



**U.S. Department of Justice
Office of the Inspector General
Evaluation and Inspections Division**

Review of the Department of Justice's Implementation of the Sex Offender Registration and Notification Act

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EXECUTIVE DIGEST

INTRODUCTION

This report examines the Department of Justice's (Department) implementation of Title I of the Adam Walsh Act, the *Sex Offender Registration and Notification Act* (SORNA), which sets forth specific responsibilities for the Department in identifying, arresting, and prosecuting sex offenders who have failed to register or update a registration.¹ Sex offenders who do not register or update registrations are considered *non-compliant* and are subject to prosecution under SORNA when federal jurisdiction can be established. When a warrant is issued for a non-compliant sex offender, the subject is referred to as a *fugitive* sex offender. Records on convicted, non-compliant, and fugitive sex offenders are maintained within the national sex offender registration system.

The national sex offender registration system is composed of two registries operated by different Department components. One is the Federal Bureau of Investigation's (FBI) National Sex Offender Registry (NSOR), which is part of the National Crime Information Center (NCIC). NCIC is an information system that provides law enforcement agencies with around-the-clock access to federal, state, and local crime data, including criminal record histories and wanted and missing person records. The other is the Office of Justice Programs' (OJP) Dru Sjodin National Sex Offender Public Registry Website (NSOPR), which is an online portal linked to all states' sex offender public registries. Using NSOPR, members of the public can access information on sex offenders in any of the states' public registries. The information in both the FBI's NSOR and OJP's NSOPR portal is provided by the states, territories, federally recognized Indian tribes, and the District of Columbia (collectively referred to in this report as "jurisdictions"). The inclusion, accuracy, and integrity of the data are ultimately the responsibility of those jurisdictions.

At the state level, sex offender registration requirements and penalties for failing to register vary by jurisdiction, and the requirements for maintaining a registration are based on the nature of an offender's crime and on state law. At the federal level, records of three categories of sex offenders are included in the FBI's NSOR: individuals convicted of criminal

¹ The *Adam Walsh Child Protection and Safety Act of 2006* (Adam Walsh Act), Pub. L. No. 109-248, 120 Stat. 587 (codified primarily in sections of 42 U.S.C. as well as 10 and 18 U.S.C.), was signed on July 27, 2006. SORNA is codified at 42 U.S.C. § 16901.

offenses against minors, individuals convicted of sexually violent offenses, and individuals who are designated as sexually violent predators.

SORNA requires convicted state and federal sex offenders to register within 3 business days in the states in which they will live, work, and attend school after being released from incarceration or, in cases in which there is no term of incarceration, within 3 days of being sentenced. Once registered, convicted sex offenders are required to verify their registration information periodically with jurisdiction authorities. The jurisdiction registration authorities are also required to alert the FBI when they receive new or updated registration information. Absent an extension, state, territorial, and tribal jurisdictions must implement SORNA requirements by July 27, 2009 – 3 years after the date of SORNA’s enactment. The Department’s only mechanism for enforcing state and territorial compliance with SORNA requirements is to reduce the grant funding the Department provides by 10 percent. The sanction for a tribe is that the authority and responsibility for implementing SORNA are transferred from the tribe to the state in which the reservation is located.

At the federal level, the responsibility for implementing various elements of SORNA is assigned to several Department components. Two units within OJP, the Bureau of Justice Assistance (BJA) and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office), are responsible for implementing the required changes to the NSOPR portal and assisting jurisdictions with required enhancements to their registries. The FBI is responsible for maintaining the National Sex Offender Registry. The U.S. Marshals Service (USMS) has been designated by the Department as the lead federal agency for investigating non-compliant and fugitive sex offenders and for assisting states in enforcing their registration requirements. U.S. Attorneys’ Offices can pursue charges against sex offenders who are not in compliance with registration requirements resulting from prior federal convictions. They can also pursue charges against sex offenders who are not in compliance with registration requirements resulting from state convictions if those offenders travel in interstate or foreign commerce. The Department’s Criminal Division’s Child Exploitation and Obscenity Section assists federal attorneys with prosecutions of fugitive sex offenders.

The Office of the Inspector General (OIG) conducted this review to assess the Department’s efforts to implement SORNA requirements and to assess whether those efforts have increased the number of fugitive sex offenders investigated, arrested, and prosecuted by the Department. In this review, we analyzed law enforcement and sex offender registration data from January through March 2008. We also examined trends in fugitive sex

offender investigations, arrests, and prosecutions during fiscal year (FY) 2004 through FY 2007, and conducted interviews at the Department components involved with implementation of SORNA.

RESULTS IN BRIEF

Our report examines three aspects of the Department's implementation of SORNA. First, although the Department did not issue guidance to the components on implementing specific SORNA requirements, we found that the components have begun to address each of the requirements but have yet to fully implement all of them. For example, the Department is still working to track sex offenders entering and leaving the country and to enhance the Department's Project Safe Childhood initiative to combat the proliferation of crimes against children, including Internet-based crimes. Based on the progress to date, we believe the Department components are on track to complete the specific tasks they are assigned under SORNA by July 2009. But despite the Department's assistance to state, territorial, and tribal jurisdictions in implementing SORNA, we believe the jurisdictions will not fulfill their SORNA requirements by July 2009.

Second, we found that information in the national sex offender registries is incomplete and inaccurate and therefore the registries are not reliable tools for law enforcement and the public. For example, we found that registries were missing records, did not always identify known fugitives, and did not always contain sufficient information to enable law enforcement and the public to accurately identify sex offenders.

Third, although implementation of SORNA is not yet complete, we found that the USMS has increased federal investigations and arrests of fugitive sex offenders and has increased assistance to state agencies with fugitive sex offender investigations and arrests.

The following sections of this Executive Digest describe our findings in the above three areas in more detail.

Status of SORNA Implementation

We found that although the Department's Office of Legal Policy prepared a memorandum in 2006 on the implementation of SORNA, the Department issued that document to only one of the five components involved in SORNA's implementation. Moreover, because the Department has no current plan or timeline to guide the components' SORNA implementation process, the components have set their own pace and reallocated existing resources to the effort. Nonetheless, we found the

components have made significant progress in implementing SORNA provisions. However, despite the Department's assistance to state, territorial, and tribal jurisdictions in implementing SORNA, we believe the jurisdictions will not fulfill their SORNA requirements by July 2009. Below is a summary of what each component has done to date and what remains to be done to fully implement SORNA's requirements:

- OJP has issued software to all jurisdictions to connect public sex offender registries to the NSOPR portal as required by SORNA, although not all jurisdictions have installed the software. The SMART Office, which OJP created in response to SORNA, is assisting jurisdictions in implementing enhancements to their registration systems. Although OJP took 2 years to issue SORNA implementation guidelines to the jurisdictions, on July 1, 2008, the SMART Office issued the guidelines as required by SORNA. It also issued a checklist to provide additional assistance to jurisdictions with SORNA compliance and to assist the SMART Office in determining whether jurisdictions are in compliance with individual provisions of SORNA. The checklist provides guidance on fulfilling SORNA requirements, such as the collection of additional registration information of all SORNA-qualifying convicted sex offenders and ensuring non-compliant and fugitive sex offender information is entered into the FBI's NSOR.
- The United States Attorneys' Offices and the Criminal Division are required under SORNA to assign at least eight Assistant United States Attorneys to support the Project Safe Childhood initiative. They have exceeded the requirement. The Department has assigned additional resources to this effort, including 43 new Assistant United States Attorneys, to prosecute federal fugitive sex offenders, child pornography, and child exploitation crimes. From the enactment of SORNA through FY 2007, federal attorneys prosecuted 162 fugitive sex offenders for registration violations.
- The USMS has met its SORNA requirements by significantly increasing the number of investigations it conducted into fugitive sex offenders (discussed below). Although not specifically required under SORNA, the USMS also has established a new investigative branch and re-assigned existing resources to increase federal investigations of fugitive sex offenders. In July 2008, the USMS received funding for a National Sex Offender Targeting Center that it plans to establish to supplement and coordinate state and local efforts to identify and arrest fugitive sex offenders.

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- The FBI has met the SORNA requirement that it provide electronic updates to state sex offender registration authorities when records change in the National Sex Offender Registry it maintains as part of NCIC. The FBI has also issued guidance to allow access to national crime information databases for personnel at the National Center for Missing and Exploited Children (NCMEC) and social service agencies, as required by SORNA. While these SORNA requirements have been met, we found Deputy Marshals cannot use NCIC to analyze the information in NSOR or the NCIC Wanted Persons File in its entirety to identify all suspected fugitive sex offenders for investigation. This problem stems from the fact that NCIC is not an analytical database, but rather an investigative tool used to obtain criminal justice records on a case-by-case basis. To address the problem, FBI officials told us that they would provide the USMS with a complete download of data in NSOR and the NCIC Wanted Persons File for use in fugitive sex offender investigations if the USMS requested it.

Accuracy, Completeness, and Reliability of the National Sex Offender Registries

We found that the registries that make up the national sex offender registration system – the FBI’s National Sex Offender Registry (NSOR) and the state public sex offender registries accessed through OJP’s National Sex Offender Public Registry Website (NSOPR) – are inaccurate and incomplete. As a result, neither law enforcement officials nor the public can rely on the registries for identifying registered sex offenders, particularly those who are fugitives.

Specifically, the states have not entered records on approximately 22 percent of their registered sex offenders into NSOR and have not identified sex offenders who have failed to maintain a current registration. We also found that states do not consistently enter information into NSOR such as social security numbers, driver’s license numbers, and vehicle identification numbers.

We found several causes for the missing and incomplete records. Prior to the Adam Walsh Act, states were not required to enter information on their registered sex offenders into NSOR. Further, some records that states attempted to enter were rejected because they lacked information required by NCIC. Also, some state registries are not fully compatible with NCIC, causing records to be lost when those states attempt to update NSOR records.

FBI audits of state registries found weaknesses similar to those we found in our analysis, and the NCIC Advisory Policy Board (which must authorize changes to NCIC) has approved changes to correct the weaknesses. The FBI has yet to implement the changes. However, the FBI has discontinued its audits of state registries pending state implementation of SORNA requirements and the Department's issuance of its SORNA guidelines.

Similarly, we found that the state sex offender records accessed through OJP's NSOPR portal are inconsistent and incomplete, and they do not provide reliable information to identify non-compliant sex offenders. Because of these weaknesses, federal, state, and local law enforcement officers who use the NSOPR portal to query the public state registries during investigations may not obtain accurate information on a suspect's registration or fugitive status. In addition, the public cannot use the state information available through the NSOPR portal as a reliable tool to identify all registered and non-compliant sex offenders in their communities.

When implemented, SORNA guidelines that OJP issued to the jurisdictions in July 2008 should improve the quality of data in the sex offender public registries, but the guidelines will not correct all of the problems we noted. As a result, members of the public will not have the information they need to assess the threat posed by sex offenders in their communities.

Trends in the Department's Investigation, Arrest, and Prosecution of Fugitive Sex Offenders

We found that over the last 4 fiscal years, the Department has increased the number of federal investigations, arrests, and prosecutions of sex offenders for failure to register or update a registration, which under SORNA is a federal felony. The Department also increased its assistance to states for their fugitive sex offender investigations.

Overall, between FY 2004 and FY 2007, the USMS conducted 5,910 fugitive sex offender investigations, with an increasing number of investigations conducted each fiscal year, from 390 in FY 2004 to 2,962 in FY 2007 (Table 1). During this period, the USMS's investigations based on federal warrants increased from 9 to 341, while its investigations based on state warrants increased from 381 to 2,621. Further, between FY 2004 and FY 2007, the USMS arrested 4,503 fugitive sex offenders, with an increasing number of arrests made each fiscal year, from 149 to 2,779. In those years, the USMS's arrests based on federal warrants increased from 0 to 200, while its arrests based on state warrants increased from 149 to 2,579.

Finally, since the enactment of SORNA in mid-2006 through March 2008, U.S. Attorneys' Offices accepted 162 cases for prosecution under SORNA and declined 53 cases. Of the 53 declined cases, at least 15 were prosecuted at the state or local level.²

Table 1: Summary of Sex Offender Investigation and Arrest Data, FY 2004 through FY 2007

	FY 2004	FY 2005	FY 2006	FY 2007	Total
Federal investigations	9	7	38	341	395
State investigations	381	817	1,696	2,621	5,515
Total investigations	390	824	1,734	2,962	5,910
Federal arrests	0	1	7	200	208
State arrests	149	501	1,066	2,579	4,295
Total arrests	149	502	1,073	2,779	4,503

Source: USMS.

CONCLUSIONS AND RECOMMENDATIONS

In the 2 years since SORNA was enacted, the Department has made progress in implementing the law's requirements, but has not completed implementation of all of the Act's requirements. Although the Department prepared a memorandum in 2006 regarding implementation of SORNA requirements, we determined the memorandum reached only one of several relevant components, and some of the steps to implement SORNA have not been completed by Department components. Moreover, we found that the Department has no current plan to guide the components' efforts to implement SORNA requirements.

At the component level, OJP has issued software to all jurisdictions to connect public sex offender registries to the NSOPR portal as required by SORNA, and OJP's SMART Office has continued to help jurisdictions enhance their registry systems. However, the SMART Office took 2 years to issue implementation guidelines to the jurisdictions. The jurisdictions have until July 27, 2009, to implement SORNA. In our review, we found that information in the public registries accessed through the NSOPR portal is currently inconsistent and inaccurate. As of November 2008, all states had

² Data on the ultimate disposition of the remaining 38 declined cases was not available.

connected their public registries to the NSOPR portal, but three territories and all federally recognized Indian tribes had not made such connections.

We also found that other Department components have taken various steps to implement SORNA. The United States Attorneys' Offices and Criminal Division have assigned new and existing resources to prosecute federal fugitive sex offenders who fail to register or update a registration. The USMS has established a new investigative branch and re-assigned existing resources to increase federal investigations. And the FBI has met SORNA requirements that it provide both electronic notification updates to the NSOR database used by law enforcement and wider access to national crime information databases.

However, we found that neither the FBI's NSOR nor OJP's NSOPR portal contain complete and accurate listings of all of the sex offenders in the United States who are required to register. We believe that the Department and its components should provide additional assistance to jurisdictions to ensure that information on registered, non-compliant, and fugitive sex offenders is included in the national registries. Specifically, we make the following recommendations to the Department's components:

1. The FBI should ensure NSOR has more complete and accurate information by designing and implementing a new audit of jurisdiction registries' compliance with FBI NSOR procedures and with the SORNA guidelines.
2. The FBI should implement the Advisory Policy Board-approved changes to NSOR that specifically provide information regarding fugitive status.
3. The USMS should obtain NSOR and the NCIC Wanted Persons File data downloads from the FBI and use that information to manage and conduct fugitive sex offender investigations.

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BACKGROUND

Introduction

This report examines the Department of Justice's (Department) implementation of particular provisions in the *Adam Walsh Child Protection and Safety Act of 2006* (Adam Walsh Act).³ Specifically, we reviewed the Department's enforcement of requirements that sex offenders establish and maintain registrations. Title I of the Adam Walsh Act, the *Sex Offender Registration and Notification Act* (SORNA), sets forth specific roles in implementing the Act for the Department and its components – the Office of Justice Programs (OJP), the United States Marshals Service (USMS), the Federal Bureau of Investigation (FBI), the United States Attorneys' Offices (USAO), and the Criminal Division. These roles include identifying, arresting, and prosecuting sex offenders who have failed to register or update a registration. Sex offenders who fail to register or update a registration are referred to as *non-compliant*. If a warrant has been issued for their arrest, they are referred to as *fugitive* sex offenders.

SORNA also places sex offender registration requirements on state, territorial, and tribal jurisdictions – discussed later in this report – that must be implemented within 3 years of SORNA's enactment (by July 27, 2009). Other than setting two reporting deadlines, SORNA specifies no implementation dates for the requirements it places on the Department and its components. However, SORNA requires the Department to assist the jurisdictions with implementation of their SORNA obligations.

The Office of the Inspector General (OIG) conducted this review to determine what efforts the Department has made to implement the SORNA requirements imposed on the Department and whether those efforts have increased the number of fugitive sex offenders investigated, arrested, and prosecuted by the Department. While the jurisdictions' efforts to implement SORNA were beyond the scope of our review, we examined the efforts of Department components to assist the jurisdictions with meeting their SORNA requirements.

This background section describes the history of federal sex offender legislation, the roles played by various organizations in implementing

³ The *Adam Walsh Child Protection and Safety Act of 2006*, Pub. L. No. 109-248, 120 Stat. 587 (codified primarily in sections of 42 U.S.C. as well as 10 and 18 U.S.C.), was signed on July 27, 2006. SORNA is codified at 42 U.S.C. § 16901.

SORNA, the federal registry system, the registration and notification process, registration requirements, and registration enforcement measures.

Federal Sex Offender Registration Legislation

In 1994, the *Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act* (Wetterling Act) required states to establish registries that included information about offenders convicted of a “criminal offense against a victim who is a minor” or a “sexually violent offense.”⁴ “Sexually violent offenses” include rape, non-consensual sexual assault, aggravated sexual abuse, or similar acts that involve engaging in physical contact with another person with the intent to commit sexual abuse. The Wetterling Act also made it a federal misdemeanor offense for sex offenders to not maintain their registrations when they move from one state to another.

In May 1996, a federal law known as Megan’s Law amended the Wetterling Act to increase the public’s access to information about registered sex offenders.⁵ The law gave states broad discretion in establishing criteria for disclosing information on registered sex offenders. The law also allowed states to determine who should be notified about sex offenders, under what circumstances, and about which offenders. It required states to establish a community notification system to assist law enforcement in investigations and to enable citizens to receive information about registered sex offenders.⁶

In October 1996, the *Pam Lychner Sexual Offender Tracking and Identification Act* (Lychner Act) required the federal government to establish a national sex offender registry.⁷ In response, the FBI created the National Sex Offender Registry (NSOR) to assist in the state-to-state tracking and management of sex offenders. NSOR, which contains sex offender

⁴ The Wetterling Act was passed as part of the *Federal Violent Crime Control and Law Enforcement Act of 1994*, codified at 18 U.S.C. § 1033 (1994).

⁵ Amended Section 170101(d) of the *Violent Crime Control and Law Enforcement Act of 1994* (42 U.S.C. § 14071(d)).

⁶ A community notification system is a way for state and local governments to convey information to the public about registered sex offenders. Community notification can be done through state or local public registry websites, newspapers, pamphlets, or e-mail.

⁷ 42 U.S.C. § 13701.

registration data from each state and territory, is described in more detail later in this section.

The Lychner Act further allowed the FBI to conduct sex offender registration and community notifications in states that did not have systems in place for such purposes. The Lychner Act required sex offenders moving to a new state or establishing residence upon being released from a prison or being placed on parole, supervised release, or probation to notify the FBI or state authorities within 10 days of the move.

In July 2006, the Adam Walsh Act established minimum standards for sex offender registration and notifications in the United States and its territories. The minimum standards include registry requirements for jurisdictions and sex offenders, information required to be included in the registration, duration of registration requirements, periodic in-person verifications, and the duty to notify sex offenders of registration requirements. The SORNA portion of the Adam Walsh Act also established requirements to ensure that convicted sex offenders are notified of their registration obligations. SORNA also reaffirmed the Lychner Act requirement that the FBI create and maintain NSOR and made violation of sex offender registration requirements a federal felony.⁸

Organizations Involved in Implementing SORNA

Within the Department, five main components – OJP, the USMS, the FBI, the USAOs, and the Criminal Division – have been involved in implementing SORNA. In addition, the National Center for Missing and Exploited Children (NCMEC), a private, non-profit organization that receives most of its funding from federal sources, assists the Department with investigating fugitive sex offenders. The following sections describe the missions of these organizations and their roles in locating, arresting, or prosecuting fugitive sex offenders.

Office of Justice Programs

OJP's mission is to provide state and local agencies with funds and technical assistance to help develop the nation's capacity to prevent and control crime, improve the criminal and juvenile justice systems, increase knowledge about crime and related issues, and assist crime victims. Two OJP units are involved in implementing SORNA: the Bureau of Justice

⁸ See 18 U.S.C. § 2250 (2006).

Assistance (BJA) and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office).

The BJA's mission includes providing criminal justice policy, training, and technical assistance and acting as the Department's liaison to national organizations on these issues. The BJA also coordinates and administers all state and local grant programs, including those related to sex offender programs. In 2005, before SORNA was passed, the BJA created the National Sex Offender Public Registry (NSOPR). The NSOPR is not a database, but rather a "portal" website through which the public can access and search individual jurisdictions' public sex offender registries.

In response to Section 145 of SORNA, the Department also designated BJA to coordinate the design and implementation of two new information-sharing systems: the Internet Crimes Against Children Virtual Headquarters and the Cyber Safe Deconfliction systems. According to a memorandum issued by the Department's Associate Attorney General, the Crimes Against Children Virtual Headquarters system will give federal, state, and local law enforcement a secure online environment in which to collaborate on investigations, including communication tools and online training resources. The memorandum states that the Cyber Safe Deconfliction system is designed to provide more effective coordination for overlapping investigations, enhance sharing of tactical and strategic intelligence, and provide an opportunity for enhanced collaboration between Internet Crimes Against Children task forces and other computer crime investigators.

The SMART Office – established under Section 146 of SORNA – provides guidance and technical assistance to states, territories, Indian tribes, local governments, and public and private organizations. Since mid-2008, the SMART Office has maintained the NSOPR portal (which the BJA originally created). The SMART Office also tracks important legislative and legal developments related to sex offenders and administers grant programs related to the registration, notification, tracking, and monitoring of sex offenders. The Director of the SMART Office was appointed in December 2006 and, since January 2008, supervises a six-member staff. In response to SORNA, on July 1, 2008, the SMART Office issued national guidelines to assist the state, territorial, and tribal jurisdictions in becoming compliant with SORNA provisions by July 27, 2009.⁹

⁹ When the Attorney General announced the proposed guidelines on May 17, 2007, he also announced that the Department was providing \$25 million in assistance for communities to implement the Adam Walsh Act.

United States Marshals Service

The USMS's mission includes arresting violent fugitives; providing federal courthouse security; protecting judges, witnesses, jurors, and members of the public; and transporting and detaining federal prisoners. The Department has designated the USMS as the lead federal agency in investigating federal registration violations by sex offenders and in assisting states in enforcing their registration requirements. Pursuant to SORNA, the USMS: (1) assists state, local, tribal, and territorial authorities in locating and arresting fugitive sex offenders; (2) investigates violations of 18 U.S.C. § 2250 (federal registration violations) and related offenses; and (3) assists in identifying and locating sex offenders who have relocated as the result of a major disaster.

To manage investigations conducted by its district offices and task forces, in 2006 the USMS established at its headquarters a Sex Offender Investigations Branch. The USMS also arrests fugitive sex offenders through its Operation FALCON (Federal and Local Cops Organized Nationally). FALCON, created in 2005, is a week-long operation typically conducted once a year that combines the resources of federal, state, county, and city law enforcement agencies to locate and arrest fugitives wanted for all types of violent crimes. The USMS emphasized arresting sex offenders that had outstanding warrants as well as other violent fugitives. FALCON 2006 was the first FALCON operation to enforce failure to register or update a registration as a federal felony under 18 U.S.C. § 2250. From 2006 through 2008, FALCON has resulted in 1,654 arrests for federal, state, and local sex offender registration violations. The USMS has also conducted several operations at the district level specifically designed to apprehend fugitive sex offenders and has encouraged its districts to coordinate these operations with local law enforcement agencies.

Federal Bureau of Investigation

Under SORNA, the FBI is responsible for maintaining the National Sex Offender Registry. Unlike OJP's NSOPR portal, the FBI's NSOR is a database that contains information on sex offenders from federal investigations as well as information that is submitted by the states. NSOR is a part of the FBI's National Crime Information Center (NCIC) and is accessible only to authorized users (mostly law enforcement agencies). In maintaining NSOR, the FBI's Criminal Justice Information Services Division provides support to the states to address weaknesses in their transfer of information to NSOR. We discuss NSOR later in this section.

In addition, the FBI's Crimes Against Children unit investigates and arrests fugitive sex offenders as part of its mission to decrease the vulnerability of children to sexual exploitation; develop a nationwide capacity to provide a rapid, effective, and measured investigative response to crimes against children; and enhance the capabilities of state and local law enforcement investigators through programs, investigative assistance, and task force operations. Because the Department designated the USMS as the lead agency for investigating fugitive sex offenders, on November 17, 2006, the FBI issued guidance that instructed its Special Agents to initiate fugitive sex offender investigations only when doing so would support an investigation of another crime.

United States Attorneys' Offices

U.S. Attorneys are the chief federal law enforcement officers within the 94 districts they serve. The federal prosecutors they direct can pursue charges under 18 U.S.C. § 2250 against sex offenders who fail to register. They can also prosecute sex offenders for other crimes, such as child pornography or child exploitation, as part of the Department's Project Safe Childhood initiative. The Department created Project Safe Childhood in February 2006 as a nationwide initiative to protect children from online sexual exploitation and abuse. Project Safe Childhood attorneys coordinate with federal, state, and local law enforcement to locate, arrest, and prosecute individuals who exploit children through the Internet. The fiscal year (FY) 2008 Department budget request included \$9.5 million and 93 positions (73 attorneys) to support Project Safe Childhood. On May 7, 2008, the Department announced it had received \$5 million in new funds, which it would use to create 43 Assistant U.S. Attorney positions to support Project Safe Childhood, which prosecutes federal fugitive sex offenders.

Criminal Division

The Child Exploitation and Obscenity Section of the Department's Criminal Division is responsible for enforcing federal criminal statutes relating to the exploitation of children and obscenity. The section, which helped draft the SORNA legislation, assists federal attorneys with prosecutions of fugitive sex offenders for 18 U.S.C. § 2250 violations. The FY 2008 budget requested \$685,000 for the Criminal Division to prosecute sex offenders.

National Center for Missing and Exploited Children

The National Center for Missing and Exploited Children's (NCMEC) mission is to work with federal, state, and local law enforcement agencies to

help prevent child abduction and sexual exploitation; find missing children; and assist victims, their families, and social service agencies. Pursuant to 42 U.S.C. § 5771 *et seq.*; 42 U.S.C. § 11606; and 22 C.F.R. § 94.6, OJP established NCMEC in 1984 as a private, nonprofit 501(c)(3) organization with a mandate to perform certain functions to assist law enforcement, such as serving as a clearinghouse for information on missing or exploited children. While NCMEC is a private organization, it receives 71 percent (about \$40 million) of its funding from the federal government.¹⁰

Although not required as a part of SORNA, NCMEC has established a Sex Offender Tracking Team. The Sex Offender Tracking Team's main objective is to respond to law enforcement requests for assistance in locating fugitive sex offenders and to conduct searches for possible connections between fugitive sex offenders and NCMEC cases on child abduction, attempted abduction, and online exploitation. The Sex Offender Tracking Team provides law enforcement agencies with publicly available information and analysis about the possible whereabouts of fugitive sex offenders. The team also acts as a liaison between the USMS and state and local agencies regarding the arrest of fugitive sex offenders. NCMEC has not received any federal funding specifically for the Sex Offender Tracking Team or for its assistance to local, state, and federal law enforcement in identifying and locating fugitive sex offenders.

NCMEC shares the information it generates on the identification and location of fugitive sex offenders with state and local law enforcement, as well as with the USMS. In addition, NCMEC provides training to federal, state, and local law enforcement officers on investigative techniques for locating fugitive sex offenders, sex offender classification and behavior characteristics, the legal process, and the Adam Walsh Act.

NCMEC analysts survey 56 state and territory sex offender registry authorities 4 times a year to estimate the total number of registered sex offenders in the country. Using its survey results, NCMEC produces a map of the United States showing the estimated number of registered sex offenders in each jurisdiction. (See Appendix III.) In July 2008, NCMEC analysts estimated that there are approximately 644,865 sex offenders in the United States. Of these, NCMEC estimated that there are about

¹⁰ On June 26, 2008, the President signed the *Protecting Our Children Comes First Act of 2007* (Pub. L. No. 110-240 (2008)) authorizing up to \$40 million per year in federal funding for NCMEC through 2013. The bill mandated that NCMEC support 19 specific programs, one of which provides training and assistance to law enforcement agencies in identifying and locating non-compliant sex offenders.

100,000 fugitive sex offenders who have not registered or updated their registrations.

Federal Sex Offender Registry System

The national sex offender registration system is composed of two registries: the FBI's National Sex Offender Registry and the OJP SMART Office's Dru Sjodin National Sex Offender Public Registry Website. Each is described below.

The National Sex Offender Registry

The FBI established NSOR as a file within its National Crime Information Center (NCIC). NCIC is a database of 18 files of criminal justice information entered by federal, state, and local law enforcement agencies that includes criminal record history information, records on wanted and missing persons, and information on identifiable stolen property such as automobiles and firearms. NCIC is available to federal, state, and local law enforcement and other criminal justice agencies 24 hours a day, 365 days a year.

States can upload information on sex offenders convicted in state and federal courts to NCIC and transfer information on sex offenders required to register by state law to NCIC's NSOR file. The NSOR records of convicted sex offenders or violent sexual predators include the offenders' current registered addresses and their dates of conviction and registration. The *NCIC 2000 Operating Manual for the Convicted Sexual Offender Registry File* (NSOR operating manual) states that information indicating that offenders have failed to register or are non-compliant with registration requirements should be listed in the NSOR miscellaneous field. Those offenders who have had active warrants issued for registration violations are listed in the NCIC Wanted Persons File, which is a separate file within NCIC that contains active warrants for all types of offenses.

Under the Wetterling Act, NSOR must include records on three categories of sex offenders:

- **Individuals convicted of a criminal offense against a minor** – “Criminal offenses against a minor” are specified by state law and vary from state to state. To be included in NSOR, according to the NSOR operating manual, the offense must be as serious or more serious than any of the following eight offenses: (1) kidnapping of a minor (except by a parent), (2) false imprisonment of a minor (except by a parent), (3) criminal sexual conduct toward a minor, (4) solicitation of

a minor to engage in sexual conduct, (5) use of a minor in a sexual performance, (6) solicitation of a minor to practice prostitution, (7) any conduct that by its nature is a sexual offense against a minor, or (8) any attempt to commit one of the offenses listed above if the state makes such an attempt a criminal offense.

- **Individuals convicted of a sexually violent offense** – A “sexually violent offense” is defined as any offense specified by state law that meets the elements of aggravated sexual abuse or sexual abuse, or an offense that has as part of its elements engaging in physical contact with another person with intent to commit aggravated sexual abuse or sexual abuse.
- **Individuals who are sexually violent predators** – A “sexually violent predator” is defined as a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses. Under Megan’s Law, to designate a person as a sexually violent predator a board composed of experts in the behavior and treatment of sex offenders, victims’ rights advocates, and representatives of law enforcement agencies presents its recommendation to a court, which makes the final determination.¹¹

The Dru Sjodin National Sex Offender Public Registry Website

SORNA requires the Department to maintain a national public registry website that the public can use to access information on registered sex offenders from all of the sex offender public registries. NSOPR, which is an online portal to public sex offender registries, was created by OJP’s Bureau of Justice Assistance on July 20, 2005, prior to the enactment of SORNA, and was called the National Sex Offender Public Registry. SORNA changed the portal’s name to the “Dru Sjodin National Sex Offender Public Registry,” and the portal is now maintained by the SMART Office.¹² To expand access to public registries through the NSOPR portal, SORNA made the Department responsible for developing and supporting software to enable jurisdictions to establish and operate sex offender public registry websites, provide immediate information sharing among jurisdictions, and provide the public with Internet access to all jurisdiction registries. In response, the BJA worked with OJP’s SMART Office to establish access to

¹¹ 42 U.S.C. § 14071 (a)(2)(A).

¹² The website is at www.nsopr.gov.

the public registries of all 50 states, as well as Guam, Puerto Rico, and the District of Columbia, through the NSOPR portal. On July 1, 2006, the Attorney General announced that all 50 states were participating in the NSOPR portal.

Using the NSOPR portal, members of the public can access and search public registries to identify the location in their communities of offenders who, in most cases, have been convicted of sexually violent offenses against adults and children, certain types of sexual contact, and other crimes against victims who are minors.¹³

Sex Offender Registration and Notification Process, Requirements, and Enforcement Measures

SORNA requires convicted sex offenders to register in the jurisdictions in which they will live, work, and attend school, and to periodically verify their information with jurisdiction registration authorities. Jurisdiction registration authorities are required to alert the FBI when they receive new or updated registration information. Sex offender registration requirements vary by jurisdiction, and the duration for maintaining the registration is based on the nature of the offender's crime and on jurisdiction law. Both federal and state law enforcement agencies have jurisdiction in enforcing sex offender requirements.

Registration and Notification Process

Under SORNA, all sex offenders convicted of crimes that require registration must register with the jurisdictions in which they live, work, and attend school within 3 business days after being released from incarceration or within 3 business days of being sentenced in cases in which there is no term of incarceration. Offenders convicted of an offense that requires registration are notified by court officials of their registration obligations. There is no separate federal registry for sex offenders released from federal or military custody. Rather, such offenders are required to register in the appropriate state, territorial, or tribal registries.

Once sex offenders are entered in a jurisdiction registry, SORNA requires them to report changes in address and to report periodically in person to jurisdiction registration authorities to verify their information. The interval between in-person appearances depends on the severity of the

¹³ The NSOPR portal states that the Department does not guarantee the accuracy, completeness, or timeliness of the information in the states' public registries.

offenses for which they were convicted. Most jurisdictions also require that law enforcement agencies periodically verify registrants' information.

When a sex offender registers or updates a registration in a jurisdiction registry, SORNA requires the jurisdiction to provide the new information to the FBI's NSOR.

Registration Requirements

Sex offender registration requirements vary by jurisdiction. However, SORNA requires all jurisdictions to adopt registration requirements that are at least as strict as those established by SORNA.

Section 115 of SORNA defines three tiers of sex offenders based on the seriousness of the crimes for which they were convicted. The tiers determine how long an offender must maintain registration after release or after conviction if no prison sentence was imposed. The three tiers, in order of most serious to least serious, are as follows:¹⁴

- **Tier III** – Sex offenders whose offenses are punishable by imprisonment for more than 1 year and are comparable to or more severe than aggravated sexual abuse, sexual abuse, abusive sexual contact against a minor who has not attained the age of 13 years, or kidnapping a minor (unless committed by a parent or guardian). Tier III sex offenders must maintain their registrations for their lifetime.
- **Tier II** – Sex offenders other than Tier III sex offenders whose offenses are punishable by imprisonment for more than 1 year and are 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, use of a minor in a sexual performance, solicitation of a minor to practice prostitution, or production or distribution of child pornography. Tier II sex offenders must maintain their registrations for 25 years.
- **Tier I** – Sex offenders other than Tier II or Tier III sex offenders. Tier I sex offenders must maintain their registrations for 15 years.

¹⁴ Tier definitions are codified at 42 U.S.C. § 16911.

SORNA provides specific sanctions for sex offenders who knowingly fail to register or update a registration. Failure to register or update a registration by itself is a federal felony punishable by up to 10 years in prison. Sex offenders who commit federal crimes of violence while non-compliant with registration requirements are subject to a mandatory 5-year enhancement to any prison sentence imposed for the violent crime.¹⁵

Enforcement Measures

The enforcement of SORNA's sex offender registration requirements involves both federal and state law enforcement agencies. The primary responsibility for identifying and arresting fugitive sex offenders rests with state and local law enforcement. However, Section 142 of SORNA authorized the Attorney General to use federal law enforcement resources, specifically the USMS, to assist state and local law enforcement in locating and arresting sex offenders who fail to maintain their registrations.¹⁶

Federal involvement in fugitive sex offender investigations can begin when a federal law enforcement agency identifies a sex offender who is not in compliance with SORNA requirements or when a state law enforcement agency requests federal assistance from the USMS. If the USMS accepts the request, it investigates based on the information the requesting state agency provides and may assist in the arrest of the fugitive sex offender based on the state charges. The USMS can also "adopt" the case and seek a federal warrant based on the federal SORNA violation. In determining whether to adopt a case, the USMS coordinates with Assistant U.S. Attorneys and state prosecutors to determine whether state or federal charges are appropriate based on such considerations as other charges that may be pending against the fugitive sex offender and whether the evidence collected in the course of the investigation supports a federal charge. If the USMS does not adopt the case, it can continue to assist with the investigation and arrest of the fugitive sex offender but the state will carry out the prosecution. If the USAO seeks a federal warrant, the USMS adopts the state investigation as a federal case and the offender is then a federal fugitive who can be prosecuted in federal court if arrested.

Organization of the Report

The remainder of this report presents the findings of our review in three sections. The first section details our findings regarding the status of

¹⁵ 18 U.S.C. § 2250.

¹⁶ 42 U.S.C. § 16941.

actions taken by the Department and its components to comply with and implement SORNA requirements and to improve the registry systems for providing law enforcement and the public with access to information on registered sex offenders. The second section describes our analysis of the accuracy and completeness of data that is being provided to law enforcement and the public through the FBI's NSOR and OJP's NSOPR portal. The third section presents the data we collected on the progress of the Department in arresting and prosecuting sex offenders who are not compliant with SORNA registration requirements.

PURPOSE, SCOPE, AND METHODOLOGY OF THE OIG REVIEW

Purpose

We reviewed the Department's efforts to implement SORNA requirements and assessed whether those efforts have increased the number of fugitive sex offenders investigated, arrested, and prosecuted by the Department.

Scope

We reviewed law enforcement (NSOR) and publicly available (NSOPR) sex offender registration data from January through March 2008. Our review also examined data on fugitive sex offender investigations, arrests, and prosecutions from FY 2004 through FY 2007. In addition, we reviewed the implementation of SORNA by Department components and the Department's efforts to assist state, territorial, and tribal jurisdictions with SORNA implementation. However, we did not review the jurisdictions' efforts to implement SORNA.

Methodology

To examine the implementation of SORNA, we conducted interviews and performed both document reviews and analyses of investigation, arrest, and prosecution data provided by Department components and other sources listed below.

Interviews

- Office of the Deputy Attorney General;
- Office of Legal Policy;
- SMART Office;
- Bureau of Justice Assistance;
- Executive Office for United States Attorneys;
- Criminal Division;

-
- FBI Criminal Justice Information Services Division;
 - FBI Headquarters;
 - USMS Headquarters; and
 - National Center for Missing and Exploited Children.

Document Reviews

- Department policies on sex offender registration and notification;
- Department policies on arrest and prosecution of fugitive sex offenders;
- Annual reports to Congress on the USMS's assistance to jurisdictions in arresting fugitive sex offenders and the federal prosecution and punishment of sex offenders who fail to comply with registration requirements; and
- Component policies on identifying, arresting, and prosecuting fugitive sex offenders.

Data Analyses

- OJP Dru Sjodin National Sex Offender Public Registry Website;
- FBI National Sex Offender Registry;
- FBI Integrated Statistical Reporting and Analysis Application;
- USMS Justice Detainee Information System;
- Executive Office for United States Attorneys (EOUSA) Legal Information Office Network System; and
- NCMEC estimates and reports.

RESULTS OF THE REVIEW

SECTION I: DEPARTMENT EFFORTS TO IMPLEMENT SORNA

Although the Department prepared a memorandum in 2006 regarding implementation of SORNA, we determined that the memorandum reached only one of several Department components involved in implementing SORNA. Moreover, we found that the Department has no current plan to guide the components' efforts to implement SORNA requirements. At the component level, OJP has issued software to all jurisdictions to connect sex offender public registries to the NSOPR portal, as required by SORNA, and OJP's SMART Office also has continued to assist jurisdictions to implement enhancements to jurisdiction sex offender registry systems. However, the SMART Office took 2 years to issue implementation guidelines to the jurisdictions, and not all jurisdictions have used the software to connect their public registries to the NSOPR portal.

Other components also have taken steps to implement SORNA requirements. The United States Attorneys' Offices and Criminal Division have assigned new and existing resources to prosecute federal fugitive sex offenders who fail to register or update a registration. The USMS has established a new investigative branch and re-assigned existing resources to increase federal investigations. The FBI has met SORNA requirements that it notify all relevant jurisdictions of updates to the NSOR database used by law enforcement and provide wider access to national crime information databases.

SORNA contains a variety of provisions for different Department components. We found that while Department components have begun implementing these SORNA provisions, not all SORNA provisions have been fully implemented. In the following sections, we describe the major requirements and the activities and progress of the Department in response to SORNA provisions.

Implementation of SORNA

We found that in August 2006 the Office of Legal Policy provided the Attorney General and Deputy Attorney General with a summary of the provisions of the Adam Walsh Act, including SORNA, which required implementation. (See Appendix IV.) The four pages of the memorandum devoted to SORNA provided a section-by-section analysis of the provisions of the Act and included recommended actions and a proposed timeline for implementing each action. The Department distributed the memorandum to OJP's SMART Office on March 9, 2007 – 7 months after it was drafted. However, the Department did not distribute the memorandum to any other component and did not assign tasks and deadlines to components.

When asked why the memorandum was not distributed to other components charged with responsibilities under SORNA, a Senior Counsel for the Deputy Attorney General stated that the memorandum was intended to assist in implementing SORNA by providing readers a “shorthand understanding” of a section of a public law that in its entirety is more than 60 pages long. He said that the memorandum was not binding on the components because the Office of the Deputy Attorney General did not view it as a directive.

Our review of the actions taken by the components to implement SORNA found that in some instances the components had, independently, carried out or had begun to carry out elements identified in the memorandum. Yet, other actions proposed in the memorandum have not been completed and few of the timelines have been met. For example, the memorandum calls for a joint FBI-USMS effort to assist states in locating and arresting sex offenders who violate registration requirements. Such a joint effort was never developed. The memorandum also called for the SORNA implementation guidelines for the states to be issued within 6 months of SORNA's enactment. Yet, the guidelines were not issued until July 1, 2008 – almost 2 years after the enactment of SORNA. The memorandum also stated that in response to Section 120 the capability for a NSOPR portal user to identify sex offenders located within a given distance of a specific address (geographic radius query) be implemented within 6 months of the enactment of SORNA. However, software for that capability was not issued until July 25, 2008.

The Department also did not prepare a more formal memorandum for dissemination to the other components apart from the memorandum it provided to the SMART Office in March 2007. In fact, as of October 2008 there still was no written Department-level plan for accomplishing the actions required to implement SORNA. Because the Department did not

issue any directives to the components, the components have not been accountable for implementing the recommended tasks within the timelines contained in the memorandum. Although SORNA includes a deadline for jurisdiction implementation of its requirements, it only imposes reporting deadlines for the Department. Thus, without any directives from the Department, the Department's components have set their own pace in implementing SORNA.

Despite the components not receiving any formal directive, as we describe in the following sections, OJP, the USAOs, the Criminal Division, the USMS, and the FBI have made significant progress with implementing many SORNA provisions. However, the Department has not fully implemented SORNA provisions essential to making the sex offender registration and notification system complete and accurate.

OJP has issued software to jurisdictions to connect all public sex offender registries to the NSOPR portal and is assisting the jurisdictions in implementing SORNA requirements.

As discussed below, OJP has largely addressed its requirements under SORNA to assist jurisdictions with improvements to the NSOPR portal and is continuing to assist jurisdictions in improving their registration systems. The jurisdictions also have responsibilities under SORNA, but the Department's only mechanism for enforcing compliance is to reduce states' Edward Byrne Memorial Justice Assistance Grant Program funding by 10 percent or to require Indian tribes to delegate their SORNA responsibilities to the states in which the reservations are located.¹⁷ However, OJP did not issue guidelines to jurisdictions on implementing SORNA until July 1, 2008. The SMART Office continues to assist Indian tribes to establish registration systems accessible through the NSOPR portal. The SMART Office has also not implemented a system to ensure that registered sex offenders leaving the United States or sex offenders with foreign sex offense convictions entering the United States comply with registration requirements. The SMART Office has initiated a program to provide grants to jurisdictions to assist them with implementing SORNA requirements.

¹⁷ The Edward Byrne Memorial Justice Assistance Grant Program helps local communities improve the capacity of local justice systems and provides for national support efforts, including training and technical assistance programs, to address local needs.

The SMART Office is assisting states with implementing enhancements to state public registry systems, some of which are required by SORNA, but these enhancements have not yet been completed.

In Section 120, SORNA required the Department to improve the NSOPR portal by (1) re-designating NSOPR as the “Dru Sjodin National Sex Offender Public Website”; (2) expanding NSOPR to include information on sex offenders from all states, U.S. territories, and tribes; and (3) providing the public with the capability to obtain, with a single query, information for each sex offender in any given zip code or geographical radius within 3 miles of an address set by the user.¹⁸ In our review we found that OJP had renamed the NSOPR portal and was close to completing its required expansion. The NSOPR portal now provides access to sex offender public records from all 50 states, the District of Columbia, Guam, and Puerto Rico. Access to the records from American Samoa, the Northern Mariana Islands, and the U.S. Virgin Islands was to be provided by July 2008, but as of October 2008 was still unavailable. The SMART Office is working with a contractor to create websites for these territories, as well as 197 Indian tribes that are not currently included on the NSOPR portal.

The Director of the SMART Office stated that a geographic radius search developed for the NSOPR portal will allow users to search for all registered sex offenders within 3 miles around a specific address. During our analysis of data available on public registries through the NSOPR portal, we identified 16 states in which a similar mapping feature was available. BJA and SMART Office staff told us that because NSOPR is only a portal to the individual jurisdiction public registries, implementation of the radius search capability will require the jurisdictions to install new software on each of their registries. Consequently, the SMART Office has entered into a 2-year unlimited use contract with a private mapping vendor to provide geographic radius search software to the jurisdictions. On July 25, 2008, the SMART Office made geographic radius search software available to all registration jurisdictions, including states, territories and tribes.¹⁹

¹⁸ 42 U.S.C. § 16920.

¹⁹ We found that, as of July 31, 2008, 16 state public registries included a mapping feature, some of which provided a geographic radius search. However, we cannot confirm whether the software used was provided by the SMART Office or was obtained independently by the states.

OJP took 2 years to issue implementation guidelines.

On July 1, 2008, the SMART Office issued the guidelines required by Section 112(b) to inform the jurisdictions of the actions they must take to comply with SORNA.²⁰ Prior to the creation of the SMART Office, 6 months after the signing of the Adam Walsh Act, an attorney with the Office of Legal Policy began drafting the guidelines required by SORNA. The attorney said he began drafting these guidelines because he had experience with sex offender registration issues when the Wetterling Act was enacted in 1994. The attorney brought state registry, law enforcement, and corrections representatives together at a symposium to explain SORNA and obtain their comments on the guidelines. He also conducted presentations on SORNA standards and received feedback from jurisdictions that included advice on implementing the guidelines. The attorney continued working on the guidelines with the SMART Office once it became operational at the end of 2006.

The Director of the SMART Office told us that the guidelines went through extensive review and revisions before publication. The Director explained that the SMART Office received over 275 comments (approximately 600 pages) during the public comment period and that there was considerable discussion with the components regarding revision and editing of the final guidelines. Table 2 provides a timeline of the development of the guidelines.

²⁰ 42 U.S.C. § 16912(b). The final guidelines can be found at www.ojp.usdoj.gov/smart/guidelines_final.htm.

Table 2: Development of the Implementation Guidelines

Actions Taken	Dates
The Smart Office opened.	December 18, 2006
Draft of proposed guidelines underwent component review.	April 30 – May 2, 2007
Final draft of the proposed guidelines signed by the Associate Attorney General and forwarded for the Attorney General’s signature.	May 14
Final proposed guidelines signed by the Attorney General.	May 17
Proposed guidelines published in the <i>Federal Register</i> .	May 30
Public comment period held.	May 30 – August 1
Comments reviewed and final guidelines edited.	August 2, 2007 – January 31, 2008
Final guidelines sent for component review.	February 1 – February 15
Component comments incorporated. Revisions made and final guidelines edited.	February 16 – April 29
Action memo with final guidelines attached signed by the Associate Attorney General. The Attorney General’s approval and signature requested.	April 30
Final guidelines signed by the Attorney General.	June 23
Final guidelines announced by the Attorney General.	July 1

Source: The SMART Office.

In SORNA, Congress established a deadline of July 27, 2009, for state, territorial, and tribal jurisdictions to meet or exceed the requirements of the Act.²¹ The guidelines define jurisdiction compliance as follows:

SORNA § 125 refers to “substantial” implementation of SORNA. The standard of “substantial implementation” is satisfied with respect to an element of the SORNA requirements if a jurisdiction carries out the requirements of SORNA as interpreted and explained in these Guidelines. Hence, the standard is satisfied if a jurisdiction implements measures that these Guidelines identify as sufficient to implement (or “substantially” implement) the SORNA requirements.

The guidelines state that the SMART Office is responsible for determining whether individual states, Indian tribes, and territories are substantially compliant and for providing technical support to these jurisdictions to help them become substantially compliant with SORNA.

²¹ The guidelines also state that “at the latest, submissions establishing compliance with the SORNA requirements should be made to the SMART Office at least three months before the deadline date of July 27, 2009.”

The Director of the SMART Office told us that the guidelines were written so that jurisdictions could achieve compliance with each SORNA provision in their own way. For example, the Director said that a jurisdiction's tier system of registration requirements would not have to exactly match the registration requirements in SORNA.²² Instead, SORNA requirements are a minimum that jurisdictions must meet. The Director said Florida law regarding the length of registration meets SORNA standards by requiring lifetime registration for all sex offenders, not just Tier III sex offenders, as stipulated in SORNA. Any jurisdiction that has registration requirements that are not at least as long as SORNA's for all tiers of sex offenders based on convictions is not substantially compliant with SORNA.

SORNA (Section 125(b)) also includes provisions for cases in which a jurisdiction's constitution is in conflict with SORNA requirements.²³ If a jurisdiction believes that it faces such a situation, it is to inform the SMART Office, which will assist the jurisdiction to attempt to overcome the problem as the statute provides. If it is not possible to overcome the problem, the SMART Office may approve the jurisdiction's adoption of reasonable alternative measures that are consistent with the purposes of SORNA. The Director explained that substantial compliance submissions to the SMART Office should identify elements of a jurisdiction's registration and notification procedures that are different from those specified in SORNA and explain why the jurisdiction's procedures should not be considered a failure to substantially implement SORNA.

Also, the guidelines explain that a jurisdiction's "program cannot be approved as substantially implementing the SORNA requirements if it substitutes some fundamentally different approach to sex offender registration and notification that does not incorporate SORNA's baseline requirements – e.g., a 'risk assessment' approach." The Director of the SMART Office said that a jurisdiction that bases its classification of sex offenders on a risk assessment system rather than on the offense of conviction would not be SORNA compliant. During our analysis of data available on public registries through the NSOPR portal, we identified eight

²² Section 115 of SORNA establishes three tiers of registration requirements for sex offenders according to the severity of their offenses. Tier definitions are codified at 42 U.S.C. § 16911. See the Background section of this report for further discussion.

²³ 42 U.S.C. § 16925(b).

states in which the registration requirement was still based at least partially on an assessment of the offender's risk of re-offending.²⁴

In July 2008, OJP provided a checklist that the jurisdictions can use to prove they are in compliance with SORNA. The checklist was also intended to assist the SMART Office in assessing the jurisdictions' compliance submissions when considering extension requests and when considering funding reductions for non-compliance. Section 124 of SORNA authorizes the jurisdictions to request, and the Attorney General to grant, up to two 1-year extensions beyond the deadline.²⁵ As of October 3, 2008, 26 states, territories, and Indian tribes had submitted information for review, an extension request, or both to the SMART Office. The jurisdictions submitted information on preliminary compliance efforts, proposed and model legislation, changes to the tier system of registration requirements, and evidence of substantial compliance efforts. (See Appendix II.) As of October 3, 2008, four states had submitted requests for extensions.

The Director of the SMART Office said that substantial compliance will vary depending on specific issues associated with each jurisdiction's laws. Plans and processes for implementation will vary with each jurisdiction. She said the SMART Office provides ongoing assistance to jurisdictions as they are making policy decisions regarding meeting the minimum requirements for substantial compliance. The SMART Office then considers on a case-by-case basis whether jurisdiction sex offender registration and notification procedures follow the provisions of SORNA by assessing whether the departure from a specific SORNA requirement will or will not substantially accomplish the objectives of the requirement.

Section 125 of SORNA also directs the SMART Office to penalize states for not complying with the provisions of SORNA.²⁶ Specifically, states are subject to losing 10 percent of the funds they receive through the Edward Byrne Memorial Justice Assistance Grant Program if the SMART Office determines that they are not in compliance with SORNA by July 27, 2009. Any funding reductions are not scheduled to take effect until FY 2010, at the earliest.

²⁴ The eight states were Arizona, Delaware, Massachusetts, Montana, Nebraska, New York, Texas, and Washington. We note that states are not required to be in compliance until July 27, 2009.

²⁵ 42 U.S.C. § 16924.

²⁶ 42 U.S.C. § 16925.

The Director of BJA said that because OJP took 2 years to issue the guidelines, jurisdictions may not have time to comply by the July 27, 2009, deadline for implementing SORNA. In addition, the Director stated that the threat of losing 10 percent of Byrne grant money may not be an effective inducement for state compliance because it may cost some states more to comply than they might lose for not complying.²⁷ NCMEC officials also noted that several states had informed NCMEC that they believed their current programs already fulfill their SORNA requirements. The officials said that if the states' current programs are found not to be compliant, the states still do not plan on implementing new procedures or upgrading their systems because they did not receive any money at the time of SORNA's enactment (see the SOMA section below). NCMEC officials also said that the states view the guidelines as optional and therefore believe it is up to them whether they will follow the guidelines in implementing SORNA. NCMEC added that representatives from one state law enforcement agency stated they have questions regarding the definition of "substantially compliant" because there are provisions of SORNA that they will not implement. The former USMS Sex Offender Investigations Branch Chief Inspector also raised the possibility that states could choose not to comply. However, as of October 28, 2008, the SMART Office had not received an official declaration from any jurisdiction indicating that it will not substantially comply with SORNA.

The SMART Office has not implemented a system to track sex offenders entering or leaving the United States.

Section 128 of SORNA directs the Attorney General to create a system for informing the states about individuals entering the United States who have been convicted of sex offenses in foreign countries and who are required to register in the United States.²⁸ The SMART Office guidelines state that those individuals must register within 3 days of their arrival in the jurisdictions where they will live, work, or go to school. The jurisdictions then follow the same procedure they use for initial registration of domestic sex offenders. After initial registration, the jurisdiction must immediately forward the registration information to any other jurisdiction in which the sex offender is required to register.

²⁷ In 2008 the Department awarded roughly \$107.7 million to states and territories through the Byrne Memorial Justice Assistance Grant Program. This is an average of about \$1.9 million per state, which means that on average states could lose about \$192,000 for not complying with SORNA for any fiscal year after July 27, 2009. Awards to the states ranged from \$11.5 million to \$281,000.

²⁸ 42 U.S.C. § 16928.

In addition, the guidelines require that jurisdictions' registries include passport information on sex offenders. The guidelines state that having this information in the registries helps to:

- Locate and arrest registrants who may attempt to leave the United States after committing new sex offenses or registration violations,
- Facilitate the tracking and identification of registrants who leave the United States but later re-enter while still required to register (which specifically addresses Section 128 requirements), and
- Cross-check the accuracy and completeness of other types of information that registrants are required to provide.

Further, according to the guidelines a jurisdiction must notify the Department when sex offenders inform the jurisdiction that they intend to live, work, or go to school in a foreign country. The jurisdiction in which an offender originally registers must also inform other jurisdictions in which the offender is registered, as well as the USMS, and update the sex offender's information in national databases pursuant to Section 121(b)(1) of SORNA.²⁹

The Director of the SMART Office stated that she has discussed several issues involving individuals with convictions for foreign sex offenses with INTERPOL and the USMS, including (1) maintaining accurate information about registered sex offenders who travel outside of the United States, (2) the need for a federal law enforcement collaboration to track sex offenders, and (3) notifying foreign jurisdictions of sex offenders entering their countries.³⁰ The Director also stated that the SMART Office is reviewing the current processes, policies, and resources that could be employed to assist in the international notification process, including determining how the NSOPR portal can be used to track sex offenders that travel internationally.³¹

²⁹ 42 U.S.C. § 16921(b)(1).

³⁰ Created in 1923, INTERPOL is the world's largest international police organization, with 186 member countries. According to INTERPOL, it facilitates cross-border police cooperation and supports efforts to prevent or combat international crime.

³¹ On September 12, 2008, the SMART Office began sponsoring an International Working Group to track sex offenders leaving and entering the United States or traveling internationally.

The SMART Office has begun to implement the Sex Offender Management Assistance Program.

Section 126 of SORNA requires the Attorney General to establish a Sex Offender Management Assistance (SOMA) program to help jurisdictions offset the costs of implementing SORNA.³² The Director of the SMART Office said that SOMA was intended to provide grants to jurisdictions to assist them with implementing SORNA requirements and that the SMART Office received \$25 million for this purpose for FY 2007. In addition, in FY 2008, the SMART Office received \$4.16 million for SOMA through the Department's Office of Community Oriented Policing Services (COPS).³³ In April 2008, the SMART Office issued a solicitation for grant requests from state and local jurisdictions and federally recognized Indian tribes for funding to implement SORNA.³⁴ Eligible applicants were required to submit application packages by early May. As of June 12, 2008, the SMART Office had received 96 applications for funding. The Director said the SMART Office used an outside independent peer review panel to review the proposals and rate each based on its content and viability. Based on the panel's reviews, the SMART Office awarded 26 state, local, and tribal entities funding to implement Adam Walsh Act provisions, including SORNA (Table 3).

³² 42 U.S.C. § 16926.

³³ The Office of Community Oriented Policing Services (COPS) awards grants to tribal, state, and local law enforcement agencies to hire and train community policing professionals, acquire and deploy crime-fighting technologies, and develop and test policing strategies. It also provides training and technical assistance to advance community policing.

³⁴ SMART Office Fiscal Year 2008 Support for Adam Walsh Act Implementation Grant Program Competitive Grant Announcement; Grant Number: SMART-2008-1852.

Table 3: Adam Walsh Act Implementation Grant Program Grantee List

Grantee	State
Allegheny County	Pennsylvania
St. Landry Parish Sheriff's Department	Louisiana
City of Allen Park	Michigan
State of Wisconsin	Wisconsin
Alabama Department of Corrections	Alabama
Indiana Department of Correction	Indiana
Tangipahoa Parish Sheriff's Office	Louisiana
Fort Peck Assiniboine & Sioux Tribes	Montana
City of Hartford	Connecticut
State of New Hampshire Department of Safety	New Hampshire
Pueblo of Acoma Police Department	New Mexico
Osceola County	Florida
Tonkawa Tribe of Oklahoma	Oklahoma
South Carolina Law Enforcement Division	South Carolina
Miami Tribe of Oklahoma	Oklahoma
Santee Sioux Tribe of Nebraska	Nebraska
Penobscot Indian Nation	Maine
Government of the Virgin Islands	Virgin Islands
St. Lucie County Sheriff's Office	Florida
St. Regis Mohawk Tribe	New York
Northern Cheyenne Tribe	Montana
Turtle Mountain Band of Chippewa Indians	North Dakota
Miami-Dade County	Florida
Chicago Police Department	Illinois
White Mountain Apache Tribe	Arizona
West Valley City	Utah
Mississippi Band of Choctaw Indians	Mississippi

Source: SMART Office.

The SMART Office is assisting jurisdictions in implementing SORNA requirements through technical enhancements to the NSOPR portal.

Many of the requirements contained in SORNA are applicable to the jurisdictions, not the Department. While the efforts of the jurisdictions to meet their SORNA requirements are beyond the scope of this review, we examined the efforts of the SMART Office to assist the jurisdictions in meeting their requirements. As discussed below, these include the SMART Office's efforts to develop a "Common Space" in the NSOPR portal to enable the jurisdictions to better share information, develop software that the jurisdictions can use to provide the public with automatic notifications of

updated sex offender information, and provide public users the capability to search sex offender e-mail addresses.

Establishing a “Common Space” Online. Section 121 of SORNA requires that, after a sex offender registers or updates a registration, an appropriate official in the jurisdiction shall immediately provide the information to other jurisdiction registries.³⁵ The Director of the SMART Office stated that Section 121 is one of the most difficult legislative requirements of SORNA for the jurisdictions to implement because state systems are not compatible with each other. To assist the jurisdictions with making the required notifications, the SMART Office developed a “Common Space” in the NSOPR portal that is available to only authorized law enforcement and other personnel.

The Director of the SMART Office and a Senior BJA Program Analyst described the “Common Space” as a means for law enforcement to exchange information on registered sex offenders over a secure, password-protected network. For example, if a registered sex offender moves from jurisdiction A to jurisdiction B, jurisdiction A would notify jurisdiction B of the transfer and provide the date that the sex offender should report. If the registered sex offender failed to report within 72 hours of moving to jurisdiction B, the NSOPR portal would automatically notify both jurisdictions that the sex offender had not complied with registration obligations and, if probable cause existed, a warrant could be issued and the sex offender could be registered as a fugitive. The Common Space will also provide users with administrative tools such as shared document libraries and blogs to exchange information (see text box). The Common Space became operational on July 25, 2008.

Common Space Tools

Tools that the SMART Office planned to provide through the Common Space included:

- *State Sex Offender Law Database:* State sex offender laws will be compiled and accessible to law enforcement. The SMART Office has not yet determined who will be responsible for gathering state sex offender laws.
- *State Sex Offender Registry Contact Information:* Users of the Common Space who provide their e-mail addresses will be provided mailboxes on the system. Users can then search for other users by name, state, and other criteria. E-mail within the Common Space is restricted to members of the Common Space community, so all e-mail will be from known and authenticated state sex offender registry contacts, which facilitates communication among the states.

³⁵ 42 U.S.C. § 16921.

Providing Automatic Notification Software. Section 121 of SORNA requires jurisdictions to establish notification systems that automatically notify members of the public when changes are made to the registration records of sex offenders in their areas.³⁶ To meet this requirement, the SMART Office developed software for jurisdiction registries that enables public users to enter their e-mail and physical addresses in a jurisdiction's public registry. Users are automatically notified by e-mail of new or updated sex offender registrations in their vicinity. The SMART Office made automatic notification software available to all states, territories, and tribes on July 25, 2008.

Developing a Sex Offender E-Mail Address Search Capability. The SMART Office is developing a search capability for state registries available through the NSOPR portal that will allow users to check whether specific e-mail addresses belong to registered sex offenders. This feature, for example, will allow parents to determine if e-mail messages sent to their children are from registered sex offenders. The SMART Office plans to begin testing this search capability once the jurisdictions start collecting e-mail addresses of registered sex offenders, as required by SORNA.

The SMART Office is helping Indian tribes meet SORNA requirements.

Section 127 of SORNA requires federally recognized Indian tribes to decide whether they will carry out SORNA provisions themselves or delegate sex offender registration and notification responsibilities to the states in which the tribes reside.³⁷ However, not all federally recognized tribes are eligible to make this election.³⁸ The Director of the SMART Office said only 212 of the 562 (38 percent) federally recognized Indian tribes fit the criteria specified in Section 127 of SORNA and are eligible to choose to carry out SORNA provisions or delegate sex offender registration and notification responsibilities to the states in which the tribes are located.

The Director said that as of March 31, 2008, 197 of the 212 eligible tribes had elected to implement SORNA requirements, submitted the required tribal resolution to the SMART Office, and will have the same sex

³⁶ 42 U.S.C. § 16921.

³⁷ 42 U.S.C. § 16927.

³⁸ The jurisdiction and legal authority of 350 federally recognized Indian tribes was transferred from the federal government to state governments in six states (California, Minnesota, Nebraska, Oregon, Wisconsin, and Alaska (upon statehood)) in 1953 (18 U.S.C. §§ 1162, 1360, and 1321-1326). According to the Director of the SMART Office, these tribes' SORNA decisions are made by the states in which tribes reside.

offender registration and notification responsibilities as a state.³⁹ After electing to implement SORNA, a tribe may rescind its election to function as a registration jurisdiction, in which case the registration function is delegated to the state.

The SMART Office plans to make tribal sex offender registries accessible through the NSOPR portal by July 2009. However, the Director said that she anticipates that the tribes will need deadline extensions for establishing sex offender registries and that she has explained to several tribes that, to receive extensions, they may have to demonstrate progress. Complicating SORNA implementation is the fact that some tribes do not have automated sex offender registration records.

According to the Director, eligible tribes have three options in establishing registries. First, several tribes may form a consortium to develop and share a sex offender registry, which could save development and administrative costs. Second, a tribe may enter into a cooperative agreement with a state for pooling or sharing responsibilities for maintaining the registry for the tribal land (jurisdiction). Third, the SMART Office has funded and developed a web-based registry that tribes and remaining territories can populate with their jurisdictions' sex offender information so that it can be added to the NSOPR portal. The Director said the SMART Office has been encouraging tribes to use the second option to comply with SORNA.⁴⁰

The Assistant U.S. Attorney (AUSA) detailed to the SMART Office said the office is working on technical issues related to how the NSOPR portal will be altered to provide access to the sex offender information of tribes that have chosen to implement SORNA provisions. In addition, the AUSA said the office is working with the FBI to facilitate tribal access to NCIC and NSOR via state systems. Some states do not recognize tribes and therefore will not allow them access to NCIC or NSOR.

In testimony before the Senate Committee on Indian Affairs, the Executive Director of the National Congress of American Indians discussed

³⁹ The remaining 14 eligible Indian tribes elected to not implement SORNA requirements, and as a result the state in which each is located will have jurisdiction over the tribe's sex offender registration and notification system.

⁴⁰ The Executive Director for the National Congress of American Indians said the SMART Office's SORNA guidelines provide no indication of the process that will be used to assess tribal compliance. The SMART Office told us, however, that it will assess tribal compliance in the same manner as states and territories.

a 2002 Bureau of Justice Statistics census of tribal justice agencies that found only 54 tribes were entering information on tribal sex offenders into NSOR, less than half of tribal justice agencies had access to NCIC (and NSOR), and only 14 tribes reported that they were routinely sharing crime statistics with state or local government or the FBI.

During that July 2008 hearing before the Senate Committee on Indian Affairs, the Executive Director and representatives from four confederated tribal bands and tribal nations described the difficulties Indian tribes have concerning how the SMART Office will evaluate the implementation of Section 127 of SORNA. In addition, tribes testified that they believe increased expansion of state authority will ultimately result in additional confusion of criminal jurisdiction on tribal lands and diminish cooperation between the states and tribes regarding law enforcement.

The SMART Office issued the annual report to Congress on the enforcement of registration requirements.

Section 635 of the Adam Walsh Act requires the Attorney General to submit an annual report to Congress on the enforcement of sex offender registration requirements.⁴¹ The report is to include a detailed explanation of the use of the USMS to assist states in locating and arresting fugitive sex offenders, the use of 18 U.S.C. § 2250 to punish offenders who fail to register, each state's compliance with SORNA, the Department's efforts to ensure compliance, and the denial or grant of any extensions to comply with SORNA. The first annual report was due July 1, 2007, but it was not submitted. We found that the SMART Office was assigned responsibility for developing the report on April 23, 2008, and issued it to Congress in October 2008.

The United States Attorneys' Offices and Criminal Division have assigned new and existing resources to prosecute federal fugitive sex offenders who fail to maintain current registrations.

We found that in response to SORNA requirements, AUSAs in USAOs and Trial Attorneys within the Criminal Division have been coordinating efforts. Also, the Department provided additional resources, including 43 new AUSAs, to prosecute SORNA registration violations, along with child pornography and exploitation crimes. Among these efforts, federal attorneys, through the Department's Project Safe Childhood initiative and the Criminal Division's Child Exploitation and Obscenity Section (CEOS) are

⁴¹ 42 U.S.C. § 16991.

developing policy and assisting with litigation.⁴² CEOS consults with and provides advice to AUSAs regarding the legal issues, notification requirements, and increased penalties associated with SORNA. AUSAs may request assistance with a specific prosecution if their offices lack the resources or the expertise. CEOS can help AUSAs examine the circumstances surrounding a case and the options available to them to determine an effective prosecution strategy.

CEOS has provided policy assistance to federal attorneys for interpreting SORNA provisions, including notification requirements and enhanced sentencing penalties.

Section 117 of SORNA requires that an appropriate official notify sex offenders of their registration duties under SORNA and obtain signed acknowledgements that the offenders are aware of their registration obligations.⁴³ In addition, Section 141 of SORNA amended the federal criminal code to impose a fine or a prison term of up to 10 years or both upon convicted sex offenders for failure to register or update a registration. It also increased criminal penalties for sex offenders who do not register and commit a crime of violence, imposes increased criminal penalties for making false statements in a sex offense registration or in connection with certain sex crimes against children, modifies probation and supervised release provisions for sex offenders required to register, and requires the Federal Bureau of Prisons to inform sex offenders released from prison of their requirements to register.⁴⁴

In response to these requirements, CEOS assisted with the development of guidance for federal prosecutors regarding these and other provisions of the Adam Walsh Act. The Deputy Attorney General issued the guidance to AUSAs in February 2007. A CEOS Trial Attorney said that based on the guidance, CEOS created and distributed forms for AUSAs to use in indictments and plea agreements with sample language for notifying offenders of their responsibilities to register. He added that the suggested language within plea agreements or probation agreements suffices as notification of obligations. In addition, the guidance also included an

⁴² Project Safe Childhood was established in February 2006 to combat the proliferation of technology-facilitated sexual exploitation crimes against children, such as Internet-based crimes.

⁴³ 42 U.S.C. § 16917.

⁴⁴ 18 U.S.C. § 2250.

explanation of the enhanced sentencing for failure to register or update a registration established in Section 141 of SORNA.

The Chief of CEOS said that at the time that SORNA was enacted, federal attorneys were rarely involved in prosecuting sex offenders for failure to register or update a registration and therefore were not well-versed in those types of cases. For this reason, CEOS wanted to provide assistance to federal attorneys quickly after SORNA was enacted. CEOS worked with the Deputy Attorney General, Office of Legal Policy, and the Executive Office for United States Attorneys to develop the guidance discussed above for providing AUSAs with background on SORNA to prosecute cases. EOUSA representatives we interviewed attributed the success of federal fugitive sex offender prosecutions since SORNA (discussed in Section III of this report) in part to CEOS's expertise in prosecuting child exploitation cases.

Federal attorneys broadened the Department's Project Safe Childhood to prosecute fugitive sex offenders.

Section 143 of SORNA directs the Department to make several enhancements to the Project Safe Childhood initiative.⁴⁵ These enhancements are: (1) coordinate, investigate, and prosecute child exploitation cases; (2) increase federal involvement in child pornography and enticement cases; (3) participate in community awareness and educational programs; (4) establish new Internet Crimes Against Children task forces; and (5) provide increased prosecutorial support to the FBI's Innocent Images task forces. In response, the Department announced in May 2008 that it was distributing \$5 million in new funds to Project Safe Childhood. A Department press release stated that the "money will fund 43 new AUSA positions across the nation to prosecute these offenses" and facilitate Project Safe Childhood efforts. As of October 2008, EOUSA was in the process of determining how to allocate the new AUSA positions among districts. EOUSA planned to make its decisions about allocating the new attorneys based on child exploitation caseload data from the Project Safe Childhood initiative and narratives submitted by each district describing its work in the area. The child exploitation caseloads include not only SORNA offenses but also child pornography offenses, sexual abuse of children within federal jurisdiction, sex trafficking of children, buying or selling children, online coercion and sexual enticement of children, transmitting information about a minor, and several other related offenses.

⁴⁵ 42 U.S.C. § 16942.

USAOs and Criminal Division are coordinating component efforts to investigate Internet crimes against children.

Section 145 of SORNA expands training and cooperative activities related to Internet crimes against children and expands the deployment of technology to track and deconflict child exploitation investigations.⁴⁶ In response, the FBI, USMS, EOUSA, Criminal Division, and two federal agencies outside the Department – the Department of Homeland Security’s Immigration and Customs Enforcement (ICE) and the U.S. Postal Inspection Service – entered into a Memorandum of Understanding (MOU) to deploy and implement the Cyber Safe Deconfliction system. That automated system will allow the agencies to identify potentially overlapping investigations, avoid duplication of effort, and coordinate investigative efforts.

To implement the MOU, in June 2008 the Department’s Associate Attorney General issued a memorandum establishing procedures for information sharing among the Department’s Internet Crimes Against Children (ICAC) Task Forces. The memorandum directs the BJA and the Office of Juvenile Justice and Delinquency Prevention to work together with state and local ICAC task force partners to establish the Cyber Safe Deconfliction system and a second system known as the ICAC Virtual Headquarters. The ICAC Virtual Headquarters is intended to establish a secure environment for law enforcement and provide communication tools, as well as online training resources, for ICAC task forces.

The USMS has established a new investigative branch and reassigned existing resources to increase federal investigations under SORNA, but has not yet implemented a planned targeting center.

Section 142 of SORNA requires the Attorney General to “use the resources of Federal law enforcement, including the United States Marshals Service, to assist jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements.”⁴⁷ Because SORNA did not provide the USMS with any additional resources, the USMS realigned

⁴⁶ Section 145 also requires a report on the activities carried out under this section to Congress by July 1, 2007 (42 U.S.C. § 16944). The Department issued the report to Congress on October 23, 2008.

⁴⁷ 42 U.S.C. § 16941.

existing resources to carry out its responsibilities.⁴⁸ In August 2006, the USMS established a Sex Offender Investigations Branch at its headquarters to manage sex offender investigations in the field and designated a sex offender investigations coordinator in each district and Regional Fugitive Task Force. In addition, the USMS coordinated with Criminal Division attorneys to issue guidance for Deputy Marshals for use in criminal investigations of fugitive sex offenders. The USMS also entered into an MOU with the Federal Emergency Management Agency to identify, locate, and arrest fugitive sex offenders after major disasters; increased support to NCMEC; and plans to establish the National Sex Offender Targeting Center.

The USMS established the Sex Offender Investigations Branch at USMS Headquarters to manage sex offender investigations.

The USMS established the Sex Offender Investigations Branch at its headquarters to direct and coordinate USMS efforts to implement SORNA. The proposed staffing for the Sex Offender Investigations Branch included 500 USMS investigators and 125 administrative staff nationwide over 5 years. These positions would be placed across the United States based on sex offender populations and crime statistics. However, the USMS currently has only two persons assigned to the branch. A former Chief Inspector with the Sex Offender Investigations Branch said that funding for its operations came from other activities within the USMS Investigative Services Division. The USMS created the positions in the new branch by transferring its one position from INTERPOL and one of its positions on the Department's Organized Crime Drug Enforcement Task Force. The USMS Task Force Operations Chief said that the USMS requested, but did not receive, more Sex Offender Investigations Branch positions for FY 2008 to support USMS fugitive sex offender investigations efforts.

The Acting Assistant Director of the USMS Investigative Services Division described two initiatives the Sex Offender Investigations Branch is developing for identifying and arresting fugitive sex offenders. One proposal is a national Operation FALCON targeting sex offenders.⁴⁹ The other proposal describes a state-led operation in which the USMS will work with

⁴⁸ A Senior Counsel for the Deputy Attorney General told us that the Department's FY 2008 budget did not allocate resources to the USMS to implement Section 142 and that the Department was focused on addressing insufficient USMS resources.

⁴⁹ Operation FALCON is a USMS-led initiative that combines the resources of federal, state, county, and city law enforcement agencies to locate and arrest fugitives wanted for violent crimes.

state and local law enforcement to identify fugitive sex offenders and build cases for possible federal charges under 18 U.S.C. § 2250.

The USMS designated sex offender investigations coordinators to assist in state and local law enforcement investigations of fugitive sex offenders.

The USMS designated sex offender investigations coordinators in each of the 94 judicial districts and its 6 Regional Fugitive Task Forces to assist in implementing SORNA and to establish and maintain contacts with state sex offender registration authorities, corrections officials, and other agencies, including the USAOs. Throughout 2007, the USMS provided several versions of a week-long course with NCMEC on implementing SORNA, which trained the approximately 200 Deputy Marshals who are designated as sex offender investigations coordinators. The training covered the legal requirements of SORNA, investigative techniques, resources, and background information relevant to sex offender investigations to help local law enforcement carry out their responsibilities under SORNA. The Sex Offender Investigations Branch Chief said at least 30 coordinators have provided this training to their state and local law enforcement partners.

Because the USMS did not receive any new positions to carry out the agency's responsibilities under SORNA, the Sex Offender Investigations Branch depends on district Deputy Marshals who serve as coordinators as a collateral responsibility. According to the Sex Offender Investigations Branch Chief, because the coordinators are district employees under the control of the U.S. Marshal in charge of each district, headquarters officials cannot directly assign them to work fugitive sex offender investigations exclusively.

The USMS worked with Department attorneys to develop guidance to assist Deputy Marshals in their investigation and arrest of fugitive sex offenders.

The USMS's General Counsel worked with attorneys of the Criminal Division and the Office of Legal Policy to develop guidance to assist Deputy Marshals in investigating and arresting fugitive sex offenders. The guidance describes the new federal registration violations under 18 U.S.C. § 2250 and the evidence necessary to prove that an individual violated the law. The guidance also includes an overview of the decision process by which offenders will be federally charged and prosecuted.

The USMS entered into an MOU with the Federal Emergency Management Agency to investigate displaced sex offenders.

Section 144 of SORNA directs the Attorney General to provide assistance to states in identifying and locating sex offenders displaced as a result of major disasters.⁵⁰ To implement this provision, the USMS and the Federal Emergency Management Agency (FEMA), a component of the Department of Homeland Security, entered into an MOU that became effective July 30, 2007.

The MOU provides the USMS with access to FEMA's relocation database to enable the USMS to more quickly locate displaced sex offenders. The MOU requires that when possible the USMS contact the state registry authorities prior to major disasters to ensure that a current and a back-up database of registered sex offenders are available so that the USMS can readily obtain the information needed to identify and track displaced sex offenders immediately after a disaster occurs. The Director of the SMART Office cited the success of the USMS in locating missing sex offenders after Hurricane Katrina as evidence of the value of having information on registered sex offenders readily available. The Director stated that after Hurricane Katrina the USMS used FEMA data to locate 202 of 206 missing sex offenders.

The USMS increased support to the National Center for Missing and Exploited Children for fugitive sex offender investigations.

A Senior Inspector with the USMS Sex Offender Investigations Branch said that the USMS's working relationship with NCMEC is stronger and the cooperation between the two agencies has increased because of SORNA. The Director of the NCMEC Case Analysis Division confirmed that the support provided by the Deputy Marshal assigned to NCMEC has increased since the enactment of SORNA. Prior to the enactment of SORNA, one full-time Deputy Marshal was detailed to and located at NCMEC, and the Deputy Marshal primarily assisted with missing children cases. Since the enactment of SORNA, the Deputy Marshal has increased his efforts to identify and locate fugitive sex offenders by assisting NCMEC's Sex Offender Tracking Team. The Director of the NCMEC Case Analysis Division said the Sex Offender Tracking Team receives requests directly from law enforcement to assist in locating fugitive sex offenders. The Sex Offender Tracking Team conducts public records searches using search tools available through the Internet. She said that about 50 percent of the team's information requests

⁵⁰ 42 U.S.C. § 16943.

are from the USMS and about 50 percent are from state and local law enforcement agencies. The Deputy Marshal told us that he reviews and evaluates leads that come into the NCMEC tip line and sends those warranting further investigation to the appropriate law enforcement agencies for investigation.

The USMS plans to establish a National Sex Offender Targeting Center.

The USMS, with support from NCMEC, is planning to establish an inter-agency intelligence and operations center to support the identification, investigation, location, arrest, and prosecution of fugitive sex offenders, which will be known as the National Sex Offender Targeting Center. According to the USMS Sex Offender Investigations Branch Chief, the center will assist federal, state, local, and foreign law enforcement agencies by supplementing and coordinating state and local efforts to identify and arrest fugitive sex offenders. The center's objectives include working with ICE's Operation Predator to refer sex offenders who are citizens of other countries for removal proceedings and coordinating the exchange of information between state sex offender registries and other federal agencies.⁵¹

A USMS Assistant Director described the center as a "one-stop-shop fusion center" for locating and arresting fugitive sex offenders. According to USMS operational plans for the center, it would accomplish its objectives by:

- Using government, non-governmental, and commercially available databases and software to identify non-compliant sex offenders;
- Analyzing leads concerning non-compliant sex offenders, particularly those with an interstate or foreign nexus, and referring them to the appropriate federal, state, local, or foreign law enforcement authorities for appropriate action;
- Providing analytical and case support for sex offender non-compliance and fugitive investigations;

⁵¹ Operation Predator is a national initiative operated by the Department of Homeland Security's ICE that investigates and presents for prosecution pedophiles, Internet predators, human traffickers, international sex tourists, and other predatory criminals.

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- Facilitating information sharing among federal, state, local, and foreign law enforcement agencies engaged in sex offender investigations, as well other organizations;
 - Serving as a national point of contact for state and local sex offender registration authorities for law enforcement matters associated with the implementation of the *Adam Walsh Child Protection And Safety Act of 2006*;
 - Supporting and coordinating national and regional sex offender arrest initiatives; and
 - Coordinating with Crime Stoppers USA to create a national tip line for information on sex offenders.⁵²

The USMS also plans to establish a Behavioral Analysis Unit as part of the center that would focus on:

- Targeting and interviewing strategies;
- Helping investigators present cases to prosecutors;
- Promoting officer safety by psychologically profiling sex offenders;
- Researching medical and behavioral information about sex offenders;
- Training investigators; and
- Prioritizing cases.

The Behavioral Analysis Unit staff would include a psychologist who specializes in profiling sex offender behavior. The psychologist also would provide counseling services to staff involved in fugitive sex offender investigations.

In the USMS's FY 2008 budget request, the USMS asked for the equivalent of 27 full-time positions and \$7.8 million to begin deploying additional staff to areas of the country that have large numbers of fugitive sex offenders and to staff the center in partnership with NCMEC. The USMS did not receive the requested funding. However, in July 2008, as

⁵² According to its website, Crime Stoppers USA is a nationwide network of local programs that work together to help prevent and solve crime in communities and schools.

part of the Global War on Terror supplemental appropriations bill, the USMS received \$16.9 million to implement its responsibilities within the Adam Walsh Act, including establishing the National Sex Offender Targeting Center.

The FBI has met SORNA requirements to provide electronic notification updates to NSOR and provide access to national crime information databases.

The FBI has met the SORNA requirement that sex offender registration information be updated and electronically transmitted to relevant states. We also found that the FBI issued guidance that will enable NCMEC and certain government social service agency personnel who have met training, certification, and background screening requirements to access FBI criminal information databases. In addition, the FBI indicated to us that it is willing to provide the USMS with complete electronic files of NSOR and NCIC Wanted Persons File data for use in fugitive sex offender investigations.

The FBI has complied with SORNA provisions requiring the reporting of changes to sex offender information in NSOR.

Section 119(b) of SORNA requires the Attorney General to ensure through NSOR or another mechanism that updated information about a sex offender be immediately transmitted electronically to all relevant states.⁵³ We found the Department had already implemented these capabilities as part of the Jacob Wetterling Act of 1996. An FBI NCIC Program Analyst and the FBI's NSOR Management Analyst told us that when an agency enters, modifies, or deletes a record that has the same FBI number as a record already in NSOR, the system sends an automatic message to the state that entered the existing record alerting it to the new registration activity. If a sex offender moves from one state to another, the state the offender is moving to will automatically receive a message that includes the updated registry information so that that state can update its registry. This electronic notification system fulfills the requirement under SORNA.

The FBI has complied with SORNA provisions requiring access to national crime information databases.

Sections 151, 152, and 153 of SORNA require the FBI to provide access to FBI criminal information databases for NCMEC personnel and

⁵³ 42 U.S.C. § 16919(b).

certain government social service agency personnel who have met training, certification, and background screening requirements.⁵⁴ In response, the FBI issued guidance that provides NCMEC personnel and certain government social service agency personnel access to its criminal information databases. Section 151 of SORNA requires that the Department provide NCMEC and other government social service agencies with child protection responsibilities with access to national crime information databases.⁵⁵ The guidance also implements Section 152, which requires that prospective foster or adoptive parents have their fingerprints checked against state child abuse and neglect registries in the national crime information databases. Finally, the guidance implements Section 153 of SORNA by directing the FBI's Criminal Justice Information Services (CJIS) Division to enable government social service agencies, welfare and education agencies, and schools to conduct fingerprint-based checks on employees or applicants who would work with or around children.

The FBI will provide the USMS with NSOR and NCIC Wanted Persons File data, if requested.

In addition to the increased access to criminal history information described above, the FBI indicated to us that it is also willing to provide the USMS with complete electronic files of NSOR and NCIC Wanted Persons File data for use in fugitive sex offender investigations, provided the request is within the technical parameters allowed through NCIC. NCIC is not an analytical database; rather it is an investigative tool that is used to obtain records on a case-by-case basis. As a result, Deputy Marshals cannot use NCIC to analyze the information in NSOR or the NCIC Wanted Persons File in its entirety to identify for investigation all suspected fugitive sex offenders.

The FBI CJIS Assistant Director said the USMS, like any other agency with access to NCIC, receives relevant information from NSOR and the NCIC Wanted Persons File whenever its personnel run a criminal record check. However, even though Deputy Marshals can view discrete portions of NSOR records associated with one person at a time through NCIC queries, they are not able to review the sex offender registry in its entirety because they do not have access to the complete NSOR database. When we discussed the potential value of NSOR data with USMS personnel, they said that the

⁵⁴ 42 U.S.C. §§ 16961, 671(a)(20), and 16962.

⁵⁵ Federal law defines "national crime information databases" as "the National Crime Information Center (NCIC) and its incorporated criminal history databases, including the Interstate Identification Index." 28 U.S.C. § 534.

USMS uses a wide variety of intelligence sources in the course of an investigation and said access to NSOR would be “extraordinarily helpful.”

During our interviews, FBI CJIS officials indicated that they were willing to provide the USMS with the complete NSOR database and NCIC Wanted Persons File data for use in fugitive sex offender investigations, but that they were unaware of any requests from the USMS or any other component for access to this data.

SECTION II: ACCURACY, COMPLETENESS, AND RELIABILITY OF THE NATIONAL SEX OFFENDER REGISTRIES

We found that the registries that make up the national sex offender registration system, the FBI's National Sex Offender Registry (NSOR) and OJP's National Sex Offender Public Registry (NSOPR) portal, are inaccurate and incomplete and cannot be relied upon by law enforcement or the public for identifying registered sex offenders. The states have not entered approximately 22 percent of records on registered sex offenders into the FBI's NSOR and have not identified sex offenders who have failed to maintain a current registration. Similarly, the state sex offender records available through OJP's NSOPR portal are inconsistent and incomplete, and the NSOPR portal lacks reliable information about non-compliant sex offenders. Because of these weaknesses, federal, state, and local law enforcement officers who query the registries during an investigation may not obtain accurate information on suspects' registration or fugitive status. In addition, the public cannot rely on the NSOPR portal as a complete and accurate registry to identify registered and non-compliant sex offenders in their communities. We believe that, when implemented, the SORNA guidelines will improve the quality of data in the sex offender registries, but will not correct all of the problems we noted.

To assess the accuracy and completeness of information in the FBI's NSOR and in the state public registries accessible through OJP's NSOPR portal, we compared records across both systems to determine if records found in one registry corresponded to records in the other. The information in the FBI's NSOR and OJP's NSOPR portal is provided by the states and territories. The inclusion, accuracy, and integrity of the data depend on the submissions from those states and territories. We also examined the records within each registry to determine if the information was sufficient to enable law enforcement and the public to identify registered and non-compliant sex offenders. Finally, we reviewed the guidelines that the Department issued in July 2008 to determine whether they contained measures that, when implemented, would resolve the weaknesses that we identified in NSOR and the NSOPR portal.

Data entered by the states into NSOR is incomplete and inaccurate and does not reliably identify non-compliant sex offenders.

We found that the FBI's NSOR, which is populated by information from the states and territories, is missing records on roughly one of every five registered sex offenders. Moreover, the registry does not reliably identify sex offenders who have failed to maintain a current registration, are under investigation, or have had warrants issued for their arrest. We found several causes for these problems and determined that their combined effect makes NSOR an unreliable investigative tool. We also determined that although FBI audits found weaknesses similar to those found by our analysis, the FBI has not implemented the corrective actions recommended in its audits. In addition, the FBI has discontinued its audits of state registries because delays in issuing the Department's SORNA guidelines in turn delayed state implementation of SORNA requirements.

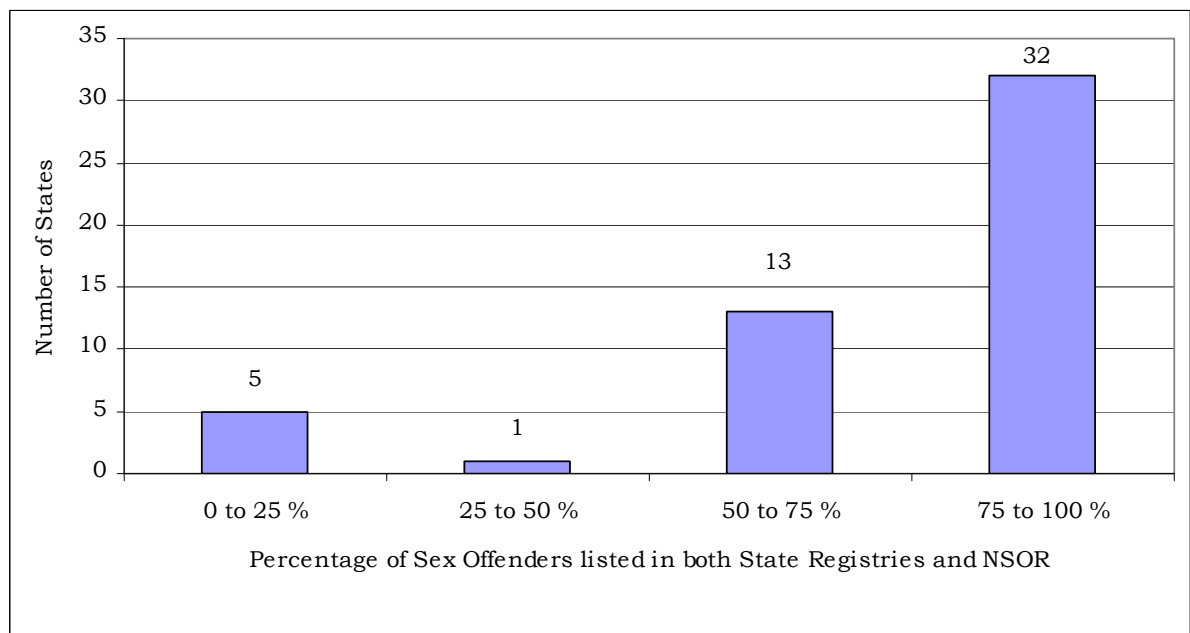
NSOR is missing records and information contained in state registries.

Although the FBI's NSOR is required to include records on each individual who must register as a sex offender, we estimate that the states have not entered approximately 22 percent of records on registered sex offenders into the FBI's NSOR.⁵⁶ We determined this by drawing a sample of 1,996 registered sex offenders from 52 public sex offender registries (accessed through OJP's NSOPR portal) to see if they were listed in NSOR. We found that 445 (22 percent) of the 1,996 registered sex offenders in our sample were not listed in NSOR. See Appendix V for a state-by-state breakdown.

The percentage of sex offenders not included in NSOR varied widely by state. Only eight states listed 100 percent of the sex offenders from our sample in NSOR. For 19 states, less than 75 percent of the sex offenders listed in their public sex offender registries were also listed in NSOR. (See Figure 1.)

⁵⁶ According to Section 119 of SORNA, "The Attorney General shall maintain a national database at the Federal Bureau of Investigation for each sex offender and any other person required to register in a jurisdiction's sex offender registry." 42 U.S.C. § 16919.

Figure 1: Percentage of Sex Offenders Listed Both in State Public Registries and in NSOR



Note: Includes 50 states, Puerto Rico, and the District of Columbia.

In addition, information on registered sex offenders in state public sex offender registries did not accurately reflect the information in NSOR. For example, in one state four sex offenders were listed as non-compliant in the public sex offender registry. We found that only two of these four were listed in NSOR as non-compliant and none were listed in the NCIC Wanted Persons File, a separate file in NCIC, as being fugitives with active warrants issued by the state. For a second state, we found one offender was listed as a “sexual violent predator” in NSOR, but there was no similar warning in the public sex offender registry. In addition, many offenders were listed in the state’s public sex offender registry as a “sexually violent offender,” but none of them was so identified in NSOR. In a third state, the public sex offender registry indicated that there were 749 registered sex offenders, but we found that NSOR listed 1,043.

The findings of our review, conducted in spring 2008, mirrored the findings of audits the FBI conducted of state registries in FY 2006. In those audits, the FBI Criminal Justice Information Services (CJIS) Division’s Audit Unit checked to ensure the accuracy, completeness, and validity of sex offender data the states had entered in NSOR. The Lead Auditor said the audits found “a lot” of data in the state records that should have been entered into NSOR but was not. The audit also found a “huge problem” with the states accidentally deleting records of registered and non-compliant sex

offenders from NSOR. As of September 2006, the FBI's completed audits identified eight systemic weaknesses (see Table 4).

However, the FBI suspended further audits until after the SMART Office issued the guidelines to the jurisdictions on implementing SORNA requirements (which it did on July 1, 2008) to allow the FBI to redevelop audit criteria based on the SORNA guidelines. Consequently, efforts to address the eight weaknesses identified by the CJIS audits of NSOR data and data entry procedures were placed on hold until further audits can be conducted based on the SORNA guidelines.

Table 4: Weaknesses Identified in State Registries and the Number of Audits in Which Each Weakness Was Identified

Weakness	Identified by Audits
Incomplete data in mandatory fields (e.g., incomplete address)	27 of 27
Non-compliance with the validation policy (i.e., the agency that entered the record did not ensure it was complete, accurate, and still active)	26 of 27
Inaccurate record information	25 of 27
Failure to properly update records (e.g., accidentally deleting the entire record while trying to clear a warrant)	23 of 27
Failure to include a notation in the miscellaneous field that the offender failed to register or was non-compliant	19 of 27
Accuracy of data entry not verified by second party*	18 of 27
Untimely entry of records	16 of 27
Not complying with participation requirements that define offenders who must be included in NSOR	13 of 27

* NCIC policy requires that the accuracy of entries be double-checked by a second person (*NCIC 2000 Operating Manual*, Introduction, Section 3.2, 1).

Source: FBI.

CJIS also canvasses the states semiannually to determine the number of records of offenders in NSOR. The last CJIS canvass, conducted in April 2008, examined all states and found that 16 percent of the records in the states' law enforcement registries were missing from NSOR, which is similar to our analysis's finding that 22 percent of 1,996 sex offenders registered in the states' public registries were not in NSOR.

FBI CJIS, the USMS, and the Department officials told us there were several reasons why NSOR does not contain complete or up-to-date information on all of a state's registered and non-compliant sex offenders:

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- **States do not always obtain warrants for non-compliant sex offenders, and when they do obtain such warrants they do not enter all of them into NCIC** – Participation in NCIC is voluntary, and states are not required to enter all of their warrants in the NCIC Wanted Persons File. Further, FBI CJIS officials told us some states do not seek warrants on non-compliant sex offenders because these violations do not meet the states' criteria for seeking a warrant. The USMS Task Force Operations Chief noted that some states do not enter warrants into the NCIC Wanted Persons File because they have decided that they will not extradite particular fugitives because of the expense. He also said that some communities do not want fugitive sex offenders returned to them, even for prosecution. The Chief stated that the USMS cannot force states to enter their fugitive sex offender warrants into the NCIC Wanted Persons File or to note in the NSOR miscellaneous field that the person is a fugitive. Officials we interviewed in EOUSA and the BJA attributed the problem to shortages of resources for data entry at the state level.
 - **Programming issues cause information to be lost when state systems update NSOR records** – Some states have not programmed their systems to allow for the updating of existing NSOR records, and the FBI does not maintain records on each state's capabilities. As a result, according to an NSOR auditor, when one of these states tries to update a sex offender record, the record is deleted from NSOR even though the record is saved in another location on the state registry. The NSOR auditor told us that this programming error has resulted in the deletion of an unknown number of sex offender records from NSOR. State government budget constraints have prevented states from re-programming their systems to correct this problem.
 - **Some states provide only minimum data to NSOR** – Some states submit only the minimum mandatory data even when they have additional data, according to the NSOR auditor. Many state registries are programmed to extract and send only the data needed to populate NSOR's mandatory fields, while other states provide additional information.
 - **Some states must enter all sex offender registration data separately into state registries and NSOR** – According to the NSOR auditor, many states' centralized sex offender data systems were not set up to provide an interface with NCIC or NSOR because it was not the systems' original purpose. When a state's registry is not compatible with NCIC or NSOR, the state may be required to enter data separately into its own system and into NCIC or NSOR, which

creates additional work for state registry authorities. A Department attorney said some states have up-to-date information on their registered sex offenders in their own registries but do not input that information into their public registries and NSOR in a timely manner. He added that although NSOR is supposed to be a complete record, in some cases it is less complete than state registries. Further, in some states central repositories gather local agency information and enter it into NSOR, while in other states local agencies enter data directly into NSOR. The attorney stated that state registry information should feed directly into NSOR rather than being a two-step process that could lead to information being lost along the way.

- **For about 10 years, NSOR did not accept sex offender records that did not have an FBI number** – From the establishment of NSOR in 1997 until October 2007, a technical problem caused the database to not accept sex offender entries that lacked an FBI number. Although this problem has been resolved, sex offender registration records without an FBI number that were submitted before October 2007 are missing from NSOR.⁵⁷

For the reasons stated above, an FBI NSOR Management Analyst agreed with our finding that NSOR may be missing more than 22 percent of registered offenders who are registered in state sex offender registries.

NSOR does not contain reliable information on which sex offenders are non-compliant, are under investigation, or have outstanding warrants.

Beyond the discrepancies between records on sex offenders maintained in state and FBI systems, we also found discrepancies within the FBI systems. States are permitted to record information about non-compliant and fugitive sex offenders in two separate locations in the FBI's data systems: the Wanted Persons File of NCIC and the miscellaneous field in NSOR that can contain a variety of other types of details. The information in the two locations does not always correspond. We examined NCIC information on non-compliant sex offenders and found three areas of discrepancy.

⁵⁷ NSOR was developed to fulfill the requirements of the Lychner Act (42 U.S.C. 14072). For its creation, it was necessary to link data in NSOR with an offender's criminal history record maintained in the Interstate Identification Index, which could only be accomplished by requiring the FBI number. SORNA does not have these specific requirements for NSOR. Therefore, the FBI changed the FBI number field from mandatory to optional in October 2007, based on the recommendation of the NCIC Advisory Policy Board.

First, sex offenders listed as non-compliant on state public sex offender registries were not always identified as non-compliant in NCIC. We found that non-compliant sex offenders identified in state public sex offender registries were generally not identified as non-compliant or as fugitives in the NSOR miscellaneous field or the NCIC Wanted Persons File. Among the 1,996 sex offender registrants we examined, 57 registrants were identified as non-compliant in state public sex offender registries. Of the 57 non-compliant sex offenders, 30 (53 percent) were listed in NSOR but were not identified as being out of compliance with their registration requirements. Another 11 of the 57 (19 percent) were not listed in NSOR at all. Only 16 of the 57 (28 percent) were identified as non-compliant sex offenders in NCIC. These included 3 sex offenders identified as fugitives in the NCIC Wanted Persons File and 13 sex offenders identified as non-compliant or as fugitives in the NSOR miscellaneous field.

States Not Entering Warrants into NCIC

In 2005, the *St. Louis Post-Dispatch* published a series of articles about fugitives who were released by police officers because their warrants had not been entered into NCIC. These fugitives evaded arrest, sometimes for decades, even after being stopped by police for traffic offenses – and many committed serious crimes while they were fugitives. The newspaper noted that there is no federal or state mandate for states to enter warrants into NCIC.

Some states do not enter warrants because they lack the manpower to enter warrants into NCIC as well as their own state system. Some states only enter warrants into NCIC for fugitives whom they are willing to pay the costs to extradite. Other states do not want to comply with FBI rules that entries be made within 3 days of a warrant's issuance and be checked for accuracy at least once a year. Although there was no overall data on how many warrants are missing from NCIC, the *Post-Dispatch* conducted a survey (to which only 13 states responded) that found that 34 percent of felony warrants were missing from the system.

Second, sex offenders listed as fugitives in the NSOR miscellaneous field were not always included in the NCIC Wanted Persons File. Our analysis found 12,548 fugitive sex offenders identified in NCIC. Of that total, 7,389 were identified in the miscellaneous field of NSOR, 5,432 were listed in the NCIC Wanted Persons File, and only 273 were identified in both locations.

Third, most fugitive sex offenders for whom the USMS had opened an investigation were not identified in the NCIC Wanted Persons File or the NSOR miscellaneous field. According to USMS data, in FY 2007 USMS districts opened 2,959 investigations of fugitive sex offenders based on state and local warrants. As of March 21, 2008, 232 of those investigations

remained open.⁵⁸ We found that only 56 (24 percent) of the 232 fugitive sex offenders for whom the USMS had open investigations were identified in the NCIC Wanted Person File and that only 19 (8 percent) of the 232 were identified as non-compliant in the NSOR miscellaneous field.

In interviews with FBI, USMS, and NCMEC officials, we determined that non-compliant or fugitive status was not always reflected in the NSOR miscellaneous field or the NCIC Wanted Person File for four reasons. As discussed previously, states are not required to enter all of their warrants into NCIC's Wanted Persons File and do not always do so because contributions to NCIC are voluntary. We also were told states may not want to reveal that there are a large number of fugitive sex offenders in their jurisdictions or may lack enough personnel to make manual updates to NSOR and NCIC. An FBI CJIS Unit Chief stated that state and local agencies not entering felony warrants in general into NCIC's Wanted Persons File has been an ongoing issue. (See text box.) Further, the NSOR and the NCIC Wanted Persons File may not reflect all fugitive sex offenders because states sometimes do not immediately issue warrants for sex offenders who have failed to meet registration requirements. According to a state registry official, the delay occurs because law enforcement cannot question an individual once a warrant is issued – it can only arrest the individual.

If state warrant information is not in the NCIC Wanted Persons File, investigators must search the narrative information in the NSOR miscellaneous field, creating a risk that a sex offender's fugitive status will not be discovered by law enforcement agencies when the offender is encountered. Although an NSOR Management Analyst told us the criminal justice community has over 40 years of experience with the NCIC system and can expeditiously review the data in the NSOR miscellaneous field, she also stated that our findings could be considered by the FBI NCIC Advisory Policy Board in recommending fields be added to NSOR to systematically capture information now only entered in the miscellaneous field. (See text box below.)

⁵⁸ Of the 2,727 investigations that had been closed, the USMS had arrested 2,024 (68 percent) of these fugitives, and 688 (23 percent) had been cleared through other means, including arrests by another agency, dismissed, or purged. In addition, we excluded 15 fugitives from our analysis because they had multiple warrants and we could not confirm that they were fugitives during the time period of our analysis.

**States Use the NSOR Miscellaneous Field to Record
Important Information on Fugitive Sex Offenders**

The NSOR miscellaneous field is designed to capture any information that is valuable to law enforcement but that does not have a designated field. It also captures more details regarding information contained in other fields. The terminology used to denote fugitive status varies by state statute. As a result, at least 15 different terms or comments are used to identify a fugitive sex offender (or potential fugitive) in the miscellaneous field:

Absconder, Failure to Register, Warrants Issued for Failure to Register, Violate SO Regis, Fail to Register/Change Address, Non-compliant, Registration Offender, Address Unknown, Failure to Verify Address, Whereabouts Unknown, On Abscond Status, NCIC Warrant Sex Offender Address Change, Location of Subject Not Known, Not Compliant with Registry, Active Warrant, Offender Has Failed to Comply

The miscellaneous field may contain other data that could be valuable to an investigator, including warnings, aliases, victim characteristics, and physical descriptions of the sex offender. The following are examples of notes recorded in the miscellaneous field:

- “Non-compliant/caution subject hates law enforcement/becomes agitated when contacted by law enforcement”;
- “History of assault with a deadly weapon (not a firearm)”;
- “Ex-marine sharp shooter subject is incarcerated”;
- “Multiple Offense convictions NV designated as a violent predator”;
- “Offender has failed to comply contact vcic may be in Maryland as of 2007”;
- “Victims were nine and fifteen year old females”;
- “Tattoos on left arm eyes and a cross-wizard inside of arm-eagle-zig sag man/tattoos on right arm vampire skull-skull dagger-skull on inside of arm-cougar/tattoos on right leg-skull-clown-heart/tattoos on left leg cross with heart.
- “Offender has a twin brother named [redacted]”; and
- “Address given is sister home Offender is homeless.”

We found that Department and FBI CJIS officials are aware of the shortcomings of NSOR and the NCIC Wanted Persons File. The Assistant Director for FBI CJIS said he doubts NSOR includes all sex offenders in the United States because the states have discretion about what data within each record and which sex offender warrants they provide. In addition, the Acting Chief for the FBI Violent Crimes Unit told us, “All we know is what is reported to us by the states,” and added that it would be helpful to know if NSOR was accurate. One USMS official told us that Deputy Marshals mine data on sex offenders from several sources, rather than rely on NSOR alone. However, Department officials also stated that they believe that NSOR’s weaknesses do not impede the investigations and prosecution of sex offenders who do not comply with registration requirements. For example,

one USMS official told us that the lack of warrant information in the NCIC Wanted Persons File did not impede their fugitive investigations because they receive the information they need directly from the states.

State sex offender records available through OJP’s NSOPR portal are inconsistent and incomplete, and NSOPR lacks reliable information about non-compliant sex offenders.

As with the FBI’s NSOR database, we found that the sex offender records in OJP’s NSOPR portal are inconsistent and incomplete. A Senior BJA Analyst involved in the creation and maintenance of the NSOPR portal stated that while he wants more people to use the NSOPR portal, he does not want people relying on it and assuming that it is a complete and accurate list of all sex offenders. The inconsistencies in the NSOPR portal result from the fact that the NSOPR portal is only a portal to state and U.S. territory public sex offender registries.⁵⁹ Consequently, data accessed through the NSOPR portal has all the data variations and flaws evident in those systems. During our analysis of the NSOPR portal, we found the content of states’ sex offender registries varies widely. Many of the state registries do not yet contain fields that are required under SORNA. Table 5 identifies the percentage of registries in our review of 52 registries that did or did not include specific information fields.

⁵⁹ In contrast, NSOR is a database in the FBI’s NCIC system that is populated with data that is extracted from each of the states’ sex offender registries.

Table 5: Offender Information Contained in 52 Public Registries

	Percentage	
	Yes	No
Electronic notification upon request of changes in offenders' status	10%	90%
Address of school affiliation	19%	81%
Vehicle information	19%	81%
Address of employment	21%	79%
Threat information (offense tier or risk assessment)	23%	77%
Victim information (age or relation to offender)	25%	75%
Mapping of offender's address	31%	69%
Address verification	37%	63%
Scars/marks/tattoos	44%	56%
Compliance status	46%	54%
Registration date	50%	50%
Aliases	60%	40%
Conviction information	71%	29%
Date of birth	79%	21%
Home address	85%	15%
Picture	88%	12%

Note: Represents 49 states, the District of Columbia, Guam, and Puerto Rico. The table does not contain Alaska because that registry was inaccessible at the time of our analysis. The identifiers in **bold** indicate SORNA-required public registry elements.

Source: State registries accessed through NSOPR.

In addition, we found that:

- All but one state registry (Kansas) provided a physical description of the offender, such as height, weight, eye color, and hair color.
- Eleven state registries had the offender's age only, year of birth only, or no age information at all.
- Eight state registries provided a home town or zip code, but no home address.
- Some of the records from six state registries were missing pictures of the sex offender or the pictures provided were of such poor quality that we do not believe they could be used to reliably identify offenders.
- One state registry (Colorado) did not have any conviction data.

As with the FBI's NSOR database, we found that the NSOPR portal does not contain reliable information to identify non-compliant or fugitive sex offenders. States' public registries often did not inform users that a sex offender was a fugitive. According to USMS data, in FY 2007, USMS districts entered 2,959 warrants for individual fugitive sex offenders into its own tracking system. As of March 21, 2008, 232 (8 percent) of the warrants for individual fugitive sex offenders remained open.⁶⁰ We could not find NSOPR portal entries for 77 of these fugitives, and the NSOPR portal entries for another 15 indicated the individuals were incarcerated. Of the remaining 140 fugitives, 87 (62 percent) could be identified as such in the NSOPR portal. The remaining 53 (38 percent) fugitive sex offenders who were the subjects of active USMS investigations were not identified as fugitives in the NSOPR portal.

In response to our analysis, USMS officials provided reasons why fugitive status information may be missing from the NSOPR portal. The USMS Sex Offender Investigations Branch Chief said the state or local agency that updates the state registries is often an administrative office, not the law enforcement agency that brings cases to the USMS. Consequently, the request to the USMS for assistance by the law enforcement agency and the entry of fugitive status information into the state public sex offender registry may not be coordinated. The USMS Task Force Operations Chief stated that the state public registries' information regarding a given individual's fugitive status does not concern the USMS because the USMS relies on information provided directly from local and state investigators. He added that he thought that including this information on the public registries would help the public more than the USMS.

We found that neither the BJA nor the SMART Office conducts any analysis to identify or ensure the accuracy or consistency of data accessed through the NSOPR portal. A Senior BJA Analyst told us that beyond the BJA's development of the NSOPR portal website, validation of the NSOPR portal technology, and establishing connectivity to state registries, there has been no Department oversight or other requirements related to the NSOPR portal. The Analyst stated that the accuracy and completeness of the data is the responsibility of each state and that "if the states are not updating the data, that is on them." Further, an AUSA detailed to the SMART Office

⁶⁰ Of the 2,727 investigations that had been closed, the USMS had arrested 2,024 (68 percent) of the fugitives and 688 (23 percent) had been cleared through other means, including arrests by another agency, dismissed, or purged. In addition, we excluded 15 fugitives from our analysis because they had multiple warrants and we could not confirm that they were fugitives during the time period of our analysis. Also, there were 77 that we could not locate and 15 were listed as incarcerated.

stated that the SMART Office's role in maintaining the NSOPR portal is managing grants, training, providing technical assistance, and overall implementation of SORNA. The AUSA added that ensuring the accuracy and completeness of the data in the state public registries is not a part of the SMART Office's role.

Implementing the SORNA guidelines should improve the quality of data in the sex offender registries, but will not correct all problems.

As required by SORNA, the Department issued guidelines to the jurisdictions to strengthen the national sex offender registration system. The guidelines were meant to interpret and clarify the SORNA requirements that the jurisdictions are to implement. We reviewed the guidelines to determine whether, if implemented, they would resolve the weaknesses that we identified in NSOR and the NSOPR portal.⁶¹ We concluded that the guidelines would resolve some of the weaknesses we identified and would improve the completeness and accuracy of sex offender registration data in the registries. However, we believe the guidelines will not correct all of the problems or ensure that members of the public have the information they need to assess the threat posed by sex offenders in their communities.

The guidelines list eight "core types of information whose public disclosure through the sex offender websites has the greatest value in promoting public safety" and that jurisdictions must provide on their public sex offender websites in order to avoid reduction in Byrne grant funding. The eight core types of information are:

- The name of the sex offender, including any aliases;
- The address of each residence at which the sex offender resides or will reside and, if the sex offender does not have any (present or expected) residence address, other information about where the sex offender has his or her home or habitually lives;
- The address of any place where the sex offender is an employee or will be an employee and, if the sex offender is employed but does not have a definite employment address, other information about where the sex offender works;

⁶¹ We conducted our analysis on a draft of the guidelines because the SMART Office did not issue the final guidelines until July 2008, after our fieldwork was completed. When the final guidelines were issued we reviewed them, along with additional material provided by the SMART Office, to ensure that all relevant changes to the final guidelines were factored into our analysis.

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- The address of any place where the sex offender is a student or will be a student;
 - The license plate number and a description of any vehicle owned or operated by the sex offender;
 - A physical description of the sex offender;
 - The sex offense for which the sex offender is registered and any other sex offense for which the sex offender has been convicted; and
 - A current photograph of the sex offender.

Several officials we interviewed, including the Director and an AUSA with the SMART Office, a Director at NCMEC, and an EOUSA attorney, explained that they expect the guidelines to standardize and increase the consistency of some of the information in the jurisdiction registries, and by extension, improve NSOR and the NSOPR portal. An FBI Intelligence Analyst and liaison to NCMEC also told us that she believes the guidelines will force uniformity and consistency in the data in the jurisdiction registries. In addition, she said that the guidelines clarify who is responsible for updating NSOR and the NSOPR portal, which will allow better tracking of sex offenders from jurisdiction to jurisdiction. A Senior Counsel to the Deputy Attorney General said technical assistance provided by the SMART Office in response to the guidelines will help improve the jurisdiction registries.

The SORNA guidelines address some of the weaknesses in the national sex offender registries.

The following sections provide our assessment of specific areas of the SORNA guidelines that may help address weaknesses or otherwise improve the national sex offender registries if they are implemented by the jurisdictions.

More sex offenders required to register. Some sex offenders who were previously not required to register must do so under SORNA. The guidelines state that “SORNA applies to all sex offenders, including those convicted of their registration offenses . . . prior to particular jurisdictions’ incorporation of the SORNA requirements into their programs.” The guidelines also direct jurisdictions to submit registration information before incarcerated sex offenders are released. Although the guidelines recognize that registering pre-SORNA sex offenders may be more difficult if those offenders are no longer incarcerated or under supervision, the guidelines

call for the jurisdictions to implement registration within 3 months for Tier III offenders, 6 months for Tier II offenders, and 1 year for Tier I offenders.

Improved reporting of updated sex offender information. The guidelines require jurisdictions to update their registries, NSOR, and the NCIC Wanted Persons File (once a warrant has been issued), and to notify the USMS when the jurisdictions have been informed that a sex offender should be registering but has not appeared in person as required by SORNA.

More complete and up-to-date information. SORNA's stringent reporting requirements for sex offenders, which are described in the guidelines, should improve the accuracy of the information in the national registries. Specifically, the guidelines describe the in-person appearance requirements and state that:

In all cases in which a sex offender makes an in-person appearance in a jurisdiction and registers or updates a registration . . . the jurisdiction must immediately transmit by electronic forwarding the registration information for the sex offender (including any updated information concerning name, residence, employment, or school attendance provided in the appearance) to all other relevant jurisdictions.

In addition, the guidelines further ensure accuracy by advising jurisdictions on how to satisfy SORNA's requirement that public registries include "instructions on how to seek correction of information that an individual contends is erroneous." The guidelines suggest that each jurisdiction identify the jurisdiction's representative for correcting erroneous information on the registry website and "advise persons that they can contact this agency if they believe that information on the site is erroneous."

Inclusion of federally convicted offenders in the registries. There is no separate registry for federal sex offenders. Rather, federal sex offenders are integrated into the sex offender registration programs of the jurisdictions in which they are required to register. However, in our analysis of the 12 sex offenders in our sample who were convicted federally, only 7 were included in NSOR (matched by name, state, or social security number), and 8 were included in the NSOPR portal (matched by name and state). To ensure that all federal offenders are included in the registries, the guidelines state that before releasing sex offenders, the Federal Bureau of Prisons must inform them of the SORNA registration requirements and notify law enforcement

and the registration authorities in the jurisdictions into which the offenders are being released.

Department attorneys we interviewed said they expect there to be more federally convicted sex offenders as a result of the increase in federal investigations and prosecutions of SORNA violations they expect to occur over time. Because of this expected increase, the guidelines' emphasis on a process for registering these offenders is particularly important. We discuss below in Section III the trends in federal investigations and prosecutions that have occurred since the passage of SORNA.

Identification of fugitive status. In our analysis of fugitive sex offenders who were the subjects of active USMS investigations, we found that many were not listed in the NCIC Wanted Person File or were not identified as fugitives in the NSOPR portal. The guidelines establish that the sex offender registration record in NCIC's Wanted Persons File will include the information that the sex offender is a fugitive. The guidelines state that information in the jurisdiction registry must be revised to reflect that a sex offender is non-compliant. In addition, the guidelines specifically state that "the jurisdiction must update the FBI's NSOR to reflect the sex offender's status as an absconder or non-compliant and enter the sex offender into the NCIC Wanted Person File (assuming issuance of a warrant meeting the requirement for entry into that file)." The guidelines do not, however, address fugitive status information in the NSOPR portal, and implementation of the guidelines will not improve the public's access to information about non-compliant sex offenders.

Now that the Department has issued the SORNA guidelines, the FBI's CJIS Division said that it plans to take actions to improve the identification of fugitive sex offenders in NSOR. The NCIC Advisory Policy Board has approved changes to address weaknesses in NSOR data and data entry procedures.⁶² Among the changes is adding a sex offender status field where jurisdictions can indicate that an offender is a fugitive. The CJIS Unit Chief told us that these changes would be implemented after the SORNA guidelines were issued. Although the guidelines were issued in July 2008, the changes had not been implemented as of November 2008.

Better photographs of registered sex offenders in public registries. An important feature of the NSOPR portal is that it displays photographs of

⁶² The Advisory Policy Board, composed of 33 representatives from criminal justice and national security agencies throughout the United States, meets twice each calendar year to discuss issues pertaining to NCIC and to make recommendations for improving NCIC.

registered sex offenders, but our review found that the photographs were often missing, out of date, or unclear. The guidelines require jurisdictions to provide a current photograph of the sex offender on their public sex offender websites. The Director of the SMART Office told us that she would like to enhance the NSOPR portal so that the search results include a thumbnail photograph along with the name of the sex offender. However, this change had not been implemented during our review.

The SORNA guidelines do not address some important weaknesses.

In our review of the national registries we identified several weaknesses that full implementation of the guidelines would not appear to resolve.

Information missing from the jurisdictions' registries. During our review of NSOR and the NSOPR portal, we found that demographic information was not always included in the state registries. For example, some public registry websites show either the offender's year of birth or age, but not the actual date of birth, which is more precise and does not have to be updated. We also found that only 25 percent of public registry websites provide victim characteristics, such as the age, sex, and relationship to the sex offender. For sex offender registries to be helpful tools, it is important that they provide the information the public needs to assess the threat posed to them by different sex offenders. Victim information could be useful for this purpose because sex offenders often have victim preferences.

Identification of federal convictions. We found instances in which NSOR and NSOPR records contained no information about registered sex offenders' federal convictions. Our review of the guidelines found they require registries to include information on convictions, in general, but do not specifically mention federal convictions. The Director of the SMART Office noted that the guidelines require jurisdictions to list the specific statute under which a sex offender has been convicted, which would include any violations of federal statutes. We believe that unless the requirement is explicit, states may continue to omit this information.

Multiple records for the same offender. In our analysis of the national registries, we found duplicate entries in both NSOR and the NSOPR portal. In the FBI's NSOR, we found 45,541 entries we considered duplicate entries, representing 9 percent of total NSOR entries. We further sampled 186 entries from 10 states and found that 87 (47 percent) were entered in multiple state files and confirmed to be duplicate entries. In some cases, the multiple entries may be appropriate because they result from the requirement that sex offenders register where they live, work, and attend

school or because some states require offenders to maintain registrations regardless of where they live, work or attend school. In other cases, the multiple entries appear to be a result of failures by states to coordinate or from failure by a state to ensure accurate data entry. For example, we found:

- A sex offender who was registered in Florida and listed as an absconder in California.
- A sex offender who was listed as an absconder in Georgia and listed in the Mississippi registry with a recent verification.
- A sex offender who appeared on the Florida registry three times with name variations. We confirmed it was the same individual by matching his date of birth and picture.
- A sex offender listed twice in the Colorado registry – once as incarcerated and once as “Failed to Register.”

The guidelines do not address unnecessary or erroneous duplicate records, and fully implementing the guidelines will not reduce the number of duplicate records in the national registries. In fact, because the guidelines call for routine and comprehensive sharing of sex offender information between jurisdictions, it is likely that implementation of the guidelines will result in more instances in which a sex offender is registered in more than one jurisdiction.

Extraneous records not purged. During our review of the NSOPR portal, we found sex offender registration records that contained only the name of the sex offender and indicated that the record had been removed because the sex offender was no longer required to register. A Director at NCMEC explained that states and territories maintain their registries in different ways. For example, 18 states purge their registries of sex offenders who have been deported, incarcerated, or who have moved out of state. The remaining 38 registries do not purge records on offenders who have left the state or are incarcerated. The guidelines do not include a protocol for jurisdictions to ensure that the records of sex offenders who are no longer required to register are removed from either the jurisdiction registry or the public registry. When asked about removing records of sex offenders no longer required to register, the Director of the SMART Office told us jurisdictions have discretion about whether to remove or retain records of sex offenders who are no longer required to register. An AUSA detailed to the SMART Office noted that some state laws require information on an offender who was required to register to remain on the state registry forever.

The inclusion of records that are not current can reduce the utility of the registries for law enforcement. The FBI Assistant Director for the Criminal Investigations Division provided an example of using a sex offender public registry to develop leads in a child abduction case in Louisiana. That state has a broad range of offenses that require registration. The list of registered sex offenders near the site of the abduction contained 8,000 names – so many that it required a great deal of prioritization before the information could be useful to law enforcement.

SECTION III: TRENDS IN THE DEPARTMENT’S INVESTIGATION, ARREST, AND PROSECUTION OF NON-COMPLIANT SEX OFFENDERS

The Department has increased federal investigations, arrests, and prosecutions of sex offenders for failure to register or update a registration, which are federal felonies under SORNA. The Department has also increased assistance to state and local law enforcement agencies to arrest sex offenders for failure to register or update a registration.

The Department’s involvement in the cases of non-compliant sex offenders typically begins when a state or local agency brings one of its fugitive warrants to a USMS task force for assistance. In most cases, the USMS agrees to assist the state or local agency, but does not initiate a separate federal investigation.⁶³ If the violation appears to meet the standards that the USAO for that district has set for federal prosecutions, the USMS may present the case to the USAO for consideration. The USMS stated that only a small percentage of fugitive sex offenders qualify under 18 U.S.C. § 2250 and that most “failure to register” cases are handled by state authorities. If the USAO accepts the case, it seeks a federal warrant and the offender is then considered a federal fugitive.

In the following sections, we describe trends in federal investigations, arrests, and prosecutions of sex offenders for failure to maintain a current registration.

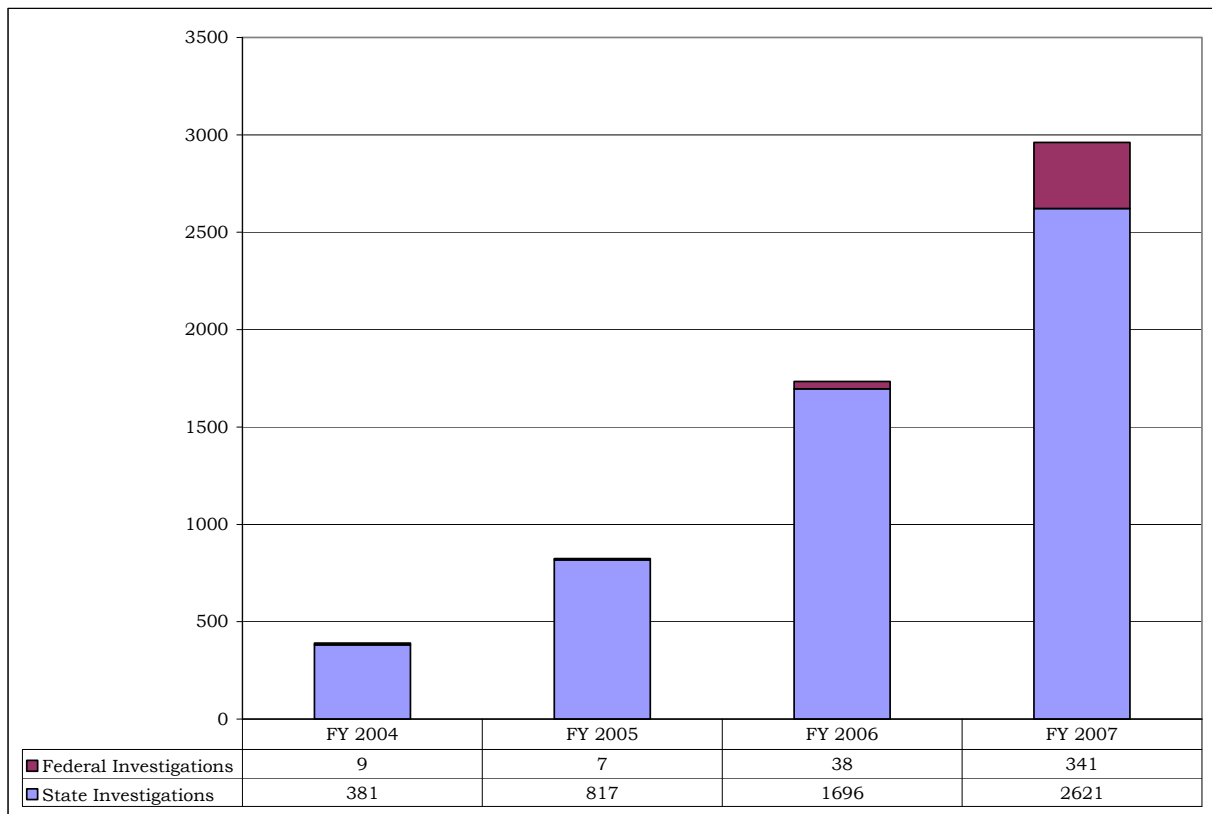
The Department has increased federal investigations, arrests, and prosecutions of sex offenders for failure to register or update a registration.

Over the last 4 fiscal years, the USMS has increased the number of investigations it conducted for failure to comply with federal statutes requiring sex offenders to register or update a registration. As shown in Figure 2, between FY 2004 and FY 2007 the USMS increased the number of fugitive sex offender investigations it conducted from 390 to 2,962. These figures include both investigations of individuals for violations of federal law and investigations of individuals wanted by state and local law enforcement authorities for failure to maintain a current registration. Within the overall

⁶³ If state or local law enforcement requests USMS assistance for an investigation based on its own warrant, the USMS “adopts” the warrant and opens an investigation based on information contained in the state warrant.

number of investigations, the proportion based on federal warrants has increased. Specifically, between FY 2004 and FY 2007 the USMS increased the number of federal sex offender fugitive investigations from 9 (2 percent of the total number of investigations in that year) to 341 (12 percent of the total).

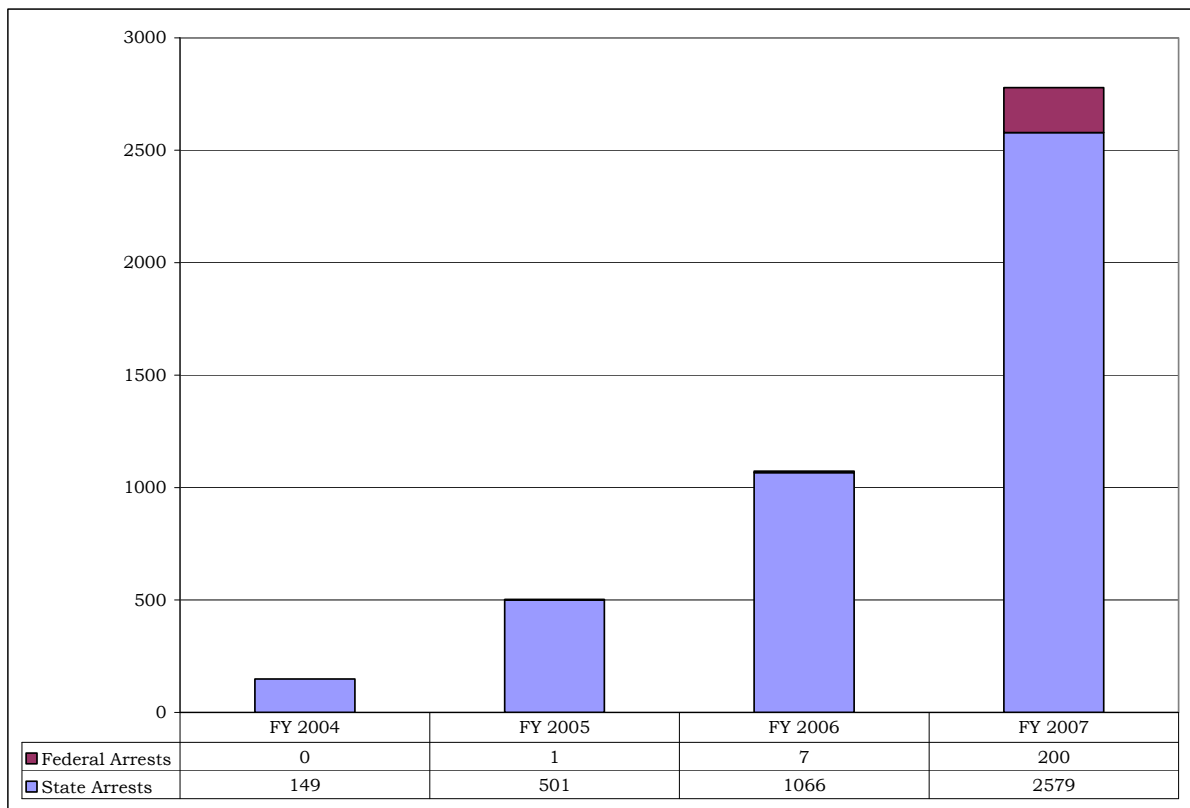
Figure 2: USMS Fugitive Sex Offender Investigations



Source: USMS.

The total number of arrests that resulted from those investigations increased from 149 in FY 2004 to 2,779 in FY 2007. As with investigations, the proportion of arrests based on federal warrants increased. Figure 3 shows that all 149 arrests in FY 2004 were based on state warrants. By FY 2007, 2,579 of the arrests were based on state warrants, and 200 arrests (7 percent of the total) were based on federal warrants.

Figure 3: USMS Fugitive Sex Offender Arrests



Source: USMS.

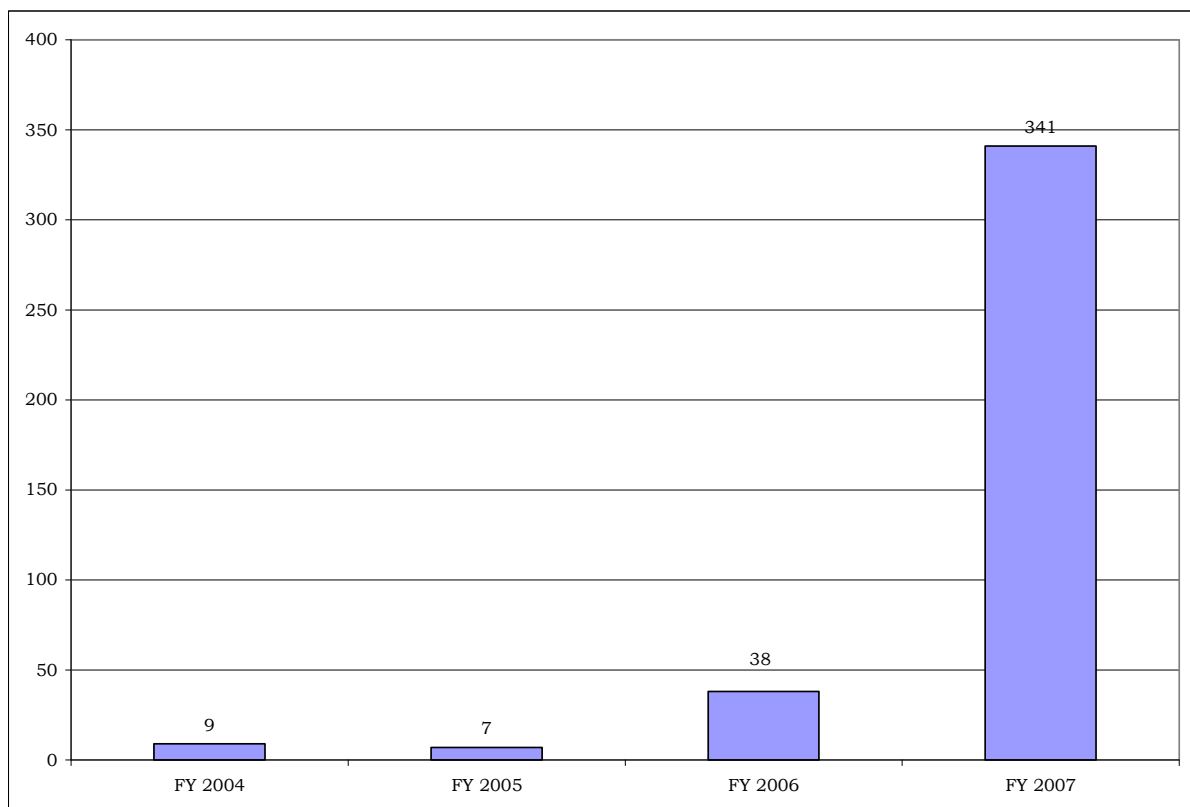
The number of investigations for violations of federal registration statutes increased because SORNA made failure to register or update a registration a federal felony and specifically identified the USMS as the entity to pursue violators.⁶⁴ As shown in Figure 4 the USMS conducted only 54 such investigations from FY 2004 through FY 2006. In FY 2007, after the enactment of SORNA, the number of investigations of the failure of sex offenders to comply with federal statutes requiring them to register or update a registration jumped to 341.⁶⁵ Although the Wetterling Act contained a provision that established federal jurisdiction for sex offenders who crossed state lines and did not maintain their registration as required, in practice, this provision was rarely used by federal investigators or

⁶⁴ 42 U.S.C. §16941(a) states that the “Attorney General shall use the resources of Federal law enforcement, including the United States Marshals Service, to assist jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements.”

⁶⁵ In addition, since SORNA was enacted the FBI has initiated one investigation and made one arrest for failure to register or update a registration.

prosecutors. This was partly because the federal violation was a misdemeanor and partly because the federal charge applied only if the conviction for which the registration requirement was imposed occurred after the Wetterling Act was enacted. With SORNA, Congress made it a federal felony, punishable by up to 10 years' imprisonment, for sex offenders to cross a state line after knowingly failing either to register or to keep their registration current.

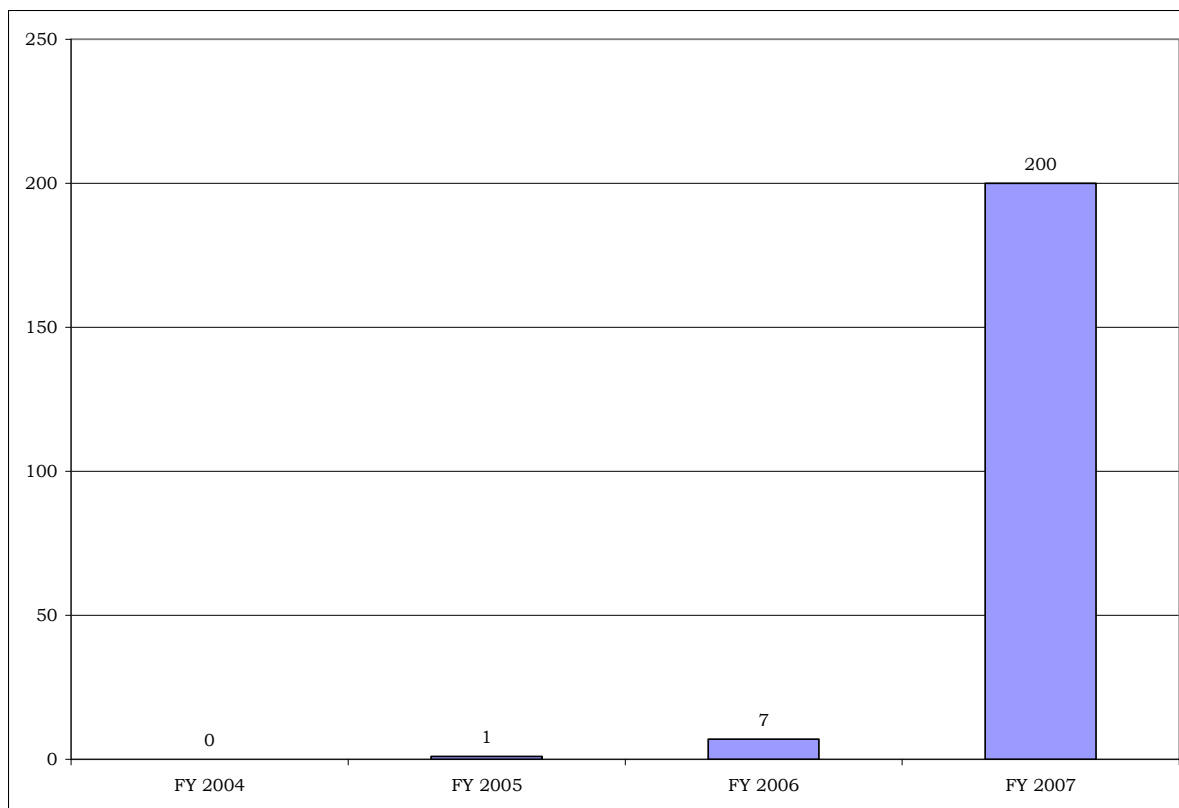
Figure 4: USMS Federal Investigations for Failure to Register or Update Registrations



Source: USMS.

Similarly, the increase in USMS arrests of fugitive sex offenders for violations of federal statutes also occurred after the enactment of SORNA. From FY 2004 through FY 2006, there were eight USMS arrests of fugitive sex offenders on federal warrants. In FY 2007, after SORNA, the USMS arrested 200 fugitive sex offenders on federal warrants (see Figure 5).

Figure 5: USMS Arrests for Federal Failure to Register or Update a Registration



Source: USMS.

The USMS Sex Offender Investigations Branch Chief noted that a federal charge for failure to register or update a registration can be used only if there is interstate travel or if the original charge was federal. If the USMS cannot prove that the sex offender intentionally and knowingly violated his registration requirements and crossed state lines, or if the case fails to meet any other national or district-specific federal prosecution standards set by the U.S. Attorney in the district, Deputy Marshals will not present the case to the USAO. The Chief of the USMS Sex Offender Investigations Branch also told us that not all SORNA investigations produce a case that would be presented to the USAO. For example, the USMS might investigate someone who is in violation of SORNA registration requirements in one state but find he is complying in another. Therefore, while that offender may be in violation of state law, the offender is not in violation of SORNA and cannot be prosecuted federally. The Chief of the USMS Sex Offender Investigations Branch also said that it is rare that cases are referred to the USMS by entities other than a state or local agency (for

example, the FBI or ICE), but that those cases almost always meet the standards for federal prosecution.

Department attorneys have also begun federally prosecuting sex offenders who are in violation of SORNA registration requirements. In response to our request for data on prosecution or declinations of alleged 18 U.S.C. § 2250 violations (failure to register or update a registration), EOUSA reported to us that from the enactment of SORNA through March 2008, 162 such cases were accepted for prosecution and 53 cases were declined for prosecution.⁶⁶ According to data provided by EOUSA, of the 93 USAOs, 56 (60 percent) had accepted at least one such case for prosecution through March 2008. However, 10 of the 93 USAOs were responsible for almost half (48 percent) of all the fugitive sex offender cases submitted through March 2008. There were no federal prosecutions for failure to register or update a registration from FY 2004 until the enactment of SORNA in July 2006.

Examples of Recent Legal Challenges Affecting USAO Prosecutions

Example 1: When Ohio switched in 2006 from a longstanding state offender registration program to the federal Adam Walsh Child Protection and Safety Act registration system, more than 26,000 people, including juveniles, were reclassified as sex offenders and ordered to register on a public list for up to 25 years. This resulted in a federal class action challenge over the timing of public notification and a limited restraining order issued in *Doe v. Dann*, No. 8-cv-220PAG (N.D. Ohio). Also, thousands of individual state challenges to reclassifications are pending. Many of those reclassified are indigent or in prison. Local counties will not pay for lawyers in what is considered a civil dispute, said the head of the Ohio Public Defenders Office. On May 9, a Cuyahoga County judge found that the Adam Walsh Act's retroactive reclassification violated both the Ohio Constitution's retroactivity clause and ex post facto protections. *Evans v. Ohio*, No. cv-08-646797. Several other appeals are pending, but ultimately the issue will go to the Ohio Supreme Court, the judge said.

Example 2: After a federal judge in Missoula, Montana, ruled against the national sex offender registration law in June 2008, Montana's U.S. Attorney said sex offenders who failed to register in Montana would still be prosecuted. The U.S. Attorney said his office will withhold federal prosecution against offenders within the Missoula District. But the U.S. Attorney said his office will move forward on prosecutions within the Billings and Great Falls Districts. The U.S. Attorney said he expected the Justice Department to appeal the decision to the 9th Circuit or defend the law as constitutional in another court.

The Chief of the Criminal Division's Child Exploitation and Obscenity Section stated that in almost every case, state and federal attorneys have to decide whether the case should be prosecuted federally or by the state

⁶⁶ The reasons for the declinations are summarized in Table 6 later in this report.

based on the respective penalties of the state and federal charges that can be brought against the defendant. The USMS guidance on investigating SORNA violations states:⁶⁷

Typically, USAOs will consider among other things, the severity of the target's offense, the target's risk to the community, and the quality and quantity of the proof available. They may also consider the willingness and ability of a state to prosecute a related violation, as well as the relative severity of the available state penalty.

We asked the EOUSA's Project Safe Childhood Coordinator whether SORNA prosecutions are likely to increase because of the Department initiating more federal investigations of fugitive sex offenders, and he responded, "Most definitely."

However, USAOs may decline to proceed with federal prosecutions of these cases. The Project Safe Childhood Coordinator cited several reasons, including that USAOs have flexibility in establishing guidelines for what cases they will and will not accept. As shown in Table 6, since the enactment of SORNA, USAOs declined to prosecute 53 of the SORNA cases presented to them from the enactment of the law through March 2008. U.S. Attorneys declined 15 of these cases immediately and 38 cases after initially accepting them.⁶⁸

⁶⁷ On February 23, 2007, the USMS Office of General Counsel issued guidance to assist Deputy Marshals in investigations of fugitive sex offenders. The guidance provided a description of the new federal registration violation (18 U.S.C. 2250), including a description of the elements of a violation of SORNA and of the evidence necessary to prove that an individual violated the law. The guidance also included an overview of the decision process by which offenders will be charged and prosecuted.

⁶⁸ The stated reasons for declination were provided by the USAOs to EOUSA. We did not conduct an independent evaluation of the case files to verify the reasons stated for declination.

Table 6: Declinations of Fugitive Sex Offender Cases by USAOs

Reason EOUSA gave for declining prosecution	Declinations
Suspect prosecuted by other authorities	15
Weak or insufficient admissible evidence	11
Lack of evidence or criminal intent	6
No federal offense evident	3
Minimal federal interest or no deterrent value	3
Office policy (failed to meet guidelines)	3
Agency request	3
Suspect prosecuted on other charges	2
Suspect serving sentence on other charge	1
Civil, administrative, or other discipline alternative	1
Department policy	1
Declined per instruction from Department	1
Jurisdiction or venue problems	1
Petite Policy*	1
Suspect cooperation	1
TOTAL	53

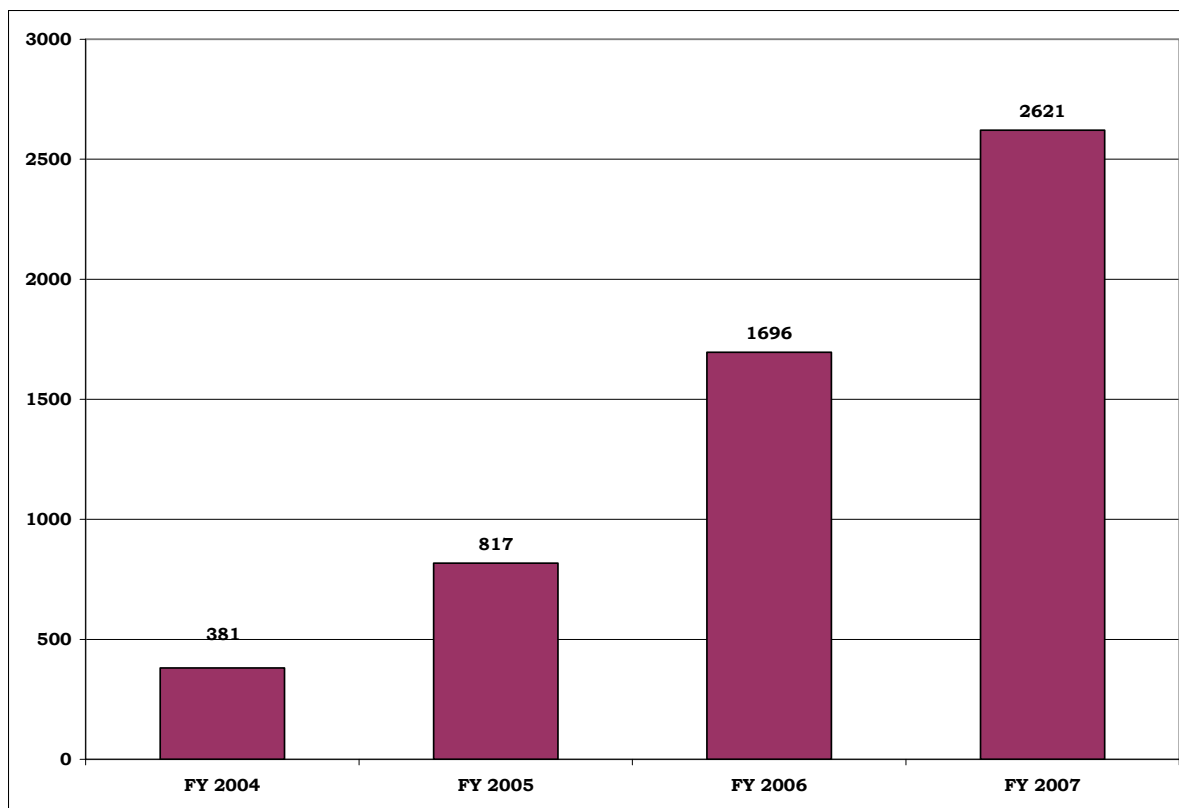
* The Petite Policy is the Department's policy regarding successive prosecutions when there has been a prior state or federal prosecution on substantially the same facts.

Source: EOUSA.

The USMS has increased assistance to state and local law enforcement agencies to arrest sex offenders for failure to register or update a registration.

The USMS was involved in assisting state and local agencies with their fugitive sex offender investigations before the enactment of SORNA and has continued to assist with these investigations. In FY 2004, the USMS assisted with 381 investigations for failure to register or update a registration based on state or local warrants, and in FY 2007, it assisted with 2,621, as shown in Figure 6. Each year between FY 2004 and FY 2007, the USMS increased the number of fugitive sex offender investigations based on state and local warrants. Between FY 2004 and FY 2005, the USMS increased the number of investigations by 436; between FY 2005 and FY 2006, by 879; and between FY 2006 and FY 2007, by 925.

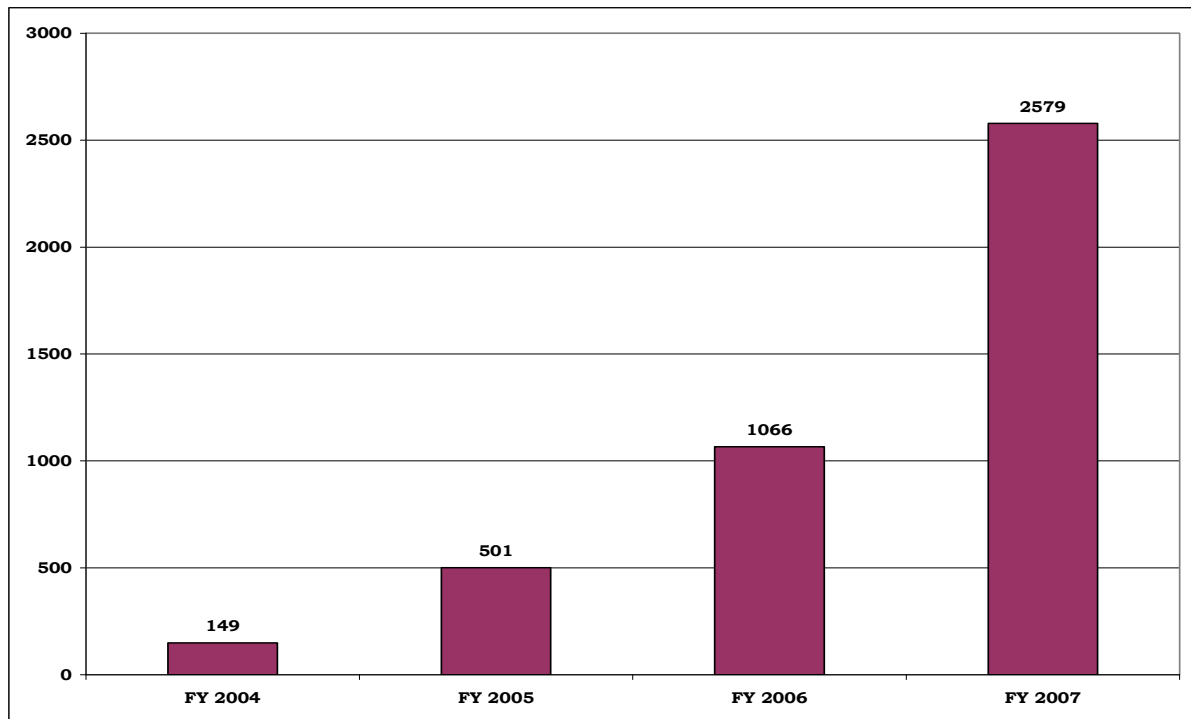
Figure 6: USMS Investigations of Individuals for Failure to Register or Update a Registration Based on State and Local Warrants



Source: USMS.

We found that USMS arrests of fugitive sex offenders for failure to register or update registration on state and local warrants also increased significantly between FY 2004 and FY 2007, from 149 arrests to 2,579 (see Figure 7). As with investigations, the number of arrests increased each year. Between FY 2004 and FY 2005, the USMS increased the number of arrests by 352; between FY 2005 and FY 2006, by 565; and between FY 2006 and FY 2007, by 1,513.

Figure 7: USMS Arrests of Individuals for Failure to Register or Update a Registration on State Warrants



Source: USMS.

The USMS managers we interviewed stated that they were not surprised by our analysis showing increased assistance to state and local law enforcement. They stated that the numbers were consistent with the USMS's increased emphasis on investigating and arresting fugitive sex offenders. The USMS Chief of Task Force Operations said that USMS leadership, from the USMS Director down, has placed more emphasis on investigations of fugitive sex offenders and that he would expect these numbers to go up even more if the USMS receives positions dedicated to fugitive sex offender investigations.

USMS officials stated that they believe the task forces they operate and the fugitive operations they conduct in partnership with local, state, and other federal agencies have also contributed to the increase in fugitive sex offender investigations and arrests. The USMS Sex Offender Investigations Branch Chief noted that there are 94 different USMS task forces assisting state and local agencies with investigations of fugitive sex offenders. The USMS Chief of Task Force Operations also attributed the increases in fugitive sex offender investigations and arrests to the maturity

of the Regional Fugitive Task Forces.⁶⁹ He said that calendar year 2006 was the first full year that the six Regional Fugitive Task Forces were in operation and that he would expect to see increases in all types of violent fugitive arrests in coming years, not just fugitive sex offender investigations and arrests.

The USMS Task Force Operations Chief noted that the USMS currently does not have any directives specific to task forces for investigating fugitive sex offenders. Rather, he said that the USMS views fugitive sex offenders as a subset of violent fugitives that is included in the USMS's mandate for assisting the states. He stated that the USMS's

USMS Uses Private Data in Fugitive Sex Offender Investigations

The USMS maintains contracts with ChoicePoint Government Services (ChoicePoint) and LexisNexis (which acquired ChoicePoint in February 2008) to support fugitive sex offender investigations. The USMS Sex Offender Investigations Branch Chief said the USMS uses ChoicePoint's Registered Sex Offender Locator Tool (ReSOLT) in existing fugitive sex offender investigations and to identify possible new fugitive sex offenders. ReSOLT identifies potential fugitives based on transactions, such as employment and housing applications, derived from public data and then electronically notifies licensed users if sex offenders may be out of compliance with their registration requirements. For example, if a sex offender registered in one state undergoes a credit check to rent an apartment in a different state, ReSOLT would flag that person as a potential fugitive sex offender and notify registered users. As of January 2008, the USMS had 122 user licenses with unlimited inquiries. The FY 2008 cost for the service was \$160,292.

ChoicePoint's data repository, which is updated nightly, includes 200 million to 225 million criminal records, and, as of January 2008, 400,000 sex offender records. USMS officials told us that Deputy Marshals use ReSOLT in their fugitive sex offender investigations. However, USMS officials noted that because leads generated by ReSOLT are often false, contain old information, and cannot be used as evidence in prosecutions, Deputy Marshals must independently verify all information generated by ReSOLT.

Deputy Marshals also use LexisNexis's Advanced Sex Offender Search (ASOS) System to research publicly available information on individual sex offenders under investigation. However, LexisNexis does not have additional databases that ASOS can search to identify other real-time information, such as credit checks or financial transactions, which could identify the current location of individual fugitive sex offenders to support investigations and assist in arrests.

⁶⁹ The Regional Fugitive Task Forces reduce the number of violent fugitives at large by promoting cooperation among federal, state, and local law enforcement agencies. The USMS Task Force Operations Chief said that USMS managers described the Regional Fugitive Task Forces as "force multipliers" that are more effective than any individual agency because they combine resources from many agencies.

assistance provided under SORNA is simply a continuation of its ongoing activities that are funded through the appropriations the USMS receives for responding to violent crime. The USMS Sex Offender Investigations Branch Chief stated that the USMS has arrested fugitive sex offenders brought to its attention by the state and local agencies and that the 2006 Federal and Local Cops Organized Nationally (FALCON) operation focused on sex offenders.⁷⁰ However, the USMS Task Force Operations Chief said, in terms of the size of the population of sex offenders who are out of compliance with their registration requirements, “We’re treading water right now. The number of sex offenders is growing all the time.”

⁷⁰ Operation FALCON III took place the week of October 22 - 28, 2006, and covered the eastern half of the United States, focusing on some of the country’s most dangerous sex offenders and gang members. The USMS reported 971 individuals were arrested for not registering as sex offenders.

CONCLUSIONS AND RECOMMENDATIONS

In the 2 years since SORNA was enacted, the Department has made progress in implementing the law's requirements, but in some cases has not completed implementation of those requirements. After SORNA was enacted, the Department drafted a memorandum summarizing the implementation of the Act.⁷¹ The memorandum contained a summary of the provisions of the Act and a proposed timeline for implementation by the Department. However, the Department did not issue this guidance to any component other than the SMART Office. While a Department official told us the memorandum was not intended to be an implementation plan, the Department did not make any other attempt to develop an implementation plan.

At the component level, OJP issued software to all jurisdictions to connect their public sex offender registry to the NSOPR portal, as required by SORNA, and OJP's SMART Office is assisting jurisdictions in implementing enhancements to jurisdiction registry systems. In addition, in July 2008, the SMART Office issued guidelines to assist jurisdictions in implementing SORNA requirements. The SMART Office also created a checklist that will assist jurisdictions in implementing SORNA provisions and that will assist the SMART Office in determining whether jurisdictions are in compliance with SORNA.

We also determined that the USMS established a new investigative program, re-assigned existing resources to increase investigations and arrests of fugitive sex offenders, and plans to establish a National Sex Offender Targeting Center. The USMS has also increased the number of fugitive sex offender investigations each fiscal year, from 390 in FY 2004 to 2,962 in FY 2007. Prosecutions of fugitive sex offenders also increased from 0 to 162 during the same period, and the USAOs and Criminal Division assigned new and existing resources to prosecute federal fugitive sex offenders.

The FBI has met the SORNA requirements that sex offender registration information is electronically transmitted to relevant states when changes are made to an offender's information and issued guidance that will enable NCMEC and certain government social service agency personnel to access FBI criminal information databases. In addition, the FBI indicated that it is willing to

⁷¹ Memorandum, "Implementation tasks and suggested timelines for implementing the provisions of the *Adam Walsh Child Protection and Safety Act of 2006*," August 3, 2006 (Appendix IV).

provide the USMS with complete electronic files of NSOR and NCIC Wanted Persons File data for use in fugitive sex offender investigations.

Yet, neither the FBI's NSOR nor OJP's NSOPR portal has complete and accurate listings of all of the sex offenders in the United States who are required to register. Department officials told us that the completeness and accuracy of both registries are dependant on the states and that state budget constraints have limited states' abilities to keep registration information up to date. They also stated that state law enforcement may not know which sex offenders are registered or out of compliance because the offender's registration status is not always identified by local agencies in jurisdiction and national registries.

RECOMMENDATIONS

As a result of our review, we are making the following recommendations to the Department's components regarding the implementation of SORNA:

1. The FBI should ensure NSOR has more complete and accurate information by designing and implementing a new audit of jurisdiction registries' compliance with FBI NSOR procedures and with the SORNA guidelines.
2. The FBI should implement the Advisory Policy Board-approved changes to NSOR that specifically provide information regarding fugitive status.
3. The USMS should obtain NSOR and the NCIC Wanted Persons File data downloads from the FBI and use that information to manage and conduct fugitive sex offender investigations.

APPENDIX I: ACRONYMS

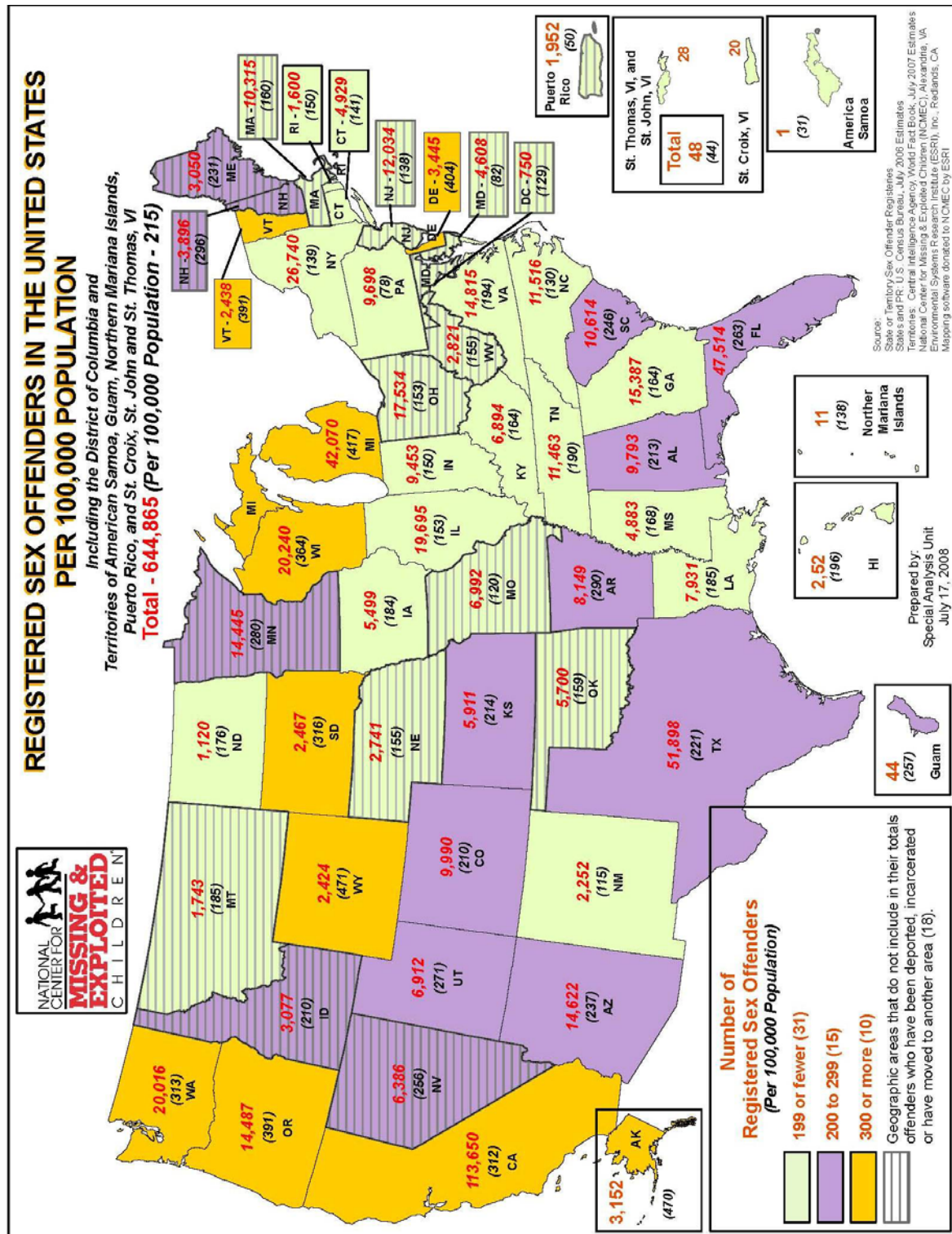
ASOS	Advanced Sex Offender Search
AUSA	Assistant United States Attorneys
BJA	Bureau of Justice Assistance
CEOS	Child Exploitation and Obscenity Section
CJIS	Criminal Justice Information Services
EOUSA	Executive Office for United States Attorneys
FALCON	Federal and Local Cops Organized Nationally
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
FY	Fiscal Year
ICAC	Internet Crimes Against Children
ICE	Immigration and Customs Enforcement
MOU	Memorandum of Understanding
NCAI	National Congress of American Indians
NCIC	National Crime Information Center
NCMEC	National Center for Missing and Exploited Children
NSOR	National Sex Offender Registry
NSOPR	National Sex Offender Public Registry
OIG	Office of the Inspector General
OJP	Office of Justice Programs
ReSOLT	Registered Sex Offender Locator Tool
SMART	Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking
SOMA	Sex Offender Management Assistance
SORNA	Sex Offender Registration and Notification Act
USAO	United States Attorney's Office
USMS	United States Marshals Service

APPENDIX II: INFORMATION SUBMITTED TO THE SMART OFFICE FOR REVIEW

State, Territory, or Tribe	Information Submitted
Alabama	Proposed legislation review
American Samoa	Proposed model legislation
Arizona	Substantial compliance review, extension request
Arkansas	Extension request, review of proposed legislation
Cheyenne River Sioux	Preliminary review
Coeur D'Alene	Proposed legislation
Colorado	Preliminary review of Internet identifier statute
Confederated Tribes of the Umatilla Indian Reservation	Preliminary review
Guam	Substantial compliance review
Idaho	Substantial compliance review
Illinois	Extension request
Iowa	Substantial compliance review
Kentucky	Tiering review
Louisiana	Substantial compliance review
Maryland	Preliminary review
Mississippi	Preliminary review
Mississippi Band of Choctaw Indians	Preliminary review
Nebraska	Proposed legislation
Nevada	Tiering review
New Hampshire	Preliminary review
New Jersey	Preliminary review
North Carolina	Preliminary questions
Ohio	Substantial compliance review
Oklahoma	Preliminary review
South Carolina	Extension request
Vermont	Tiering review

Source: SMART Office.

APPENDIX III: NCMEC MAP OF REGISTERED SEX OFFENDERS



APPENDIX IV: OFFICE OF LEGAL POLICY ADAM WALSH ACT IMPLEMENTATION MEMORANDUM



U.S. Department of Justice

Office of Legal Policy

Assistant Attorney General

Washington, D.C. 20530

August 3, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH THE DEPUTY ATTORNEY GENERAL

FROM: Rachel L. Brand
Assistant Attorney General

A handwritten signature in dark ink, appearing to be 'RLB', written over the printed name of Rachel L. Brand.

RE: Implementation tasks and suggested timelines for implementing the provisions of the Adam Walsh Child Protection and Safety Act of 2006

As you requested, I am providing a summary of the provisions of the Adam Walsh Child Protection and Safety Act of 2006, Pub.L. 109-248, and a proposed timeline for their implementation by the Department. The provisions are listed in the order in which they appear in the law and not by importance, ease of implementation, or need for timeliness. Following the initial section-by-section listing, this memorandum provides a listing broken out by proposed timelines.

Section-by-Section Listing

Section 112(b) – Requires the Attorney General to issue guidelines and regulations to interpret and implement the new sex offender registration and notification standards. The Office of Legal Policy (OLP) probably will have to draft the new guidelines and regulations, as it has done in the past, unless the Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office (SMART Office) created by the law in Section 146 can be quickly set up to handle this requirement. Timeline: Six months.

Section 119(a) – Directs the Attorney General to maintain the National Sex Offender Registry (NSOR). NSOR has existed for about a decade, but changes may be required by the Federal Bureau of Investigation's Criminal Justice Information Systems Division to accommodate the Act's expanded range of registration information. Timeline: Six months.

Section 119(b) – Directs the Attorney General to ensure, through NSOR or otherwise, that updated information about sex offenders is immediately transmitted by electronic forwarding to all relevant jurisdictions. Timeline: Three years with possible two-year extension; this requirement should be understood as part of contemplated state functions subject to the deadline established in Section 124.

Implementation tasks and suggested timelines for implementing the provisions of the Adam Walsh Child Protection and Safety Act of 2006

Section 120 – Establishes the Dru Sjodin National Sex Offender Public Website. The web site in question already exists and is operated by the Bureau of Justice Assistance (www.nsopr.gov), but some modification may be needed to conform to the Act's requirements, including geographic radius searches. Timeline: Six months.

Section 122 – Requires notice to the Attorney General and appropriate law enforcement agencies concerning registration violations, and directs the Attorney General and other agencies to take any appropriate action to ensure compliance. Implementation of this section should be merged with implementation of federal assistance for registration enforcement under Section 142.

Section 123 – Directs the Attorney General, in consultation with the states, to develop and support software to enable the states to carry out the Act's sex offender registration and notification requirements. Software development should be managed by the SMART Office with input from FBI, the National Institute of Justice, and the Bureau of Justice Statistics. Timeline: Statutory deadline of two years for first complete edition of the software.

Sections 124-25 – Require the Attorney General to set deadlines for state compliance with the new sex offender registration and notification standards and requires a reduction of 10 percent in a state's Byrne Grant for noncompliance. Deadline: Per the statutory provisions, the Department is required to effect the funding reduction in case of noncompliance after three years, subject to up to two one-year extensions the Attorney General may grant. The SMART Office will be responsible for facilitating and determining compliance.

Section 126 – Directs the Attorney General to establish a Sex Offender Management Assistance ("SOMA") grant program, to defray state costs of implementing the new sex offender registration and notification standards. Timeline: Should be administered by the SMART Office, beginning in the first fiscal year for which funding is appropriated.

Section 127 – Creates provisions for the treatment of Indian tribes as registration jurisdictions or the delegation of such functions to the states. The SMART Office should work on implementing these provisions with the tribes, with help from the Office of Tribal Justice. Timeline: The statute requires election by tribes within one year of enactment of the Act, so the SMART Office needs to turn its attention to these provisions promptly upon appointment of its director.

Section 128 – Directs the Attorney General, in consultation with the Secretary of State and the Secretary of Homeland Security, to create a system for informing states about persons entering the United States who are required to register. This function is logically within the area of responsibility of the SMART office. Timeline: Six months from setting up of SMART Office.

Implementation tasks and suggested timelines for implementing the provisions of the Adam Walsh Child Protection and Safety Act of 2006

Section 141 – Updates the federal failure-to-register offense and the registration conditions for federal supervision; increases the related penalties; updates the release notice and registration provisions for federal and military offenders. The Criminal Division, Bureau of Prisons, federal probation offices (through the Administrative Office of the US Courts), and the Defense Department (for military offenders) should develop appropriate implementation/guidance for these provisions, with assistance from OLP. Timeline: The parts affecting federal sex-offender supervision conditions and release notices require immediate attention because they may affect federal offenders currently being placed under supervision or released from custody.

Section 142 – Requires the Attorney General to use federal law enforcement resources, including the Marshals Service, to assist states in locating and apprehending sex offenders who violate sex offender registration requirements. Timeline: Three months for the FBI and the Marshals Service to submit a joint plan to employ their resources to meet the new responsibility.

Section 143 – Authorizes Project Safe Childhood. Will require cooperative implementation by United States Attorneys' offices, Criminal Division, FBI, and OJP components. Timeline: Already being implemented; one month to evaluate whether the law requires any changes to the current implementation of PSC.

Section 144 – Directs the Attorney General to provide assistance to states in identifying and locating sex offenders relocated as a result of major disasters. The development of a plan to achieve the requirements of the provision is logically within area of responsibility for SMART Office. Timeline: Six months from the establishment of SMART Office to develop the plan.

Section 145 – Directs the Attorney General to expand training and cooperative activities relating to Internet crimes against children and to deploy child exploitation tracking technology. This provision relates to activities that are now mainly coordinated by the Office of Juvenile Justice and Delinquency Prevention, but the responsibilities of the SMART Office and the Bureau of Justice Assistance may also be implicated. Timeline: The statute implicitly sets a time frame of less than a year by requiring a report to Congress not later than July 1, 2007, on the activities carried out under the section, therefore a plan to provide the training ought to be developed within three months of the establishment of the SMART Office so that training may begin within six months.

Section 146 – Establishes the SMART Office, whose statutory functions include administering the new sex offender registration and notification standards; administering grant programs relating to sex offender registration and notification and other grant programs under the Act as directed by the Attorney General; cooperating with and assisting state and local governments and other entities in relation to sex offender registration and notification and other measures to protect children and others from sexual abuse or exploitation; and performing such other

Implementation tasks and suggested timelines for implementing the provisions of the Adam Walsh Child Protection and Safety Act of 2006

functions as the Attorney General may delegate. The SMART Office is placed within OJP, the Director of the Office is appointed by the President, without Senate confirmation. Considering the key role contemplated for the SMART Office in carrying out much of the Act, getting it operational should be a high priority. Timeline: 30 days.

Sections 151 and 153 – Increase access by the National Center for Missing and Exploited Children and child protection agencies to national crime information databases (Section 151) and by child welfare agencies and educational agencies and schools to national crime information databases (Section 153). Implementation should be by FBI/CJIS in consultation with OLP. Timeline: Six months.

Note: We are publishing the first three and a half pages of the memorandum in this appendix because they deal with the SORNA provisions of the Adam Walsh Act that we reviewed. We omitted the remainder of the 13-page memorandum because it discussed sections of the Adam Walsh Act not covered by our review.

APPENDIX V: STATE-BY-STATE BREAKDOWN OF REGISTERED SEX OFFENDERS IN PUBLIC REGISTRIES AND THE FBI'S NSOR

	Number of sex offenders in OIG sample registered in public registry	Number of sex offenders in OIG sample registered in public registry and in NSOR	Percentage of sex offenders in OIG sample listed in public registry also contained in NSOR
Alabama	33	25	75.8
Alaska	95	91	95.8
Arizona	8	8	100.0
Arkansas	5	4	80.0
California	16	14	87.5
Colorado	120	108	90.0
Connecticut	12	8	66.7
Delaware	100	95	95.0
District of Columbia	5	4	80.0
Florida*	—	—	—
Georgia	134	134	100.0
Hawaii	27	24	88.9
Idaho	11	9	81.8
Illinois	29	19	65.5
Iowa	9	9	100.0
Kansas	90	63	70.0
Kentucky	12	11	91.7
Louisiana	23	21	91.3
Maine	77	74	96.1
Maryland	83	74	89.2
Massachusetts	30	27	90.0
Michigan	29	28	96.6

	Number of sex offenders in OIG sample registered in public registry	Number of sex offenders in OIG sample registered in public registry and in NSOR	Percentage of sex offenders in OIG sample listed in public registry also contained in NSOR
Minnesota*	—	—	—
Mississippi	41	39	95.1
Missouri	45	41	91.1
Montana	42	31	73.8
Nebraska	7	7	100.0
Nevada	35	18	51.4
New Hampshire	9	9	100.0
New Jersey	25	24	96.0
New Mexico	8	8	100.0
New York	20	19	95.0
North Carolina	32	32	100.0
North Dakota	5	4	80.0
Ohio	40	29	72.5
Oklahoma	1	0	0.0
Oregon	8	8	100.0
Pennsylvania	19	13	68.4
Puerto Rico	31	9	29.0
Rhode Island	5	3	60.0
South Carolina	22	12	54.5
South Dakota	3	2	66.7
Tennessee	59	52	88.1
Texas	46	28	60.9
Utah	131	21	16.0
Vermont*	—	—	—
Virginia	25	23	92.0

	Number of sex offenders in OIG sample registered in public registry	Number of sex offenders in OIG sample registered in public registry and in NSOR	Percentage of sex offenders in OIG sample listed in public registry also contained in NSOR
Washington	16	10	62.5
West Virginia	11	6	54.5
Wisconsin	84	3	3.6
Wyoming	65	56	86.2
TOTAL	1,996	1,551	77.8

*The OIG's random sample of zip codes returned no sex offenders in these states.

APPENDIX VI: FBI RESPONSE



U.S. Department of Justice

Federal Bureau of Investigation

Clarksburg, WV 26306

November 21, 2008

Mr. Michael D. Gullledge
Acting Assistant Inspector General
for Evaluations and Inspections
United States Department of Justice
Suite 6100
1425 New York Avenue, NW
Washington, DC 20530

RE: THE DEPARTMENT OF JUSTICE'S IMPLEMENTATION OF THE SEX
OFFENDER REGISTRATION AND NOTIFICATION ACT

Dear Mr. Gullledge:

The Federal Bureau of Investigation (FBI) appreciates the opportunity to review and respond to your report entitled, "Review of the Department of Justice's Implementation of the Sex Offender Registration and Notification Act" (hereinafter, "Report").

The Report documents the status of the Sex Offender Registration and Notification Act (SORNA) implementation by the Department of Justice (Department). The national sex offender registration system is composed of two registries operated by different Department components: first, the FBI's National Sex Offender Registry (NSOR); and second, the Office of Justice Programs (OJP) Dru Sjodin National Sex Offender Public Registry Website (NSOPR). As your report confirms, the FBI has met its requirement under SORNA to provide electronic updates to state sex offender registration authorities when records change in the NSOR. The FBI has also met its SORNA requirement to allow access to national crime information databases for personnel at the National Center for Missing and Exploited Children and social services agencies.

Based on a review of the Report, the FBI concurs with all three recommendations. To date, the FBI has implemented measures to resolve all of the identified issues. The FBI's NSOR, as part of the National Crime Information Center (NCIC), operates under a shared-management concept between the FBI and local, state, tribal and federal criminal justice agencies. The FBI maintains a host computer and provides a telecommunications network to each of the 50 states, territories, the District of Columbia, Canada, as well as various federal agencies. The information these entities provide is maintained by the FBI's host computer. As found in your Report, the responsibility to populate the NSOR lies within the states and territories. As further found in your Report, the states have not entered approximately 22 percent of records on registered sex offenders into the NSOR. The completeness of the data within the NSOR relies upon those required to enter the data, first and foremost, the states. The FBI remains committed to its role in the full implementation of the SORNA.

Mr. Michael D. Gullledge

In conclusion, the FBI appreciates the professionalism exhibited by your staff in working with our representatives throughout this audit process. Enclosed herein is the FBI's response to the report. Please feel free to contact me should you have any questions.

Sincerely yours,



Thomas E. Bush, III
Assistant Director
Criminal Justice Information
Services Division

Enclosure

**RE: THE DEPARTMENT OF JUSTICE'S IMPLEMENTATION OF THE
SEX OFFENDER REGISTRATION AND NOTIFICATION ACT**

Recommendation 1: The FBI should ensure NSOR has more complete and accurate information by designing and implementing a new audit of jurisdiction registries' compliance with FBI NSOR procedures and with the SORNA guidelines.

FBI Response: RESOLVED - The FBI's Criminal Justice Information Services (CJIS) Division is scheduled to re-implement the sex offender audit in October 2009. It should be noted that all NCIC audit findings are reported through the CJIS Advisory Process for review and possible sanctions.

The Report refers to a pilot audit conducted by the CJIS Division on the state registries and information provided by those state registries into the NSOR. As a matter of procedure, the CJIS Division establishes audit processes to ensure the accuracy, completeness, and validity of records with newly deployed NCIC files once national participation has been achieved. Therefore in October 2003, the CJIS Division developed and deployed a three-year pilot sex offender audit for informational purposes only not to be subject to the CJIS Advisory Policy Board's (APB's) Sanctions Process. The three-year pilot encompassed one complete NCIC audit cycle, which enabled the FBI to evaluate compliance with the policies and procedures, as they relate to the NCIC NSOR, by all 50 states, the District of Columbia, and United States territories with direct access to the NCIC.

Through the pilot audit, it was determined that states had difficulty in complying with the NSOR's validation requirements, which is a process used to confirm that each record is complete, accurate, and active. In addition, several other data quality issues were identified. Upon review of the initial audit findings, the CJIS Division, in consultation with the APB, began forwarding compliance issues to the Convicted Sexual Offender Registry File (CSORF) Task Force in March 2005 to consider substantial changes to existing NSOR policies. The changes recommended by the task force would ultimately impact the audit process due to the consequential revision of policies.

Concurrently, on July 27, 2006, the Adam Walsh Child Protection and Safety Act of 2006 (the Adam Walsh Act) was signed into law and repealed all previous sex offender legislative requirements. States, territories, and tribal jurisdictions were given three years after the enactment date of the Adam Walsh Act to comply with SORNA, with two possible one-year extensions. The CJIS Division determined that, following the completion of the three-year pilot, it would be beneficial to suspend the audit for at least three years (one NCIC audit cycle) to allow time for states, territories, and tribal jurisdictions to implement changes based on legislation and for the Task Force to resolve any remaining policy issues. Therefore, the CJIS Division suspended the pilot audit in September 2006, although guidance and training on NSOR continue.

On July 1, 2008, the Department published the final guidelines for the SORNA, which is contained within the Adam Walsh Act, for states, territories, and tribal jurisdictions to use in their implementation of the SORNA requirements. The Department guidelines are crucial for resolving the Task Force's issues. The CJIS Division is planning to re-implement the sex offender audit upon resolution of the Task Force's issues and implementation of identified changes and enhancements. The projected date for re-implementation of the sex offender audit is October 2009.

Recommendation 2: The FBI should implement the Advisory Policy Board-approved changes to NSOR that specifically provide information regarding fugitive status.

FBI Response: RESOLVED - The APB, during its December 2006 meeting, recommended an enhancement to the NCIC regarding the creation of a new sex offender status field within the NSOR as an optional field which states/territories could migrate to using as resources permit. This enhancement was approved by the FBI Director in May 2007. The sex offender status field is included on the NCIC enhancement list and is scheduled to be implemented August 2009.

This enhancement to the NSOR will facilitate a better method to indicate a sex offender's registration or fugitive status by states/territories. Currently, states/territories are encouraged to enter appropriate comments in the Miscellaneous (MIS) Field for offenders who have failed to register or are noncompliant. States and territories are also encouraged to seek warrants for these individuals and make corresponding entries in the NCIC Wanted Persons File. The MIS Field supports the inclusion of narrative information that is not captured in a designated field. In addition to the offender's status, the MIS Field includes information such as description of tattoos, statute for offender's conviction, and details regarding caution statements.

As a result of a recommendation presented during the Spring 2003 APB Working Groups and Subcommittee meetings, the CSORF Validation Task Force was formed to review validation issues and return with a recommendation on what should be done concerning CSORF validation. The initial role of the task force was substantially broadened and identified the need to capture the sex offender registration status in a designated field. The task force reported to the APB's NCIC Subcommittee in October 2006 and recommended the creation of a new sex offender status field as an optional field which states/territories could migrate to as resources permit. The enhancement was recommended by the APB during its December 2006 meeting and was approved by the FBI Director in May 2007. The sex offender status field is currently scheduled to be implemented in August 2009.

The addition of a new field will change the mechanism by which states/territories include noncompliant status information in an NSOR record and how the information is provided in a response. However, it will be incumbent upon the entering agency to include the status information. As previously outlined, the states/territories are solely responsible for maintaining accurate information in the NSOR.

Recommendation 3: The USMS should obtain NSOR and the NCIC Wanted Persons File Data downloads from the FBI and use that information to manage and conduct fugitive sex offender investigations.

FBI Response: RESOLVED - The FBI has received a letter from the USMS dated November 3, 2008, requesting such a data download. The CJIS Division is currently in the process of responding to the USMS's data request. The CJIS Division will provide the USMS with data downloads of the NCIC Wanted Person File upon request from the USMS.

Additional Comments:

The Report in multiple instances states that the NCIC contains information including criminal record histories. For clarification, the NCIC is a database containing criminal justice data such as warrants and protection orders, while the Interstate Identification Index is the system that contains more comprehensive criminal history record information.

The FBI recognizes that a percentage of sex offender records have not been entered into the NSOR by states and territories, but believes the records that are in the NSOR provide a valuable tool to law enforcement. The FBI also recognizes gains in record entry by

states and territories into the NSOR. Beginning with fiscal year (FY) 2005, the total number of records in the NSOR has steadily increased from 405,192 in FY2005, to 448,650 in FY2006, to 494,426 in FY2007, culminating with 552,112 in FY2008.

In conclusion, states and territories are required under the the Adam Walsh Act to enter information into the NSOR for any person required to register in a jurisdiction's sex offender registry. While the FBI maintains the NSOR and provides the avenue for entry of sex offender data as mandated by the Adam Walsh Act, the information contained within the NSOR is submitted by states and territories and the inclusion, accuracy, and integrity of the data is ultimately the responsibility of those states and territories.

APPENDIX VII: OIG ANALYSIS OF FBI RESPONSE

The Office of the Inspector General provided a draft of this report to the Federal Bureau of Investigation for its comments. The FBI's response is included in Appendix VI of this report. The OIG's analysis of the FBI's response and the actions necessary to close the recommendations are discussed below.

Recommendation 1. The FBI should ensure NSOR has more complete and accurate information by designing and implementing a new audit of jurisdiction registries' compliance with FBI NSOR procedures and with the SORNA guidelines.

Status. Resolved – open.

Summary of the FBI Response. The FBI concurred with this recommendation and stated that its Criminal Justice Information Services Division is scheduled to re-implement an audit to ensure the accuracy, completeness, and validity of NSOR records populated by states and territories in October 2009.

OIG Analysis. The actions planned by the FBI are responsive to our recommendation. So that we may close this recommendation to ensure the accuracy, completeness, and validity of NSOR records, please provide the OIG with the audit's instrument and confirmation that the new audit of jurisdiction registries' compliance with FBI NSOR procedures and with the SORNA guidelines has been implemented by October 30, 2009.

Recommendation 2. The FBI should implement the Advisory Policy Board-approved changes to NSOR that specifically provide information regarding fugitive status.

Status. Resolved – open.

Summary of the FBI Response. The FBI concurred with this recommendation and stated that the Director of the FBI approved the creation of a new sex offender status field within NSOR in May 2007. The new field is scheduled to be implemented in August 2009. The FBI stated that this enhancement to NSOR will give states and territories a better way to indicate a sex offender's registration or fugitive status.

OIG Analysis. The actions planned and taken by the FBI are responsive to our recommendation. So that we may close this recommendation, please

provide the OIG with confirmation that the sex offender status field within NSOR is operational by August 28, 2009.

Recommendation 3. The USMS should obtain NSOR and the NCIC Wanted Persons File data downloads from the FBI and use that information to manage and conduct fugitive sex offender investigations.

Status. Resolved – open.

Summary of the FBI Response. The FBI concurred with this recommendation and stated that it has received a letter from the USMS dated November 3, 2008, requesting such a data download. The FBI stated that its Criminal Justice Information Services Division is in the process of responding to the USMS's data request and that it will provide the USMS with data downloads of the NCIC Wanted Person File upon request from the USMS.

OIG Analysis. The actions planned and taken by the FBI are responsive to our recommendation. So that we may close this recommendation, please provide the OIG with a description of the method by which the FBI will transfer data to the USMS and confirmation of the first transfer of NSOR and NCIC Wanted Person File data from the FBI by June 5, 2009.

APPENDIX VIII: OJP RESPONSE



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

NOV 19 2008

MEMORANDUM TO:

Glenn A. Fine
Inspector General
United States Department of Justice

THROUGH:

Michael D. Gullledge
Acting Assistant Inspector General for Evaluation and Inspections
Office of the Inspector General
United States Department of Justice

FROM:

Jeffrey L. Sedgwick
Jeffrey L. Sedgwick
Assistant Attorney General

SUBJECT:

Office of Justice Programs' Response to the Office of the Inspector General Report, *Review of the Implementation of the Sex Offender Registration and Notification Act, Title I of the Adam Walsh Safety and Protection Act of 2006*, Report Number A-2008-003

This memorandum provides a response to the Office of the Inspector General's (OIG's) draft audit report entitled, *Review of the Implementation of the Sex Offender Registration and Notification Act, Title I of the Adam Walsh Safety and Protection Act of 2003*. In general, the Office of Justice Programs (OJP) agrees with the content of the draft report as it relates the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. However, OJP would like to make the following clarifications regarding statements in the OIG draft report.

1. **Page 30 (Footnote 41):** The draft report states that "The Executive Director for the National Council on American Indians said the SMART Office's Sex Offender Registration and Notification Act guidelines provide no indication of the process that will be used to assess tribal compliance." Please note, the Sex Offender Registration and Notification Act guidelines are clear that once a Tribe files a resolution to become a registration jurisdiction, the Tribe is under the same obligation as a state. Tribal compliance will be based on the same substantial compliance standard as set out in the final guidelines.
2. **Page 59 (Third paragraph):** The report states that "For sex offender registries to be helpful tools, it is important that they provide the information the public needs to assess the threat posed to them by different sex offenders. Victim information could be useful for this purpose because sex offenders often have victim preferences." The Office of Justice Programs agrees

that offenders have preferences. However, it is important to note that an offender with a preference may go outside of that preference for any number of reasons. For example, a sex offender that has a preference for a pre-pubescent boy may molest a pre-pubescent girl if she has similar qualities to a boy.

Thank you for the opportunity to provide comments on the draft report. If you have any questions regarding this response, please contact LeToya Johnson, Deputy Director, Office of Audit, Assessment, and Management – Audit and Review Division, on (202) 514-0692.

cc: Beth McGarry
Deputy Assistant Attorney General
for Operations and Management

Laura L. Rogers
Director
Office of Sex Offender Sentencing, Monitoring,
Apprehending, Registering, and Tracking

LeToya A. Johnson
Deputy Director, Audit and Review Division
Office of Audit, Assessment, and Management

Richard A. Theis
Assistant Director, Audit Liaison Group
Justice Management Division

APPENDIX IX: OIG ANALYSIS OF OJP RESPONSE

The Office of the Inspector General provided a draft of this report to the Office of Justice Programs for its comments. OJP's response is included in Appendix VIII of this report. The OIG's analysis of the OJP's response is discussed below.

Summary of the OJP Response. OJP agreed with the contents of the report as they relate to OJP's SMART Office, and provided clarifications on two statements in the draft. First, OJP responded to footnote 41 [now footnote 40, page 30]. The footnote states that, "The Executive Director for the National Congress of American Indians said the SMART Office's Sex Offender Registration and Notification guidelines provide no indication of the process that will be used to assess tribal compliance." OJP stated that the SORNA guidelines clearly state that once a tribe files a resolution to become a registration jurisdiction, the tribe is under the same obligations as a state and that tribal compliance will be based on the same substantial compliance standards as set out in the guidelines. Second, OJP responded to the third paragraph on page 59 of the report, which stated, "For sex offender registries to be helpful, it is important that they provide the information the public needs to assess the threat posed to them by different sex offenders. Victim information could be useful for this purpose because sex offenders often have victim preferences." OJP agreed with these statements, but said that it is important to note that an offender with a preference may deviate from that preference for any number of reasons.

OIG Analysis. The OIG made minor edits to the draft report to incorporate some of OJP's clarifying statements. Regarding OJP's comment on footnote 41 [now footnote 40, page 30], written testimony provided by the National Congress of American Indians (NCAI) on July 17, 2008, before the United States Senate Committee on Indian Affairs presented NCAI's concerns regarding the procedure for addressing tribal compliance. Specifically, the tribes were concerned over the Attorney General's authority to delegate a tribe's authority under SORNA to the state if the Attorney General determined that a tribe is not in compliance with the Act. The NCAI described this delegation of authority as having "potentially serious consequences" and further stated that "the DOJ guidelines provide no indication of the process that will be used by the Attorney General to assess tribal compliance and make this delegation." Although we incorporated OJP's statement that tribal compliance will be assessed in the same manner as states and territories, this does not fully respond to the concerns raised by the NCAI.

APPENDIX X: USMS RESPONSE



U.S. Department of Justice

United States Marshals Service

Office of the Director

Washington, DC 20530-1000

November 21, 2008

MEMORANDUM TO: Michael Gullede
Acting Assistant Inspector General
for Evaluation and Inspections

FROM: *John F. Clark*
Director

SUBJECT: Review of the Department of Justice's Implementation of
the Sex Offender Registration and Notification Act
Report Number A-2008-003

Thank you for the opportunity to comment on the draft audit report on your Review of the Department of Justice's Implementation of the Sex Offender Registration and Notification Act. We have reviewed the recommendation pertaining to the United States Marshals Service (USMS) in the report, and our comments are attached.

Should you have any questions or concerns regarding this response, please contact Isabel Howell, Audit Liaison, at 202-307-9744.

Attachment

USMS Response to Draft Audit Report on the
Review of the Department of Justice's Implementation of the
Sex Offender Registration and Notification Act

Recommendation #3:

The USMS should obtain [National Sex Offender Registry] NSOR and the NCIC Wanted Person File Data downloads from the FBI and use that information to manage and conduct fugitive sex offender investigations.

Response: (*Agree*.) The USMS has initiated the process of acquiring data from the Federal Bureau of Investigation (FBI). On November 3, 2008, a letter of request (copy attached) was sent to the FBI. The data requested from the FBI includes records from the National Sex Offender Registry (NSOR) and the Wanted Persons File. The data will be used to identify for investigation suspected fugitive sex offenders as well as sex offenders who may be out of compliance with sex offender registration requirements.

Complete details of this specific information sharing process have yet to be worked out. A memorandum of understanding will be required between the USMS and the FBI specifying the terms and conditions for the sharing of these records. The USMS Office of General Counsel has advised that a slight modification to the USMS Warrant Information Network system notice is recommended to specify the inclusion of the sex offender records and the purpose for their use. A certain amount of software engineering will need to be accomplished both at the FBI and at the USMS, and perhaps at the Department of Justice, which currently serves as the handler of data between the USMS and the FBI.

The USMS has identified tools that may be used to conduct the analyses of the data in conjunction with other data. Additional licenses for these tools, application assistance and data storage facilities will need to be purchased to support this effort.

Having just begun the process, a completion date can only be roughly estimated at this time. Preliminary discussions with the FBI indicate that they share data with other agencies in much the same manner as anticipated for this project. Therefore, some of the infrastructure is already in place to transfer the data. The USMS is committed to the implementation of SORNA and this data project is a high priority. Our current estimate for having an established method to receive and use the data from the FBI in support of sex offender investigations is mid-2009, or before. This estimate is subject to change as conditions or factors outside our control may affect our progress.



U.S. Department of Justice
United States Marshals Service
Investigative Operations Division

Washington, D.C. 20530

November 3, 2008

Ms. Kimberly K. Smith
Unit Chief Module B3
Criminal Information and Transition Unit
Criminal Justice Information Division
Federal Bureau of Investigation
1000 Custer Hollow Road
Clarksburg, West Virginia 26306

Dear Chief Smith:

The United States Marshals Service (USMS) requests that the FBI, Criminal Justice Information Services Division, authorize and assist in establishing a mirror database, updated in real time, of the National Sex Offender Register (NSOR) and the NCIC Wanted Person File – to include the historical database of cleared and expired records. The data base will be housed at USMS headquarters in Arlington, Virginia, in support of USMS investigative operations.

The mirror data base will be used by the USMS and partner agencies to carry out their duties in accordance with the Adam Walsh Child Protection and Safety Act of 2006, the Presidential Threat Protection Act of 2000, and Title 28 U.S.C 566. The data base will be used for law enforcement purposes associated with criminal investigations to include the identification, location, apprehension, and/or investigation to prosecute non-compliant sex offenders as well as the identification and location of sex offenders relocated as a result of a major disaster.

If approved, planned applications include the following:

- To interface with the USMS Warrant Information Network/Justice Detainee Information System (WIN/JDIS), and/or successor systems to enable users of these systems to routinely access NSOR and wanted person information for law enforcement purposes, including de-confliction.

-
- To generate alerts to USMS and concerned federal, state, and local law enforcement agencies when sex offenders are identified as non-compliant.
 - To support other analytical and investigative purposes, including the generation of investigative leads through data matching, data analyses, and other means.
 - To share with federal, state, local law enforcement agencies, as appropriate.

Ms. Debra Jenkins, Chief, Criminal Information Branch, is our primary point of contact on this project. She can be reached at 202-307-9109 or email debra.jenkins@usdoj.gov.

The USMS looks forward to working with your agency to establish this important database. We expect that the purposes for which we intend to use the data will help assist us in criminal investigations as well as target and apprehend sex offenders before they commit new crimes.

Sincerely,



T. MICHAEL EARP
Assistant Director

APPENDIX XI: OIG ANALYSIS OF USMS RESPONSE

The Office of the Inspector General provided a draft of this report to the United States Marshals Service (USMS) for its comments. The USMS's response is included in Appendix X of this report. The OIG's analysis of the USMS's response and the actions necessary to close the recommendations are discussed below.

Recommendation 3. The USMS should obtain NSOR and the NCIC Wanted Persons File data downloads from the FBI and use that information to manage and conduct fugitive sex offender investigations.

Status. Resolved – open.

Summary of the USMS Response. The USMS agreed that records from NSOR and the Wanted Persons File can be used to identify for investigation suspected fugitive sex offenders as well as sex offenders who may be out of compliance with sex offender registration requirements. Therefore, the USMS concurred with this recommendation and provided a letter dated November 3, 2008, which it had sent to the FBI requesting records from NSOR and the NCIC Wanted Persons File. The USMS stated that details of the information-sharing process have yet to be worked out and that a memorandum of understanding will be required between the USMS and FBI specifying the terms and conditions for sharing these records. The USMS also stated that sharing the records will require system modifications and the acquisition of analytical software and related resources. The USMS could not provide a completion date for establishing a method to receive and use the data from the FBI in support of sex offender investigations, but estimated that it could occur in mid-2009 or before.

OIG Analysis. We believe that the actions planned and taken by the USMS are responsive to our recommendation. For the OIG to close this recommendation, by June 5, 2009, the USMS must provide the OIG with: (1) a copy of the memorandum of understanding between the USMS and FBI, (2) a description of the method by which the USMS will receive data from the FBI, (3) confirmation of the first transfer of NSOR and NCIC Wanted Person File data from the FBI, and (4) a description of how the USMS will use the data to manage and conduct fugitive sex offender investigations.