors because of noncooperation by victims or for other reasons. This information is included in NIBRS and is of interest to us, but it is not part of our model; therefore, we leave the discussion of these issues until after we present our main results.

²² If the date of the incident is not known to the police—this occurs for approximately 20 percent of sex offenses—then NIBRS reports the date on which the crime was reported. Unfortunately, NIBRS does not retain both dates, so we cannot directly measure the lag between occurrence and report. However, we can get a sense of the gap between incident and report dates by using the fact that a subset of crimes reported in NIBRS took place in a prior calendar year (that is, some crimes that occurred in year T are reported in the data for year $T + 1$). We examined all sex offenses (excluding 2005) by the calendar month in which they took place and measured the fraction reported in the following year. Of the sex offenses that took place in December, 11 percent were reported the next year, while the corresponding data for November, July, and March are 7, 2, and 1 percent, respectively. Thus, although most crimes are reported within a few months of their occurrence, a nontrivial fraction are reported with considerable lag. In any event, our results are not sensitive to excluding crimes for which an incident date is unavailable.

Table 1
Predicted Effects of Registration and Notification Laws

	Registration Law Effective	Registration Law $\times$ Registry Size	Notification Law Effective	Notification Law $\times$ Registry Size
Model parameters	Nonregistered sex offenders: future punishment increases; the effect is likely small because costs appear to be low	Registered sex offenders: likelihood of punishment increases because of easier police monitoring and apprehension	Nonregistered sex offenders: future punishment increases; the effect may be large because costs appear to be significant	Registered sex offenders: likelihood of punishment increases because of community policing; targeting costs of crime increase because of victim awareness; relative attractiveness of crime increases because of publicity costs to the offender
Frequency of offenses	Prediction: reduction in frequency	Prediction: reduction in frequency	Prediction: reduction in frequency	Prediction: indeterminate effect on frequency—more community policing and more victim avoidance versus greater relative attractiveness of crime
Heterogeneity in offenses across victims	No predicted differences across different types of offender-victim relationships	Prediction: stronger effects for local victim because of easier police monitoring and apprehension; potential displacement of crimes onto stranger victims	No predicted differences across different types of offender-victim relationships	Prediction: stronger effects for local victims because of community policing and victim avoidance; no predicted differences across relationship types for any relative utility effect
Probability of arrest	Prediction: any change should have the same sign as the effect (if any) on the frequency of offenses	Prediction: reduction in the probability of arrest, but the effect should approach zero as crime decreases or is displaced onto stranger victims	Prediction: any change should have the same sign as the effect (if any) on the frequency of offenses	Prediction: indeterminate effect on probability of arrest—offsetting effects of community policing (positive, but zero with displacement), victim avoidance (negative, but zero with displacement), and relative attractiveness of crime (positive)

only in the 1990s, and only a subset of states participate in the program. In 1995, which was 1 year after the federal government required that states create sex offender registries and 1 year before it required that registry information be made public, there were just nine NIBRS states. By 1998, eight more states had joined the program. By 2004, a total of 30 states were collecting NIBRS data. Our analysis focuses on the 15 states that were participating in NIBRS by 1998: Colorado, Connecticut, Idaho, Iowa, Kentucky, Massachusetts, Michigan, Nebraska, North Dakota, Ohio, South Carolina, Texas, Utah, Vermont, and Virginia.²³ Third, within each state, the number of reporting agencies (hereafter, ORIs, referring to the originating agency identifiers used by NIBRS to uniquely identify each of its law enforcement data sources) generally increases over time. We include ORI fixed effects in all of our regressions to account for the growth in the number of reporting agencies over time and to control for any persistent heterogeneity in ORI characteristics.²⁴

In NIBRS, multiple offenses may be reported in a single incident, and so we classify an incident as a sex offense if any of the reported offenses falls into one of three sex offense categories: rape and sexual assault, sexual molestation (“forcible fondling” in NIBRS), or other nonviolent sex offenses (incest and statutory rape).²⁵ We characterize the varied relationships between victims and offenders by dividing offenders into three groups based on the intimacy of their relationship with the victim: close, near, and stranger. The close group includes family members, significant others, and friends; the near group includes neighbors, acquaintances, and offenders who are otherwise known to the victim; and the stranger group includes offenders described as strangers and offenders whose relationship to the victim was not known by the victim (which is distinct from “missing” in the data).

Table 2 shows summary statistics for the sample of incidents that we examine.²⁶ For purposes of comparison, we also include NIBRS information on ordinary

²³ These states are geographically diverse, but we lack data from the far West (for example, California) and the deep South (for example, Mississippi). Tennessee and West Virginia also joined NIBRS in 1998. Both had passed registration and notification laws by that time, however, so we did not include them.

²⁴ Although NIBRS surveys reporting agencies (or ORIs) on a monthly basis, an ORI may not submit a complete accounting of incidents each month. We exerted considerable effort, a full description of which is given in the Appendix, to ensure that our results are not driven by reporting errors.

²⁵ Incidents of non-sex-related crimes are used in our analysis to control for time-varying factors that may cause changes in crime rates in an ORI over time. We use ordinary assaults and other crimes as measures of violent crime reasonably similar to sex offenses and of the overall crime rate, respectively. We classify an incident as an assault if at least one of the offenses was an assault but none of the offenses was a sex offense. This latter condition affected a small number of incidents: only .3 percent of incidents with a sex offense also involved an assault, and just .02 percent of assaults also included a sex offense. By definition, incidents of other crimes do not contain a sex offense or an ordinary assault.

²⁶ Additional details are presented in Table A3, which provides summary statistics for the aggregated (to the ORI-month level) NIBRS data, the legal data, and the county and state demographic data that we use in most of our empirical work. The samples in Table A3 are identical to the data used in the regression analyses reported in Tables 3, 4, and 6.

Table 2
Summary Statistics for Reported Crime Incidents

	Sex Offenses	Assaults
Incidents in sample	328,260	4,757,118
Rape and sexual assault (%)	37.9	N.A.
Forced fondling (%)	41.8	N.A.
Other nonviolent sex offenses (%)	20.3	N.A.
Incidents with report date (%)	18.9	12.8
Incidents leading to arrest (%)	25.7	37.3
Average days to arrest	24.3	13.7
Prosecution drops charges (%)	7.1	4.8
Victim refuses to cooperate (%)	5.1	6.6
Offender-victim relationship (%):		
Immediate family	11.5	24.9
Extended family	9.3	3.7
Stepfamily	4.7	1.3
Friend	7.0	2.8
Significant other	8.0	17.6
Acquaintance	31.0	23.7
Neighbor	2.4	1.8
Otherwise known	9.6	9.3
Stranger	8.4	9.7
Relationship unknown	11.8	10.2
Missing relationship information	4.3	4.5
Victim characteristics (%):		
Female	86.5	58.4
White	77.6	68.2
Black	17.9	28.3
Age 0-4	8.7	.7
Age 5-9	14.8	1.6
Age 10-14	27.1	6.9
Age 15-19	23.8	15.3
Age 20-29	13.1	30.2
Age 30-39	7.2	24.0
Age 40-49	3.6	14.5
Age 50-65	1.1	5.6
Age 65+	.5	1.3
Offender characteristics (%):		
Male	95.9	76.8
White	69.0	61.5
Black	24.1	33.9
Age 0-9	2.3	.5
Age 10-14	11.2	6.2
Age 15-19	20.1	15.9
Age 20-29	25.5	31.3
Age 30-39	20.5	25.4
Age 40-49	12.0	14.5
Age 50-65	6.5	5.1
Age 65+	1.9	.9

Note. The sample includes all sex offenses and assaults reported in 15 National Incident-Based Reporting System states (Colorado, Connecticut, Idaho, Iowa, Kentucky, Massachusetts, Michigan, Nebraska, North Dakota, Ohio, South Carolina, Texas, Utah, Vermont, and Virginia). Relationships total more than 100 percent because some incidents involved more than one relationship. N.A. = not applicable.

assaults. Assaults are more common than sex offenses, with more than 14 assaults occurring for every sex offense. Reporting of incident dates, arrest rates, and time until arrest is quite different for the two types of crime. The frequency with which incident dates are not reported (and for which only a report date is available) is higher for sex offenses. Arrests are less common for sex offenses, and the time to arrest—conditional on the arrest occurring at least 1 day after the incident—is considerably longer.

The relationships between offenders and victims are similar for sex offenses and assaults, with family members and acquaintances as the two most common categories of offenders. The overall fraction of (reported) incidents with an acquaintance is somewhat higher for sex offenses, but sex offense incidents are less common between all family members (26 versus 30 percent) and significant others. For both sex offenses and ordinary assaults, the victim claimed that the offender was a stranger or that the relationship to the offender was unknown in approximately 20 percent of incidents.

Assaults and sex offenses differ significantly in terms of victim demographic characteristics. Although 51 percent of sex offense victims in our sample were younger than 15 years old, the corresponding figure for assault victims is only 9 percent. Sex offense victims are also more likely to be female and white. Offender characteristics also differ across the two types of offenses. The age distribution of sex offenders is wider than it is for people who commit assault, with larger fractions of total offenders in both the youngest and oldest age groups. Sex offenders are also much more likely to be male and somewhat more likely to be white.

Finally, we classify each incident by the registration and notification laws in effect and by the number of registered offenders on the date that the crime took place. When analyzing data aggregated to the ORI-month level, our legal variables (including information about the public availability of a state's Internet registry) reflect the law on the 15th day of the calendar month. Complete historical data on the size of registries are unavailable (particularly for early years), but we have gathered extensive information on state registry sizes at many points in time and on county registry sizes at a single point in time. Under the assumption that registries grew smoothly once established, we use these data to estimate how registry sizes evolved during our sample period. We provide details about this estimation procedure in the Appendix.

5. Crime Frequency and Relationship Mix Results

We estimate the effects of registration and notification laws on sex offense frequency and on the mix of offender-victim relationships using the empirical approach outlined in Section 3. All regressions include ORI, year, and month fixed effects as well as controls for annual per capita income, unemployment levels, poverty rates, and the fraction of the population in five ethnicity categories

and 5-year age categories at the county level. In addition, we test the sensitivity of our estimates to the inclusion of the number of ordinary assaults and the number of other crimes committed per 10,000 people. We view these two controls as proxies for ORI-specific time-varying factors that influence crime rates and may be correlated with our legal variables of interest. Although we do not report the estimated coefficients for these controls, both assault rates and other crime rates are always positively related to sex offense rates, and both relationships are highly statistically significant.²⁷

The registry indicator signifies that the state has an active offender registry, and registry size is measured using our empirical estimates, as explained in the Appendix.²⁸ Although registry laws are fairly uniform, notification laws can be categorized into three broad types: requiring public access to a paper registry, making an Internet registry publicly available, or mandating active community notification. Within these categories, we focus on statutes that imply the “full” availability of sex offender information, which means that access was not subject to the discretion of local authorities and that the public could obtain information about local offenders in general, rather than being limited to inquiries about specific people. Full Internet availability indicates that the Internet registry was online and substantially complete.²⁹ Full active notification denotes a law that affirmatively requires the government to deliver specific sex offender information either to the offender’s neighbors or to local media for publication. Figure 2 shows the timing of the effective dates of these laws. In the regressions presented

²⁷ Including assaults and other crimes as controls for time-varying unobservable factors in our regressions may be problematic if the frequency of either set of offenses is itself affected by registration or notification laws, which could happen, for example, if assaults or other crimes are substitutes or complements to sex offenses in the eyes of offenders, in terms of the decision to commit crimes, or in the eyes of victims, in terms of whether and how to report crimes. However, we present our findings from specifications with and without these controls in Table 3, and their inclusion has little influence on our results. A complete set of results without assault rates or other crime rates included as covariates is available from the authors upon request.

²⁸ Internet and active notification laws do not necessarily apply to all registered sex offenders. In our sample, as of 2008, seven of the 15 states that we study listed 100 percent of their registered offenders on their Internet registries, and 10 listed more than 95 percent of their registered offenders. However, five states (Colorado, Iowa, Massachusetts, Nebraska, and North Dakota) listed significantly less than 95 percent of their public Internet registries. Overestimating the number of registered offenders who are subject to a certain notification provision should affect only our estimates of the coefficient on the interaction with registry size of that notification provision, and, if anything, the overestimate should bias these results toward zero (making our estimates a lower bound). To verify this logic, we ran regressions using a rough proxy—the ratio of individuals on a state’s Internet registry to the total number of sex offenders registered in that state as of 2008—to construct a separate registry size for the interactions with Internet availability and active notification. As predicted, our initial estimates grew in magnitude and retained similar statistical significance levels. These results are available from the authors upon request.

²⁹ We located news articles suggesting that the Internet registries in seven states were incomplete when they were launched—that is, missing information on a significant share of the offenders required to be listed. For five of these states, we discovered sources indicating when the Internet registry was complete, was expected to be complete, or was expected to be virtually complete. Where we have an indication of incompleteness but no notice of completion (two states), we consider the Internet registry complete 3 months after launch or our last evidence of incompleteness.

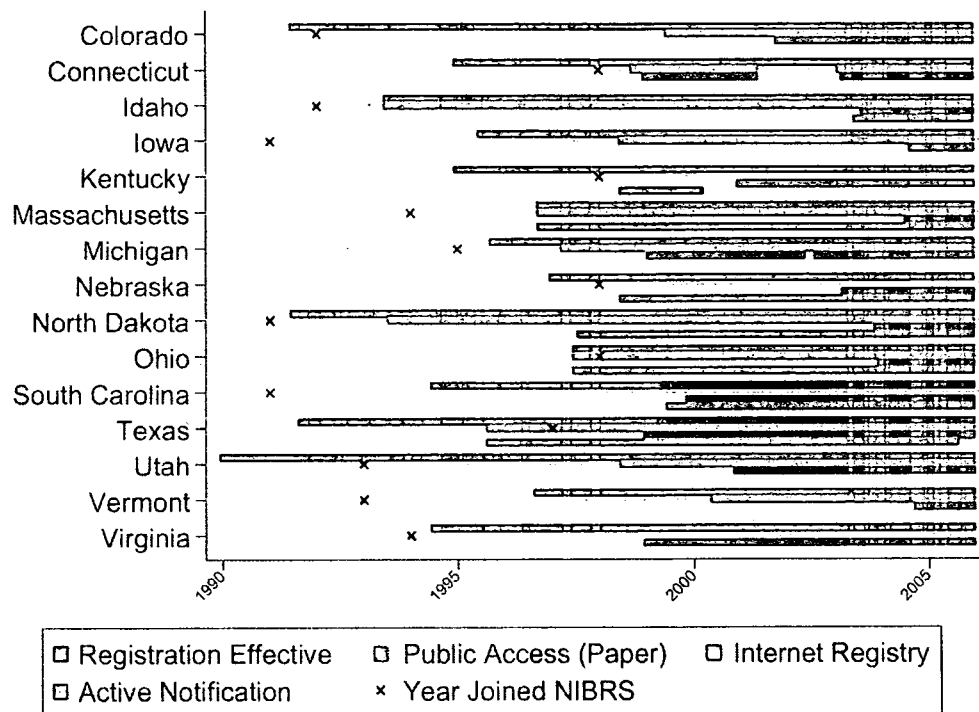


Figure 2. Effective dates of registration and full notification laws in 15 early National Incident-Based Reporting System (NIBRS) states.

below, we define a notification law as being in effect if at least one of these full versions of notification is in place and operative.³⁰

The unit of observation in our analysis is an ORI-month cell, and the dependent variable is measured as the annualized number of incidents per 10,000 people covered by the ORI (we multiply the monthly incident rates by 12 for ease of interpretation).³¹ The regressions are weighted by ORI population coverage so that the coefficients reflect average changes in crime risk faced by a typical person covered by the NIBRS sample and to account for likely hetero-

³⁰ One complication of this approach is that two states in our sample (Texas and Ohio) had registration and at least one full notification law in place before the start of their NIBRS data periods. As a consequence, these states do not contribute to the identification of the effects of these laws on the behavior of nonregistered sex offenders. Eliminating these states from our analysis, however, has little effect on our results. We report findings from a limited 13-state sample in Table A4.

³¹ Studies of crime frequency often examine the natural log of crime as an outcome (Shao and Li 2006); however, this transformation is problematic in our case because we use monthly data from areas of limited size, and therefore we have many ORI-month observations with no sex offenses. Nevertheless, for comparison purposes, we also estimate regressions in which the dependent variable is the natural log of offenses plus one per 10,000 people. The results of the two specifications are alike in sign and significance. The similarity of the results is not surprising given that we weight our analysis by covered population and so rely more on more heavily populated areas that are less likely to have months without the occurrence of at least one sex offense.

Table 3
Effects of Registration and Notification on Sex Offense Frequency

	Sex Offenses per 10,000 People		ln(Sex Offenses per 10,000 People)	
	(1)	(2)	(3)	(4)
Registry Effective	.405 (.362) [.29]	.362 (.439) [.43]	.032 (.029) [.30]	.029 (.033) [.40]
Registry Effective × Registry Size	-.081 (.034) [.04]	-.098 (.04) [.03]	-.006 (.003) [.05]	-.007 (.003) [.03]
Notification	-1.155 (.369) [.01]	-1.171 (.406) [.02]	-.078 (.028) [.02]	-.079 (.029) [.02]
Notification × Registry Size	.079 (.029) [.02]	.082 (.032) [.03]	.006 (.002) [.03]	.006 (.002) [.04]
Controls for assaults and other crimes	No	Yes	No	Yes
Mean offense frequency	9.17			
SD	9.70			
Mean registry size	15.97			
SD	11.18			
R ²	.35	.36	.68	.68

Note. The unit of observation is a reporting agency (ORI)-month cell. Registry Size is empirically estimated from registry data and is measured as the number of offenders per 10,000 people. Notification laws represent full access by the public to information on offenders. All regressions control for county income and demographics and ORI, year, and month fixed effects and are weighted by the covered population in each ORI. Bootstrapped standard errors are in parentheses, and *p*-values are in brackets. *N* = 210,209.

skedasticity.³² Finally, because our sample includes a small number of states and our registry size variable is empirically estimated, using customary ordinary least squares estimates of standard errors or even clustering by state can lead to incorrect statistical inferences (Donald and Lang 2007; Cameron, Gelbach, and Miller 2008; Murphy and Topel 1985). To correct our standard errors for both of these problems, we use a bootstrap procedure we describe in the Appendix.

Table 3 reports the estimated effects of registration and notification on the frequency of sex offenses. We find no evidence that registries deter nonregistered sex offenders. In fact, the estimated impact of a new (empty) sex offender registry on the frequency of sex offenses is positive, although imprecisely measured. We do find evidence, however, that requiring registration reduces recidivism, presumably by increasing monitoring, and therefore increasing the likelihood of

³² To illustrate the heteroskedasticity issue, suppose we have two ORIs, each with 10 sex offenses per 10,000 people in a given month, but one ORI has 1,000 people and another has 100,000. These two values correspond roughly to the 5th and 95th percentile of the covered population among ORIs in our sample. The smaller ORI in this example had only one actual sex offense in that month, and its sex offense rate would drop to 0 per 10,000 people if there were no crimes the following month (which is quite likely to happen given sampling variation). By contrast, the large ORI had 100 sex offenses during the month and is much less likely to drop to a rate of 0 per 10,000 people because of sampling error.

punishment that potential recidivists face. Specifically, the estimated coefficient for Registry Size is negative and statistically significant, as predicted by our model. The data in column 2 of Table 3 imply that each additional sex offender registered per 10,000 people reduces the annual number of sex offenses reported per 10,000 people by .098 crime. This is a substantial reduction (1.07 percent) that, if accurate, supports placing information about sex offenders in the hands of local law enforcement in order to combat recidivism.

Notification laws also appear to affect the overall frequency of sex offenses, but the pattern of results presented in Table 3 does not correspond to the predictions furnished by proponents of notification. The estimated effect of the existence of a notification law on the number of offenses is negative and statistically significant. If our identifying assumptions are correct, the data in column 2 suggest that notification laws reduce the frequency of crime by 1.17 crimes per 10,000 people per year (approximately 12.8 percent) by deterring individuals who are not currently registered as sex offenders.³³ However, the estimate for the interaction of Notification and Registry Size is positive and statistically significant. In the context of our model, this finding implies that any beneficial effect of registration on recidivism is dampened by the use of notification, and it signals that the punitive aspects of notification laws may have perverse consequences. Specifically, a basic trade-off may exist: whereas some nonregistered or potential offenders may be deterred by the threat of notification and its associated costs, the *ex post* imposition of those sanctions on convicted offenders may make them more likely to recidivate.³⁴

Assuming that our evidence is accurate and our interpretation is valid, how should a legislature approach this trade-off between deterrence and recidivism? For a simple back-of-the-envelope analysis, imagine a state that must decide whether to enact a registration law, whether to enact a notification law, and how many offenders should be covered by these laws. We find that the threat of registration has a statistically insignificant positive effect on the number of annual

³³ Under the assumption that the passage of a law may not be well known, we use the effective dates of these laws to estimate the deterrence effects of registration and notification. In a separate analysis, we use enactment dates to estimate these deterrence effects and effective dates only to estimate the consequences of these laws for recidivism. The intuition behind this approach is that once these laws are enacted, the commission of a sex offense by a potential offender may subject him to registration and/or notification requirements in the future because, if caught, he is unlikely to be released or even convicted until after the date on which the law becomes effective. With respect to recidivism, however, these laws have to be operative to work as intended. Our results, it turns out, are not sensitive to this distinction.

³⁴ Another possible explanation for the increase in crime frequency associated with an increase in registry size is that either the authorities or the public become overwhelmed with the number of offenders as the registry grows. This strikes us as unlikely. First, with respect to the police, we continue to see a reduction in the number of offenses as the registry grows under a registration regime, which suggests that, although large registries are surely costly, police are not being overwhelmed to the point that an additional registrant reduces the overall effectiveness of the system. Second, notification regimes are primarily local. Therefore, most of the increase in registry rolls amounts to an increase from no registered offenders to two or three in a neighborhood. Citizens are not expected to track thousands of offenders, and, indeed, notification systems are not designed to work that way.

sex offenses (.362 offense per 10,000 people; $p = .43$). However, actually registering offenders (absent notification) does reduce crime. The total effect of registration with an average-size registry (approximately 16 offenders per 10,000 people) is a yearly reduction of 1.21 sex offenses per 10,000 people ($p = .07$). On the other hand, notification laws appear to be attractive only with a small registry. Notification precludes an additional .78 sex offense per 10,000 people per year ($p = .02$) when 4.7 offenders per 10,000 people (the 10th percentile of registry size) are registered. By contrast, adding a notification law to an existing registration requirement with an average-size registry has an insignificant positive effect on sex offense frequency (.144 sex offense per 10,000 people; $p = .65$), although the overall impact of both laws is still a reduction of 1.06 sex offenses per 10,000 people per year ($p = .11$).

If a state uses both registration and notification, if we assume that registration and notification must cover the same set of offenders, and if the only criterion is the total number of sex crimes committed, then the size of a state's registry may be relatively unimportant. The positive coefficient on Notification $\times$ Registry Size is similar in magnitude to the negative coefficient on Registry Effective $\times$ Registry Size (the difference is not statistically significant), and so the two roughly offset each other. As a result, our findings do not support the claim that expanding a notification law's coverage reduces crime. Given the substantial social and individual costs of maintaining a large registry, one implication of these estimates is that states should employ narrow notification regimes in which all or most sex offenders are required to register but only a small subset are subjected to notification.³⁵ Alternatively, states might explore substitutes that are capable of similar gains in deterrence but avoid what may be notification-related recidivism. In any event, because notification laws were enacted to reduce recidivism, our results suggest that a reconsideration of notification laws is warranted.

We also estimate regressions in which we disaggregate our previously singular notification measure into three different types of notification regimes—full public access to paper registries, full Internet registry availability, and full active notification.³⁶ As one would expect, this disaggregation produces less precise estimates, and yet the basic pattern of results does not change. The coefficients for all three types of notification laws and their interactions with Registry Size have the same signs (negative main effects and positive interaction effects), and the standard errors are too large to reject the hypothesis that these different approaches yield identical outcomes. Nevertheless, it is worth noting that the main effect of active notification is appreciably larger in magnitude, which implies

³⁵ One-third of the states in our sample do not apply their most stringent notification requirements to all registered sex offenders. Unfortunately, our empirical strategy prevents us from saying anything about whether these states are closer to a crime-minimizing mix of sex offender policies. Of course, in the context of our model, limited application of stringent notification provisions may not only reduce recidivism, but may weaken any deterrence effects as well.

³⁶ These results are available from the authors upon request.

Table 4
Effects of Registration and Notification on Sex Offense
Frequency and Relationship Mix, by Offense Type

	All (1)	Close (2)	Near (3)	Stranger (4)
Registry Effective	.362 (.439) [.43]	.017 (.189) [.93]	.195 (.187) [.32]	-.088 (.183) [.64]
Registry Effective $\times$ Registry Size	-.098 (.040) [.03]	-.025 (.023) [.30]	-.041 (.014) [.02]	.008 (.011) [.48]
Notification	-1.171 (.406) [.02]	-.360 (.142) [.03]	-.343 (.146) [.04]	-.273 (.143) [.08]
Notification $\times$ Registry Size	.082 (.032) [.03]	.022 (.014) [.13]	.030 (.013) [.04]	.013 (.006) [.06]
Mean offense frequency	9.17	3.46	3.78	1.83
SD	9.70	5.58	5.67	3.47
Mean registry size	15.97	15.97	15.97	15.97
SD	11.18	11.18	11.18	11.18
R^2	.36	.20	.21	.29

Note. The unit of measurement for the dependent variables is the annualized number of incidents per 10,000 people, and the unit of observation is a reporting agency (ORI)-month cell. Registry Size is empirically estimated from registry data and is measured as the number of offenders per 10,000 people. Notification laws represent full access by the public to information on offenders. All regressions control for rates of assault and other crimes, county income and demographics, and ORI, year, and month fixed effects. Each regression is weighted by the covered population in each ORI. Bootstrapped standard errors are in parentheses, and p -values are in brackets. $N = 210,209$.

greater deterrence of nonregistered offenders. This result makes sense, as active notification is perhaps the most intrusive form of notification and therefore may have particular deterrence value.

In Table 4, we investigate whether registration and notification laws change the incidence of sex offenses across victim types or, closely related, the equilibrium mix of offender-victim relationships. As we described above, notification laws are intended to help individuals identify and avoid involvement with convicted sex offenders who live or work nearby, and registration laws are supposed to reduce crime by providing local police with detailed information about convicted sex offenders living in their jurisdictions. To evaluate the success of these laws at reducing recidivism, and to probe the consistency between any patterns we find and the relationship mix predictions of our model, we examine whether (as lawmakers had hoped) sex offender legislation results in fewer crimes against victims who might be unaware of nearby convicted sex offenders or who are otherwise especially at risk because of their proximity to these offenders, and whether these laws leave crime against other victim types unaffected or perhaps more prevalent (as a result of crime displacement).

The NIBRS offender-victim relationship variable has one geographic element (the offender was a neighbor) but is otherwise organized by the level of familiarity

that the victim has with the offender (for example, the offender was a friend or acquaintance) or by family ties (for example, the offender was a spouse or sibling). We use these categories to create three types of sex offenses—close (involving family members, significant others, and friends), near (involving neighbors, acquaintances, or offenders otherwise known), and stranger crimes—that our model predicts should or may respond in distinct ways to registration or notification. With respect to notification, potential victims who are neighbors or acquaintances seem more likely to learn from and respond to an offender's information being made public than do family members (although perhaps not in every case—for instance, consider a stepparent) or strangers. Thus, a reduction in recidivism due to notification should be visible in the frequency of near offenses. Similarly, registrants may be more easily monitored around their families and in their neighborhoods and more easily located when a nearby crime occurs. Therefore, registration seems more likely to reduce the number of close as well as near offenses.

The results of our relationship analysis support these conjectures and reaffirm our interpretation of Table 3. Table 4 indicates that large registries (without notification) appear to decrease crimes against victims of the close and near offense groups but not crimes against strangers. The estimate for victims of near sex offenses ($-.041$) is highly significant ($p = .02$), whereas the estimate for victims of close sex offenses is slightly smaller in absolute value ($-.025$) and is not statistically significant at conventional levels ($p = .30$). The estimate for victims of stranger sex offenses is, in contrast, small and positive ($.008$). These findings are consistent with the idea that registering sex offenders with law enforcement reduces crime against local victims. Registration does not appear to protect strangers, but it also does not appear to make them more likely to be victimized through displacement, as some critics have feared.³⁷

Any deterrence of nonregistered sex offenders by registration and notification laws should not, according to our model, alter the existing offender-victim relationship mix of sex offenses. In line with this prediction, Table 4 shows no discernable deterrence effect of registration requirements for any relationship type and a similar negative effect of notification laws that is roughly comparable in percentage terms across all types.

Our model provides ambiguous predictions for how the effects of notification on recidivism by registered offenders might vary across different types of victims. If notification laws make targeting local victims more costly for a registered sex offender (increasing c_{ij}), then we should observe fewer victims of near sex offenses but a smaller reduction or even an increase in frequency (if there is displacement) of stranger crimes. Alternatively, if notification laws instead primarily make life outside of prison less attractive for sex offenders (amplifying the relative utility

³⁷ We also conducted an analysis that disaggregates offenses involving close relationships into family offenses and nonfamily offenses (namely, crimes committed by significant others and friends). The results for both groups were similar in sign and statistical significance to the results for all close relationship crimes and are available from the authors upon request.

Table 5
Effects of Registration and Notification on Arrest Outcomes

	Arrest Made (1)	Time to Arrest (in Days) (2)	Victim Refuses to Cooperate (3)	Prosecution Drops Charges (4)
Registry Effective	.0028 (.0378) [.94]	-1.2475 (1.8300) [.51]	.0174 (.0133) [.22]	.0474 (.0170) [.02]
Registry Effective × Registry Size	-.0012 (.0056) [.84]	.0380 (.1229) [.76]	-.0010 (.0012) [.39]	-.0048 (.0024) [.08]
Notification	-.0190 (.0329) [.58]	.8886 (2.1316) [.69]	-.0204 (.0145) [.19]	-.0004 (.0213) [.99]
Notification × Registry Size	.0032 (.0035) [.38]	-.0695 (.1099) [.54]	.0019 (.0011) [.11]	.0038 (.0023) [.14]
Mean of dependent variable	.23	15.81	.07	.10
SD		23.89		
Mean registry size	15.36	14.57	15.36	15.36
SD	10.14	9.69	10.14	10.14
N	287,789	65,702	287,789	287,789
R ²	.10	.12	.10	.14

Note. The unit of observation is a reported sex offense. Registry Size is empirically estimated from registry data and is measured as the number of offenders per 10,000 people. Notification laws represent full access by the public to information on offenders. In column 2, the sample is restricted to reported sex offenses that resulted in arrests. All regressions include controls for victim and offender characteristics, victim-offender relationship, type of sex offense, and reporting agency (ORI), year, and month fixed effects. Bootstrapped standard errors are in parentheses, and *p*-values are in brackets.

of crime commission), crime might increase as the registry grows, and if notification laws do not alter the relative cost of attacking certain victims, any increase should be spread equally across all types of victims. Table 4 favors this latter scenario. The estimate for the interaction of Notification and Registry Size is positive and statistically significant across all groups, and, in percentage terms, the estimated increases are very close to each other. Thus, although notification may serve as a deterrence to nonregistered offenders, prompting local victims to protect themselves against registered offenders may do little to reduce recidivism—and may in fact increase it.

The estimated effects of registration and notification laws on our arrest and criminal processing variables for all sex offenses are shown in Table 5.³⁸ Although

³⁸ For analysis of arrests and dropped cases, as noted in Section 3, we examine incident-level data instead of ORI-month aggregates. We also drop the controls for assaults and other crimes (which are aggregate statistics) and include incident-specific variables in addition to victim and offender age, sex, and ethnicity indicators; indicators for the type of offender-victim relationship; indicators for the number of victims and the number of offenders (capped at four); and indicators for the type of sex offense (rape and sexual assault, sexual molestation, and other nonviolent sex offenses). We include this broad set of covariates to control as best we can for the information available to law enforcement authorities and to examine law enforcement performance conditional on this information.

the point estimates in column 1 are consistent with the predictions in Section 3, no statistically significant relationship exists between whether an arrest is made and any of the legal change and enforcement variables. Therefore, if the decrease in crime associated with registering convicted sex offenders is indeed caused by an increased probability of punishment, the response by the offenders to this new probability must eliminate (in equilibrium) any visible change in the arrest probability and, likewise, in the time to arrest. The coefficients on the notification variables on the likelihood an arrest is made show the same pattern. The threat of being subjected to notification may reduce the number of crimes, but it does not appear to increase the equilibrium probability of arrest. The estimate for the interaction of Notification and Registry Size is positive, as would be predicted by a change in crime due to a relative utility effect, but statistically insignificant and very imprecisely estimated.³⁹

At a minimum, our analysis provides evidence to support those who argue that registration and notification laws matter to the frequency of reported sex offenses. Registration laws seem to reduce recidivism, especially against the neighbors and acquaintances of registered offenders, and notification laws appear to deter those potential offenders who can still avoid notification's psychological and financial costs by refraining from committing qualifying sex offenses. More tentatively, however, our results also raise the possibility that notification laws make returning to criminal behavior more attractive to registered sex offenders by subjecting them to public ridicule and social isolation, perhaps leading them to commit additional sex offenses.

6. Robustness Checks

Here we address possible concerns about our interpretation and the reliability of our empirical estimates. First, we explore whether unobserved variables or trends may account for the relationships we find by ascertaining whether similar empirical associations exist between sex offender laws and crimes other than sex offenses. We also examine the robustness of our basic specification and sample choice. Second, we consider whether our results, especially those that are consistent with a relative utility effect, might be driven by changes in victim reporting

³⁹ With respect to dropped cases, we find little evidence that victim noncooperation is associated with registration and notification. However, we do discover suggestive evidence that a prosecutor's decision to decline a case occurs more frequently in areas with a small registry but less frequently as the size of the registry grows, at least until the advent of notification in the state. These results are plausible. Prosecutions may suffer at the start of a registration regime, as police personnel are used and criminal justice resources are spent on the construction and introduction of the registry. However, as the number of registered offenders increases, police may have access to more and better information about local offenders, which leads to stronger average cases. Later, with the arrival of notification, prosecutors may find that the advantages of registration information to the state become degraded when community members also have this information, perhaps because of false accusations, a possibility we discuss in Section 6. The evidence here, however, allows only speculation.

behavior. We cannot completely rule out this possibility, but we present findings that seem inconsistent with a reporting-behavior explanation.

6.1. *Falsification Tests and Specification Checks*

The relationships we identify may be spurious if unobservable factors that influence crime levels also happen to be correlated with the passage of registration and notification laws or with changes in registry size. To increase our confidence that registration and notification are causally related to sex offender behavior, we repeat our analysis using as outcomes the overall frequency of other types of crimes—crimes that we believe are far less likely to be affected by the criminal behavior of individuals who are on the margin of committing or recommitting sex offenses. These placebo test estimates ought to reveal no statistically significant relationships between the implementation of these laws and non-sex-related crime frequencies.⁴⁰

We examine auto theft, drug offenses, fraud, weapons violations, forgery, and larceny. These crimes are quite different from rape and child molestation, and our intuition is that they are neither substitutes for nor complements to sex offenses, even though a few of them occur with roughly similar frequency. Of the 24 coefficients that we estimate, we find only two statistically significant relationships between the reported rates of these six crimes and our four registration and notification variables (a pattern that might easily occur randomly), and neither of these estimates lines up with our sex offense results.⁴¹ Furthermore, the inconsistent signs and small magnitudes of all of the placebo coefficients increase our confidence that our earlier results are not confounded by general trends in crime. To illustrate, five of the six estimated coefficients on Registry Size are actually positive.⁴²

Another concern, especially when working with data from relatively few states

⁴⁰ We note that any relative utility effect generated by sex offender notification might cause registered sex offenders to commit other crimes as well. Therefore, these placebo tests should not be viewed as falsification checks in the usual sense, because finding positive relationships between Notification $\times$ Registry Size and non-sex-related crime frequencies is consistent with our model. Still, we purposefully selected comparison crimes that are very different from sex offenses to reduce the likelihood that changes in the behavior of registered sex offenders would show up in the overall frequencies of these crimes. Admittedly, released sex offenders do commit many types of crimes. For example, among all sex offenders released in 16 states in 1994, subsequent arrests for auto theft occurred half as frequently as arrests for another sex offense (authors' calculations performed using data from U.S. Department of Justice [2007]). However, although released sex offenders are far more likely than other released criminals to be arrested for sex offenses, they are considerably less likely to be arrested for the crimes that we consider here. Furthermore, released sex offenders constitute a relatively small portion of all released criminals, which makes any portion of placebo crimes committed by sex offenders small.

⁴¹ For weapons offenses, we find a borderline statistically significant negative coefficient on the indicator for whether a registry is effective, but recall that we find no evidence that the existence of a registry alone has any effect on sex offense frequency (and our estimated coefficient is actually positive). Registry Size is also significantly correlated ($p = .05$) with the number of larcenies, but that correlation is positive, the opposite of what we find for sex offenses.

⁴² These results and the other robustness findings that we describe throughout Section 6 are available from the authors upon request.

in a quasi-experimental setting as our empirical strategy does, is that haphazard changes in one large state might plausibly account for all of our key results (see Currie and MacLeod 2007). For each state in our sample, we verify the robustness of our findings to this possibility by reestimating equation (2) on a subsample that only contains data from the other states we study. Our results are not sensitive to these exclusions.

Our analysis controls for ORI, month, and year fixed effects, local economic and demographic characteristics, and contemporaneous crime trends, but it remains possible that our empirical strategy attributes the consequences of some unknown trend to our registration and notification variables. Up to this point, we have not included state-specific trends in our analysis because one of our variables of interest—Registry Size—closely approximates a state trend (see Figure A1). By partialling out state-specific linear trends, therefore, we effectively discard important information in an attempt to address possible but ultimately hypothetical omitted variables. Still, even though we view our earlier specification as more appropriate, incorporating state-level linear trends can be informative in this context by showing that alternative accounts for our findings are less likely to be true.

In Table 6, we present our original results along with results from specifications that include state-specific linear trends. Our findings are fairly robust to the inclusion of these trends. In column 3, the magnitude of the main notification effect decreases but remains marginally statistically significant.⁴³ The coefficient on Registry Size is also smaller and less precisely estimated but reasonably similar in magnitude relative to our previous specifications. In column 6, we report estimates from a log-linear specification with state-specific linear trends, including a coefficient on Registry Effective $\times$ Registry Size that is similar in magnitude and statistical significance to our baseline estimate in column 5. The estimated coefficient on Notification $\times$ Registry Size remains positive and highly statistically significant in every column, regardless of the specification. Overall, controlling for linear state-specific trends does not change the overall picture and suggests that unobservable state trends are unlikely to explain the results in Table 3.

Equation (2) assumes that the effects of registration and notification laws on registered sex offender behavior (but not on nonregistered offender behavior) increase linearly with registry size. This premise might be incorrect for at least two reasons. First, notification regimes with very large registries might overwhelm potential victims, making comprehensive notification laws less useful to the public than smaller-scale versions. Second, a large registry might dramatically

⁴³ It is worth pointing out that the coefficient on Notification is statistically significant at the 5 percent level in Table A4, where we restrict our sample to the 13 states that actually passed a notification statute during our sample period. With the addition of state-specific linear trends as controls, Table A4's estimate of the deterrence effects of notification may be more accurate because it makes less sense to include, as we do in Table 6, the two states (Texas and Ohio) for which there is no legal variation in registration and full notification in our data.

Table 6
Robustness of Registration and Notification Effects on Sex Offense Frequency

	Sex Offenses per 10,000 People			ln(Sex Offenses per 10,000 People)		
	(1)	(2)	(3)	(4)	(5)	(6)
Registry Effective	.405 (.362) [.29]	.362 (.439) [.43]	-.132 (.323) [.69]	.032 (.029) [.30]	.029 (.033) [.40]	-.004 (.025) [.87]
Registry Effective × Registry Size	-.081 (.034) [.04]	-.098 (.040) [.03]	-.065 (.035) [.09]	-.006 (.003) [.05]	-.007 (.003) [.03]	-.005 (.002) [.05]
Notification	-1.155 (.369) [.01]	-1.171 (.406) [.02]	-.511 (.315) [.14]	-.078 (.028) [.02]	-.079 (.029) [.02]	-.027 (.025) [.30]
Notification × Registry Size	.079 (.029) [.02]	.082 (.032) [.03]	.050 (.016) [.01]	.006 (.002) [.03]	.006 (.002) [.04]	.004 (.001) [.02]
Controls for assaults and other crimes	No	Yes	Yes	No	Yes	Yes
State linear trends	No	No	Yes	No	No	Yes
Mean offense frequency	9.17					
SD	9.70					
Mean registry size	15.97					
SD	11.18					
R ²	.35	.36	.36	.68	.68	.68

Note. The unit of observation is a reporting agency (ORI)-month cell. Registry Size is empirically estimated from registry data and is measured as the number of offenders per 10,000 people. Notification laws represent full access by the public to information on offenders. All regressions control for county income and demographics and ORI, year, and month fixed effects and are weighted by the covered population in each ORI. Bootstrapped standard errors are in parentheses, and *p*-values are in brackets. *N* = 210,209.

overextend police resources, making registration and notification less effective (and even counterproductive), at least once a registry reaches some threshold size. We believe that these effects are unlikely to matter significantly in practice. The world is not teeming with registered sex offenders. The maximum registry size in our sample is less than 40 sex offenders per 10,000 people, for example, while the average number of police in the United States during this period was approximately 20 per 10,000 people (Evans and Owens 2007).

Nevertheless, we explore these concerns with a specification identical to equation (2), except for the inclusion of two new quadratic terms in registry size:

$$\begin{aligned}
 \text{Crime}_{jt} &= \alpha_j + \gamma_t + \lambda X_{jt} \\
 &+ \sum_s D_j^s [\beta_0 \mathbf{Rg}_t^s + \beta_1 \mathbf{Nt}_t^s + (\beta_2 \mathbf{Rg}_t^s + \beta_3 \mathbf{Nt}_t^s) \times \text{RgSize}_{jt}] \\
 &+ \sum_s D_j^s [(\beta_4 \mathbf{Rg}_t^s + \beta_5 \mathbf{Nt}_t^s) \times \text{RgSize}_{jt}^2] + \varepsilon_{jt}.
 \end{aligned} \quad (4)$$

This exercise demonstrates that our linear specifications are more appropriate. The quadratic coefficient estimates (β_4 and β_5) are extremely small in magnitude and statistically insignificant, which signifies that their inclusion in the model

is unnecessary. In any event, our findings in equation (4) for the main effects of registration and notification and the linear interactions with registry size are actually significantly greater in magnitude, although they are understandably less precisely estimated than our estimates in Table 3.

6.2. *Reporting Behavior*

Like most studies of criminal behavior, we can only examine the frequency of reported crime, not actual crime, and so it is possible that our findings are affected or driven by changes in victim reporting behavior. Reporting is a decidedly important issue for the study of sex offenses—data from the National Crime Victimization Survey indicate that less than 50 percent of rape and sexual assault victimizations are reported to the police (Rennison 2002)—and especially for the study of laws that are designed to influence the behavior of potential sex offense victims.

Sex offender notification laws, in particular, may reduce reporting by victims who have a personal relationship with an offender or who consider notification to be an overly harsh new punishment (Iyengar 2009). Alternatively, victims may eschew reporting because notification may reveal (or be more likely to reveal) to friends and coworkers their status as victims. Yet these very plausible stories seem unlikely to fully account for our results, given the effects that we find for neighbor and acquaintance offenses and given that we find a decrease in crime associated with registration alone.⁴⁴ Registration and notification may also cause offenders to move away from family, friends, and acquaintances to avoid the accompanying shame or other burdens of these laws. Thus, reduced contact with registered offenders might explain a reduction in the frequency of offenses against these groups. However, it seems more likely a priori that this type of mechanical change in the relationship mix of reported offenses would be more important for notification than for registration, a possibility that is at odds with our findings. Finally, a notification law could reduce the frequency of sex offenses, regardless of the number of registered offenders, if the law increases awareness of sex offenses in general and makes all potential victims more cautious. We cannot test this hypothesis directly, but it necessarily assumes that registration and notification laws influence more than just reporting behavior, and our model could accommodate this reaction with a broader notion of deterrence.

By contrast, changes in victim reporting behavior appear at first glance more than adequate to explain our finding that broad notification regimes with large

⁴⁴ Changes in reporting behavior may also generate an underestimate of any crime-reducing effects of registration. For example, if the existence of a registration system led victims to believe that reporting a crime was more likely to lead to an arrest, they might have been more likely to report crimes, increasing the measured crime rate, all else equal. Many victims either knew or learned that their state had a registry and may have assumed that any assailant was registered with positive probability. Such a dynamic could account for our positive (but statistically insignificant) coefficient on our Registry Effective variable.

registries are associated with an increase in the number of sex offenses. Two changes in reporting behavior seem to be the most likely candidates. As a registry grows and law enforcement notifies an increasing number of individuals that one or more sex offenders live nearby, frivolous reporting of sex offenses might increase because the proximity of a sex offender is made known and salient to potential victims, and true reporting of crime that would otherwise have gone undetected might also increase. Both of these hypotheses are reasonable, but we find little evidence to support them in our data.

If frivolous reports of sex offenses became more common in response to more offenders being subjected to notification, holding offender behavior constant, we would expect to see either a reduction in the likelihood that a report led to an arrest (because the average case reported has, all else equal, less merit) and/or an increase in the probability that a case was dismissed by the prosecutor because, again, the average case became weaker. In our analysis reported in Table 5, the estimated coefficient on Notification $\times$ Registry Size is positive for the prosecutorial dismissal rate, but it is almost exactly offset by a positive coefficient of similar magnitude for the arrest rate. Furthermore, neither estimate is statistically significant. Thus, our arrest results do not support a simple frivolous reporting story as an explanation for our finding that notification regimes with large registries are associated with more sex offenses.

Another way to examine the reporting hypothesis is to study adult rape and child molestation offenses separately. Although registration and notification laws apply uniformly to rapists and child molesters, both kinds of reporting biases (frivolous reporting or meritorious reporting of previously undetected crime) seem more likely to occur in the context of molestation. Information that a sex offender lives nearby may make parents more aware of their children's behavior or whereabouts and cause parents to be more likely to investigate their suspicions than they would have been without the knowledge of a nearby sex offender. However, mere knowledge that a neighbor is a sex offender seems less likely, all else equal, to change reporting behavior substantially in the case of a rape of an adult.

When we separately investigate the effects of sex offender laws on the frequency of child molestation and forcible rape, which constitute the bulk of all sex offenses (see Table 2), using the specification in equation (2), we find no evidence of shifts in reporting behavior. If increased reporting underlies our findings, we would expect to find the Notification $\times$ Registry Size effect driven by molestation cases. Instead, we calculate very similar point estimates for both types of sex offenses: .047 for forced fondling ($p = .01$) and .040 for forcible rape ($p = .08$). As a percentage of the mean offense frequency, the estimated coefficient is higher for child molestation than it is for rape (19.5 versus 12.8 percent), but the difference is not statistically significant. Overall, although reporting changes may explain some part of our findings, substantial evidence supports the claim that sex offenders alter their behavior in response to registration and notification laws.

7. Conclusion

We examine the effect of sex offender registration and notification laws on the total frequency of sex offenses, the mix of offender-victim relationships, and law enforcement performance, conditional on the report of a sex offense. We find evidence that registration laws reduce the frequency of reported sex offenses, particularly when the number of registrants is large, and argue that therefore there may be benefits to providing information on convicted sex offenders to local authorities. We estimate that an average-size registry decreases crime by approximately 1.21 sex offenses per 10,000 people, which is a 13 percent reduction from the sample mean. This drop in crime benefits local victims (acquaintances, neighbors, and victims of known offenders, as well as possibly family members, friends, and significant others). We find no evidence that registration influences the extent of crime against strangers.

We also demonstrate that notification laws may affect sex offense frequency, albeit not necessarily as lawmakers intended. We estimate that notification laws reduce the number of sex offenses when the size of the registry is small but that these benefits dissipate as more offenders become subject to notification requirements. This pattern is consistent with notification deterring nonregistered individuals but encouraging recidivism among registered offenders, perhaps because of the social and financial costs associated with the public release of their criminal history and personal information. When a registry is of average size, adding a notification regime effectively increases the number of sex offenses by more than 1.57 percent.

Although researchers are still in the process of measuring the benefits of registration and notification laws, the costs have been well documented. A number of scholars have established the financial, physical, and psychological damage to registered sex offenders and their families (Zevitz and Farkas 2000a; Tewksbury 2005; Levenson and Cotter 2005). The labor and capital costs to law enforcement agencies that are required to monitor offenders can also be substantial (Zevitz and Farkas 2000b). Moreover, there is evidence that these laws create financial and psychological costs for the neighbors of registered sex offenders. Linden and Rockoff (2008) and Pope (2008) document declines in property value for households living close to registered offenders, and several studies find little evidence that notification alleviates the concerns of the community members who have been made aware of an offender's presence (Zevitz and Farkas 2000b; Beck and Travis 2004, 2006).

The lack of empirical evidence for the recidivism-reducing benefits of registration and notification has not stopped policy makers from imposing additional restrictions on convicted sex offenders. Registration and notification laws are now, in some sense, old technology. Today, states are in the midst of imposing even more intrusive laws, such as residency restrictions and civil commitment, with fresh hope of reducing recidivism. These policies may impose even higher costs on sex offenders and their families than registration and notification laws

have, and research is needed to understand if the effects, if any, of these policies on criminal behavior makes these investments worthwhile.

Appendix

A1. Coding Registration and Notification Laws

To build our database of registration and notification laws, we constructed a detailed legal timeline for each state, relying principally on paper legislative sources, legal databases containing statutes and judicial opinions, news releases and stories, and conversations and e-mail communications with state employees. We catalogued enactment dates, effective dates, and compliance dates for each legal change and verified, when possible, that such changes took place in reality and not just on paper. We cross-checked our research with other sources compiling sex offender laws and resolved all conflicts. Finally, we recorded the precise content of these legal changes, which is particularly necessary with sex offender notification laws because they differ across states on various dimensions.

As noted in Section 2, states invariably began regulating sex offenders with registration statutes that required that all information on sex offenders be kept confidential. Over time, however, state laws evolved toward making more of this information public. Most states began by providing public access to their registration databases but varied in the restrictions that they placed on access to this information. Some states (for example, Idaho) only allowed the public to make information requests in writing or about specific persons. Other states (for example, Michigan) made information available about all sex offenders in the area and allowed the public to openly inspect their registries at police departments or other government agencies. Both approaches to public access assume that potential victims or witnesses will make use of these opportunities despite their nontrivial travel and time costs. By the end of our sample period, all states maintained a functioning Internet registry, and many had enacted more active community notification laws.

A2. National Incident-Based Reporting System and Demographic Data

Many of the advantages and disadvantages of NIBRS data are described in Section 4, but we met additional challenges and made additional choices in constructing our data for analysis. One limitation is that the first year for which any state's NIBRS data are publicly available is 1995. Because some sex offender laws in the NIBRS states we study became effective before 1995, we requested additional data from the FBI, available for a few states back to 1991, and incorporated those data into our analysis. Excluding data from 1991–94 does not affect our results, however. Another complexity, discussed briefly in Section 4, is that participation of law enforcement agencies can vary within a state and over time. Agencies are identified in NIBRS by an originating agency identifier (ORI), and within each state, the number of reporting ORIs increases dramatically over time. For example, the number of reporting ORIs from Nebraska

more than quintupled between 1998 (its first reporting year) and 2005. Consequently, we include ORI fixed effects in all of our regressions.

In building our offense variables (sex offense, assault, or other crime) and our relationship groups for crimes (close, near, and stranger), we found that a nontrivial number of sex offenses involved multiple victims (8 percent) or multiple offenders (8 percent). Therefore, the indicators we created to capture the relationship between the offender and the victim include all offender-victim relationships. For example, if an offender commits a crime against two victims, a family member and a friend of the offender, both the family member and friend indicators are set equal to one. In a separate analysis, we recorded only the closest offender-victim relationship, and the results of our analysis do not change. When we examine arrest and other process outcomes, we account for individual-level victim and offender characteristics with information from the first victim and first offender listed if the incident involves multiple victims or multiple offenders.

In addition to the NIBRS information on victims, offenders, and arrestees, our regressions also employ annual, county-level demographic data from the U.S. census on the proportion of the population in 18 age-by-sex categories and five ethnicities, as well as annual county-level data on income per capita, poverty rates, and unemployment rates. Although some ORIs are smaller than counties, we believe that these are the best annual data available to control for any demographic shifts that may have occurred within ORIs over our sample period. For the 2 percent of ORIs that are located in multiple counties, we use a weighted average of county characteristics based on the population of the ORI in each county.

A3. Addressing Reporting Errors in the National Incident-Based Reporting System

We use a multifaceted approach to handle reporting errors in the NIBRS data that we use. First, we use the indicators provided in NIBRS for whether an ORI reported crime in a given month. Among ORIs reporting crime during any month of each year, the fraction reporting for all 12 months ranged from 68 percent in 1995 to 89 percent in 2004. We limit our analysis to crimes that took place during months when the ORI reported crime in the previous month, the current month, and the next 4 months. This restriction causes us to exclude less than 5 percent of the sex offenses that occurred between February 1991 and August 2005, and all offenses occurring outside of this period.

Despite this initial cleaning of the data, we found many instances of apparent underreporting of crimes by the agencies included in NIBRS. For example, an agency might report approximately 500 crimes every month for many months, report few or no crimes for 1 month, and then return to the previous pattern of 500 crimes per month. We also discovered agencies that, according to the

Table A1
Effective Dates of Registration and Notification Laws

	Registration Requirement (1)	Public Access to Paper Registry					Internet Notification	
		Any Public Access (2)	Discretionary Access (3)	Mandatory Access (4)	Written Request Requirement (5)	Specific Name Requirement (6)	Registry (7)	Live (8)
Colorado	July 1, 1991 (April 17, 1991)	June 5, 1995	June 5, 1995 ^a	July 1, 1999	N.A.	N.A.	May 23, 2000	July 27, 2001 ^b
Connecticut	January 1, 1995 (October 1, 1994)	October 1, 1998 ^c	N.A.	October 1, 1998 ^c	N.A.	N.A.	October 1, 1998	January 1, 1999 ^c
Idaho	July 1, 1993	July 1, 1993	N.A.	July 1, 1993	July 1, 1993 ^d	N.A.	July 1, 2001	August 29, 2003
Iowa	July 1, 1995	July 1, 1995	N.A.	July 1, 1995	July 1, 1995	July 1, 1995 ^e	July 1, 1998	March 16, 2000 ^b (May 17, 2004)
Kentucky	January 1, 1995 (July 15, 1994)	N.A.	N.A.	N.A.	N.A.	N.A.	April 11, 2000	April 11, 2000 ^b (December 27, 2000)
Massachusetts	October 1, 1996	October 1, 1996	N.A.	October 1, 1996	October 1, 1996	N.A.	November 26, 2003	August 4, 2004 ^b (August 6, 2004)
Michigan	October 1, 1995	April 1, 1997	N.A.	April 1, 1997	N.A.	N.A.	April 1, 1997	February 1, 1999 ^f
Nebraska	January 1, 1997	N.A.	N.A.	N.A.	N.A.	N.A.	July 15, 1998	March 30, 2000 ^b (early 2003)
North Dakota	July 3, 1991	August 1, 1993	N.A.	August 1, 1993	N.A.	N.A.	August 1, 2001	November 6, 2001 ^b (December 7, 2003)
Ohio	October 4, 1963 ^a (July 1, 1997)	July 1, 1997	N.A.	July 1, 1997	N.A.	N.A.	July 31, 2003	December 18, 2003
South Carolina	July 1, 1994	June 18, 1996	N.A.	June 18, 1996	June 18, 1996	June 18, 1996	June 12, 1998	November 22, 1999
Texas	September 1, 1991	September 1, 1995	N.A.	September 1, 1995	September 1, 1995 ^h	N.A.	September 1, 1997	January 11, 1999
Utah	May 10, 1983	April 29, 1996	April 29, 1996 ^c	July 1, 1998	April 29, 1996 ^c	April 29, 1996 ^c	July 1, 1998	July 1, 1998 ^b (December 7, 2000)
Vermont	September 1, 1996	May 29, 2000	N.A.	May 29, 2000	N.A.	N.A.	October 1, 2004	October 1, 2004
Virginia	July 1, 1994	July 1, 1998	N.A.	July 1, 1998	July 1, 1998	July 1, 1998	July 1, 1998	December 29, 1998

Active Community Notification							
	Any Active Notification (9)	Discretionary Notification (10)	Mandatory Notification (11)	Opt-In Notification (12)	Victim Notification (13)	Neighbor Notification (14)	Media Notification (15)
Colorado	December 31, 1999 (July 1, 1999)	December 31, 1999 ^d (July 1, 1999)	May 30, 2006	N.A.	N.A.	December 31, 1999 (July 1, 1999)	N.A.
Connecticut	October 1, 1995	October 1, 1995 ^e	N.A.	N.A.	N.A.	October 1, 1995 ^e	N.A.
Idaho	July 1, 2003	N.A.	July 1, 2003	N.A.	N.A.	N.A.	July 1, 2003
Iowa	July 1, 1998	July 1, 1998	N.A.	N.A.	N.A.	July 1, 1998	N.A.
Kentucky	July 15, 1998 ^f	July 12, 2006	July 15, 1998 ^h	July 15, 1998 ^h	July 15, 1998 ^h	July 15, 1998 ^f	July 15, 1998 ^h
Massachusetts	October 1, 1996	N.A.	October 1, 1996	N.A.	N.A.	October 1, 1996	N.A.
Michigan	January 1, 2007	N.A.	January 1, 2007 (opt in)	January 1, 2007	N.A.	N.A.	N.A.
Nebraska	July 15, 1998 ⁱ (early 2003)	N.A.	July 15, 1998	N.A.	N.A.	July 15, 1998 ⁱ (early 2003)	July 15, 1998 ⁱ (early 2003)
North Dakota	August 1, 1995	August 1, 1995 ^m	August 1, 1997	N.A.	August 1, 2001	August 1, 1995	N.A.
Ohio	July 1, 1997	N.A.	July 1, 1997	July 1, 1997 (victims only)	July 1, 1997 (opt in)	July 1, 1997	N.A.
South Carolina	June 18, 1996	June 18, 1996 ⁿ	June 30, 1999 (newspaper)	N.A.	N.A.	June 18, 1996	June 30, 1999
Texas	September 1, 1995	September 1, 2005 (newspaper)	September 1, 1995 ⁿ	N.A.	N.A.	August 30, 1999	September 1, 1995 ^p
Utah	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Vermont	September 1, 1996	May 26, 2006	September 1, 1996 (victim opt in)	September 1, 1996 (victims only)	September 1, 1996 (opt in)	May 26, 2006	N.A.
Virginia	July 1, 2006	N.A.	July 1, 2006 (opt in)	July 1, 2006	N.A.	N.A.	N.A.

Note. Dates listed are the dates on which the first law in the relevant category became effective or, in some cases, applicable. Parenthetical entries below the primary entries describe limitations on the coverage of the law or contain effective dates if the date that the law became applicable to offenders is listed above instead (no indication), an alternative effective date when the alternative date is arguably more appropriate (indicated by a special note), or, in the case of an imprecise estimate, the approximate date on which the enforcement of the law became fully operational (column 8 only). With respect to column 7, Internet notification laws either explicitly specify public access via the Internet or use phrases such as "electronic access" or even more general language. The Internet registries in column 8 include a substantial majority of covered registrants unless otherwise indicated, and the approximate date that the Web site became substantially complete is shown in parentheses if it could be determined through newspaper accounts or phone or e-mail inquiries (documentation supporting these decisions is available from the authors upon request). In column 14, neighbors are notified in writing or by personal visit.

^a Repealed July 1, 1999.

^b The Web site did not include all covered registrants at the time that the Web site went live.

^c The Web site was enjoined from May 17, 2001, until March 5, 2003, and offline from May 18, 2001, until March 31, 2003.

^d Repealed July 1, 2001.

^e Repealed July 1, 1998.

^f The Web site was enjoined from June 3, 2002, until August 21, 2002, and offline from June 4, 2002, until late on August 21, 2002.

^g Between October 4, 1963, and July 1, 1997, only recidivists were required to register; after July 1, 1997, first-time offenders were required to register.

^h Repealed September 1, 2005.

ⁱ Repealed May 30, 2006.

^j Repealed April 11, 2000, and reeffective July 12, 2006.

^k Repealed April 11, 2000.

^l Risk assessments of all offenders were not completed until early 2003, but active notification began with some offenders as early as July 15, 1998.

^m Repealed August 1, 1997.

ⁿ Except for newspapers as of June 30, 1999.

^o Repealed September 1, 2005, for newspapers.

^p Discretionary after September 1, 2005.

Table A2
Enactment Dates of Registration and Notification Laws

	Registration Requirement (1)	Public Access to Paper Registry					Internet Registry (7)
		Any Public Access (2)	Discretionary Access (3)	Mandatory Access (4)	Written Request Requirement (5)	Specific Name Requirement (6)	
Colorado	April 17, 1991	June 5, 1995	June 5, 1995 ^a	June 2, 1999	N.A.	N.A.	May 23, 2000
Connecticut	June 9, 1994	May 27, 1997 ^b	N.A.	May 27, 1997 ^b	N.A.	N.A.	May 27, 1997 ^b
Idaho	March 25, 1993	March 25, 1993	N.A.	March 25, 1993	March 25, 1993 ^c	N.A.	March 26, 2001
Iowa	May 3, 1995	May 3, 1995	N.A.	May 3, 1995	May 3, 1995	May 3, 1995 ^d	May 6, 1998
Kentucky	April 11, 1994	N.A.	N.A.	N.A.	N.A.	N.A.	April 11, 2000
Massachusetts	August 5, 1996	August 5, 1996	N.A.	August 5, 1996	August 5, 1996	N.A.	November 26, 2003
Michigan	July 13, 1994	January 7, 1997	N.A.	January 7, 1997	N.A.	N.A.	January 7, 1997 ^e
Nebraska	April 3, 1996	N.A.	N.A.	N.A.	N.A.	N.A.	April 6, 1998
North Dakota	April 2, 1991	April 15, 1993	N.A.	April 15, 1993	N.A.	N.A.	April 12, 2001
Ohio	July 5, 1963 ^f (July 17, 1996)	July 17, 1996	N.A.	July 17, 1996	N.A.	N.A.	July 31, 2003
South Carolina	June 29, 1994	June 18, 1996	N.A.	June 18, 1996	June 18, 1996	June 18, 1996	June 12, 1998
Texas	June 15, 1991	May 29, 1995	N.A.	May 29, 1995	May 29, 1995 ^g	N.A.	June 17, 1997
Utah	March 30, 1983	March 15, 1996	March 15, 1996 ^d	March 24, 1998	March 15, 1996 ^d	March 15, 1996 ^d	March 24, 1998
Vermont	April 25, 1996	May 29, 2000	N.A.	May 29, 2000	N.A.	N.A.	June 8, 2004
Virginia	April 6, 1994	April 22, 1998	N.A.	April 22, 1998	April 22, 1998	April 22, 1998	April 22, 1998
Active Community Notification							
	Any Active Notification (8)	Discretionary Notification (9)	Mandatory Notification (10)	Opt-In Notification (11)	Victim Notification (12)	Neighbor Notification (13)	Media Notification (14)
Colorado	June 2, 1999	June 2, 1999 ^h	May 30, 2006	N.A.	N.A.	June 2, 1999	N.A.
Connecticut	May 30, 1995	May 30, 1995 ^h	N.A.	N.A.	N.A.	May 30, 1995 ^h	N.A.
Idaho	February 27, 2003	N.A.	February 27, 2003	N.A.	N.A.	N.A.	February 27, 2003

Iowa	May 6, 1998	May 6, 1998	N.A.	N.A.	N.A.	May 6, 1998	N.A.
Kentucky	April 14, 1998 ⁱ	April 18, 2006	April 14, 1998 ^j	April 14, 1998 ^j	April 14, 1998 ^j	April 14, 1998 ⁱ	April 14, 1998 ^j
Massachusetts	August 5, 1996	N.A.	August 5, 1996	N.A.	N.A.	August 5, 1996	N.A.
Michigan	March 2, 2006	N.A.	March 2, 2006 (opt in)	March 2, 2006	N.A.	N.A.	N.A.
Nebraska	April 6, 1998	N.A.	April 6, 1998	N.A.	N.A.	April 6, 1998	April 6, 1998
North Dakota	April 11, 1995	April 11, 1995 ^k	March 19, 1997	N.A.	April 12, 2001	April 11, 1995	N.A.
Ohio	July 17, 1996	N.A.	July 17, 1996	July 17, 1996 (victims only)	July 17, 1996 (opt in)	July 17, 1996	N.A.
South Carolina	June 18, 1996	June 18, 1996 ^l	June 30, 1999 (newspaper)	N.A.	N.A.	June 18, 1996	June 30, 1999
Texas	May 29, 1995	June 18, 2005 (newspaper)	May 29, 1995 ^m	N.A.	N.A.	June 19, 1999	May 29, 1995 ⁿ
Utah	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Vermont	April 25, 1996	May 26, 2006	April 25, 1996 (victim opt in)	April 25, 1996 (victims only)	April 25, 1996 (opt in)	May 26, 2006	N.A.
Virginia	April 19, 2006	N.A.	April 19, 2006 (opt in)	April 19, 2006	N.A.	N.A.	N.A.

Note. Dates listed are the dates on which the first law in the relevant category was enacted. With respect to column 7, Internet notification laws either explicitly specify public access via the Internet or use phrases such as "electronic access" or even more general language. In column 13, neighbors are notified in writing or by personal visit.

^a Repealed July 1, 1999.

^b The Web site was enjoined from May 17, 2001, until March 5, 2003, and offline from May 18, 2001, until March 31, 2003.

^c Repealed July 1, 2001.

^d Repealed July 1, 1998.

^e The Web site was enjoined from June 3, 2002, until August 21, 2002, and offline from June 4, 2002, until late on August 21, 2002.

^f The law enacted on July 5, 1963, required only recidivists to register, while after the law passed on July 17, 1996, first-time offenders were required to register.

^g Repealed September 1, 2005.

^h Repealed May 30, 2006.

ⁱ Repealed April 11, 2000, and reenacted April 18, 2006.

^j Repealed April 11, 2000.

^k Repealed August 1, 1997.

^l Except for newspapers as of June 30, 1999.

^m Repealed September 1, 2005, for newspapers.

ⁿ A law enacted on June 18, 2005, made media notification discretionary after September 1, 2005.

NIBRS indicator variables, started officially reporting on a given month but actually report no offenses until several months later.

We addressed this kind of misreporting by implementing an algorithm to identify these patterns and excise unreliable data. First, we took each agency-period cell, and we calculated the variance in the number of crimes reported over periods a given length of time from the month of that cell, and then we flagged (and later dropped) all observations that were outliers given this variance (that is, the reported number of crimes in that month had a very small chance of occurring, assuming that reports are normally distributed with given variance). We repeated this process for reports up to 6 periods away and flagged observations twice: first, those with 1 in 1 million chances of being observed and, second, those with 1 in 100,000 chances of being observed. This two-stage process is helpful because it allows us to recalculate the variance after eliminating very distant outliers. We also flagged all months adjacent to months with underreporting to guard against the possibility that underreporting in 1 month leads to overreporting in others.

A4. Registry Size Estimates

Our data on historical registry sizes come from various sources. Two reports from the National Institute of Justice provide us with state registry sizes at the end of 1998 and 2001 (Adams 2002). In addition, we gathered documents and other sources posted online by the National Center for Missing and Exploited Children that provide counts of offenders registered in each state at several points in time from 2003 through 2007. The exact dates on which the states or other organizations gathered this information vary, but, in general, these data give us a snapshot of registry sizes in 2003, 2005, 2006, and 2007. We also add data from news articles and state government reports. Finally, when possible, we make use of the fact that some states did not apply their laws retroactively and include a zero at the start of their registries.

Thus, although we collected data on the number of registered offenders in each state at multiple points in time, there are some periods for which we do not have information. To estimate the historical registry size for these NIBRS states, we ran a least-squares regression of registry size on a quadratic function of date, allowing for state-specific intercepts and slopes and using all data points available for each state. We then used the predicted values from this regression as measures of the state registry size for each month. The results of these regressions are depicted in Figure A1.

We combine this state-level information on registry size with information on all registered offenders for each county nationwide as of August 2007. Family Watchdog, a private company that provides sex offender information to the public, compiled these data and provided them to us for research purposes.⁴⁵ This information allows us to calculate the number of registered sex offenders

⁴⁵ Family Watchdog (<http://www.familywatchdog.com>).

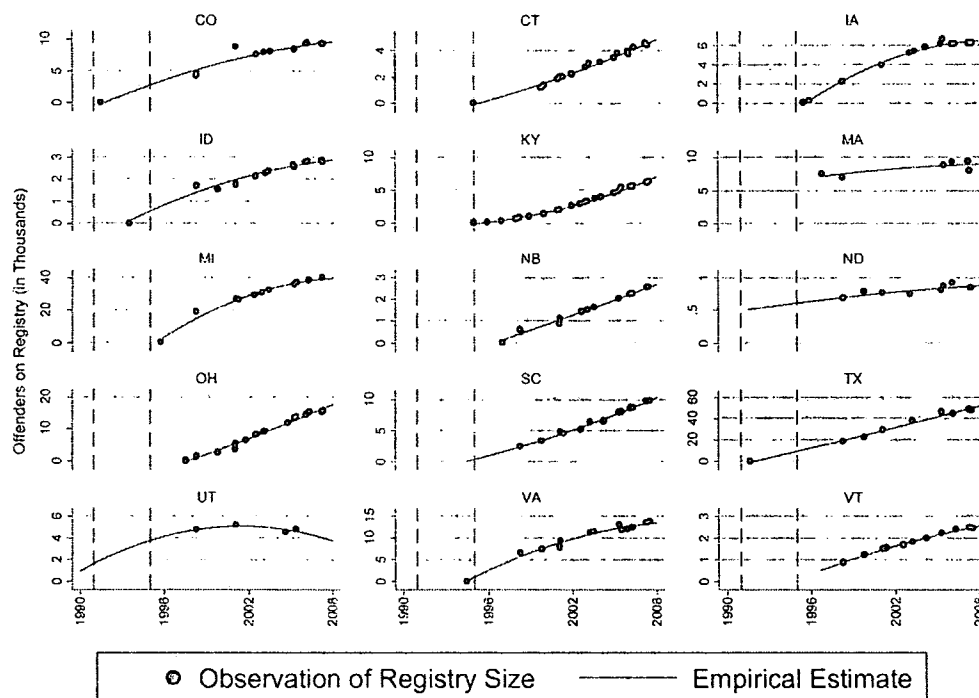


Figure A1. Observations and empirical estimates of registry sizes for 15 National Incident-Based Reporting System states.

by county in each NIBRS state in 2007. Then, for each state, we allocate our 1991–2005 estimates of the number of sex offenders on a state's registry to the state's counties using the assumption that the fraction of registered offenders by county today is reflective of the fractions in past years.

A5. Bootstrap Method for Standard Error Estimates

To estimate unbiased standard errors in the presence of a small number of clusters, we follow Cameron, Gelbach, and Miller (2008) and employ a bootstrapping methodology. Specifically, we repeat each regression in our analysis 100 times and calculate our standard errors using the variance of the resulting estimates. Let β_i be the estimated vector of coefficients from repetition i . Our variance estimate is $\hat{\sigma}_{\beta^*}^2$, where

$$\sigma_{\beta^*}^2 = \frac{1}{N-1} \sum_i^N (\beta_i - \bar{\beta})^2, \quad N = 100.$$

In the simulations performed by Cameron, Gelbach, and Miller (2008), this technique, which they term “paired bootstrap-se,” does not perform as well as other techniques, such as wild bootstrap, in the sense that it finds a placebo to have a statistically significant relationship with the dependent variable at the .05 level in approximately 10 percent of their simulations. However, it is not clear

from their work whether this difference is reflective of a general result that would apply to our situation—namely, an unbalanced panel with groups of differing size and independent variables that have different variances across these groups. We find that the standard errors calculated using a wild-bootstrap procedure are smaller than those that we calculate with the paired bootstrap, and so we use the paired bootstrap estimates to be conservative.

In addition to sampling our states (with replacement) in each repetition, we take account of any additional bias that might result from our generated regressors by using registry size estimates that are calculated from values drawn randomly from the distribution of our estimator in the first stage, where we estimate registry size. Specifically, we take the estimator of the K parameters from the first stage (γ_0) and use the Cholesky decomposition of the variance-covariance matrix (V) to draw a new vector (γ_i) where

$$\gamma_i = \gamma_0 + V^{1/2}R, \quad R = [r_1 \quad \dots \quad r_K],$$

$r_i \sim$ independently and identically distributed $N(0, 1)$.

We then use this vector of coefficients to reestimate registry size for each regression.

Table A3
Summary Statistics for Reporting Agency (ORI)-Level Samples

	1991 Start				1995 Start	
	15 States	SD	13 States	SD	15 States	SD
ORI population	18,750	38,570	17,207	29,349	19,052	39,503
Offenses (annualized, per 10,000 people):						
Total sex offenses	9.17	9.70	9.17	9.87	9.09	9.67
Rape offenses	4.71	6.29	4.68	6.44	4.65	6.25
Forced fondling offenses	3.85	5.88	3.91	6.14	3.83	5.85
Assaults	138.3	116.0	135.8	117.5	136.6	114.9
Other crimes	514.6	338.3	504.5	337.8	509.6	333.1
Registration and notification laws:						
Registration effective	.928	.26	.904	.30	.984	.13
Full notification effective	.790	.41	.721	.45	.847	.36
Full public access effective	.580	.49	.513	.50	.620	.49
Full Internet access effective	.513	.50	.452	.50	.554	.50
Full active community notification effective	.284	.45	.189	.39	.307	.46
Registry size (estimated, including states with no registry)	14.81	11.53	14.67	11.75	15.87	11.22
ORI-level demographics:						
Per capita personal income (\$1,000s)	28.96	15.40	27.32	16.64	29.85	15.65
Unemployment rate	.048	.019	.047	.020	.047	.018
Male:						
Age 1-14	.219	.026	.220	.027	.218	0.025
Age 15-29	.218	.043	.218	.045	.217	0.042
Age 30-44	.232	.025	.231	.024	.231	.025
Age 45-64	.228	.031	.226	.032	.231	.030
Age 65+	.104	.029	.105	.029	.104	.028
Female:						
Age 1-14	.201	.024	.202	.025	.200	.024
Age 15-29	.202	.041	.203	.043	.201	.041
Age 30-44	.225	.024	.224	.024	.225	.025
Age 45-64	.229	.030	.227	.031	.232	.028
Age 65+	.142	.037	.144	.037	.142	.037
Black	.122	.143	.119	.147	.118	.140
White	.798	.149	.815	.144	.798	.148
Hispanic	.053	.064	.044	.049	.056	.065
N	210,209		172,231		190,571	

Note. Data are aggregated from the incident level to the ORI-month level and are weighted by the population covered by the National Incident Based Reporting System for the number of offenses, registration and notification laws, and ORI-level demographics. The size of the registry is estimated empirically using registry data and is measured as the number of offenders per 10,000 people. Mean registry size is calculated over all ORI-months, including the months when no law was in place and therefore when the registry size is zero.

Table A4
Effects of Registration and Notification on Sex Offense Frequency: 13-State Sample

	Sex Offenses per 10,000 People			ln(Sex Offenses per 10,000 People)		
	(1)	(2)	(3)	(4)	(5)	(6)
Registry Effective	.361 (.382) [.37]	.297 (.447) [.52]	-.215 (.338) [.54]	.032 (.029) [.29]	.029 (.032) [.39]	-.006 (.026) [.81]
Registry Effective × Registry Size	-.070 (.035) [.08]	-.087 (.042) [.07]	-.059 (.034) [.11]	-.006 (.003) [.05]	-.006 (.003) [.04]	-.005 (.002) [.04]
Notification	-1.118 (.405) [.02]	-1.146 (.402) [.02]	-.539 (.247) [.05]	-.075 (.028) [.02]	-.076 (.027) [.02]	-.029 (.018) [.13]
Notification × Registry Size	.081 (.03) [.02]	.083 (.032) [.02]	.056 (.016) [.01]	.006 (.002) [.03]	.006 (.002) [.03]	.004 (.001) [.01]
Controls for assault and other crimes	No	Yes	Yes	No	Yes	Yes
State linear trends	No	No	Yes	No	No	Yes
Mean offense frequency	9.17					
SD	9.87					
Mean registry size	16.23					
SD	11.28					
R ²	.30	.31	.31	.61	.62	.62

Note. The unit of observation is a reporting agency (ORI)-month cell. Registry Size is empirically estimated from registry data and is measured as the number of offenders per 10,000 people. Notification laws represent full access by the public to information on offenders. All regressions control for county income and demographics and ORI, year, and month fixed effects and are weighted by the covered population in each ORI. Bootstrapped standard errors are in parentheses, and *p*-values are in brackets. *N* = 172,231.

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