

VA: 11052
DC: 24-12

EXHIBIT M

Oct. 12
2130

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Arkansas Sex Offender Assessment Committee

DIVISION Department of Correction, Sex Offender Screening & Risk Assessment Program

DIVISION DIRECTOR Dana Watson, Chair

CONTACT PERSON Wendy Kelley, Arkansas Department of Correction

ADDRESS P.O. Box 8707, Pine Bluff, AR 71611

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AUG 02 2012

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INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
 Subcommittee on Administrative Rules and Regulations
 Arkansas Legislative Council
 Bureau of Legislative Research
 Room 315, State Capitol
 Little Rock, AR 72201

1. What is the short title of this rule? **Sex Offender Assessment Committee Guidelines**
2. What is the subject of the proposed rule? **The guidelines set out the rules and procedures for the assessment of sex offenders required to register in Arkansas.**
3. Is this rule required to comply with federal statute or regulations? **Yes**

The United States Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act as part of the Federal Violent Crime Control and Law Enforcement Act of 1994. On June 19, 1998, the U.S. Department of Justice published the Proposed Guidelines in the Federal Register (63 FR 33696) to implement the act as amended by "Megan's Law," the Pam Lyncher Sexual Offender Tracking and Identification Act of 1996, and §115 of the General Provisions of Title I of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 1998. The Wetterling Act was further modified by the "Campus Sex Crimes Prevention Act" (§1601 of Public Law 106-386). This federal law, enacted October 28, 2000, provides for the tracking of, and availability of, notification information to the campus community about convicted,

registered sex offenders enrolled as students, working, or volunteering at institutions of higher education. These requirements are tied to state eligibility for certain types of federal grant funding and must be implemented through state law.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? No

5. If yes, what is the effective date of the emergency rule? NA

When does the emergency rule expire? NA

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No X If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes No X If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes X No If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

The 2012 guidelines add changes to reflect changes to the sex offender assessment process and clarify the assessment process. Other changes were made that made the guidelines easier to read.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

Current code section references for adult offenders are Arkansas Code Annotated §§12-12-901 through 923, specifically § 12-12-913(c)(3). The intent of these various Acts is to protect the people of Arkansas from victimization by individuals who have previously engaged in criminal sexual behavior.

The 81st General Assembly of the State of Arkansas passed Act 989 of 1997 entitled, "Sex and Child Offender Registration Act of 1997." This legislation has been amended on several occasions including; Act 1353 of 1999; Acts 1740 and 1743 of 2001 (which renamed the Act to read "Sex Offender Registration Act of 1997"; Act 21 of the 2nd Extraordinary Session of the 84th General Assembly in 2000; Act 4 of the First Extraordinary Session of 2006; Act 394 of 2007; Act 1023 of 2011 and Act 286 of 2011.

Current code section references for adult offenders are A.C.A. §§12-12-901 through 924. The law regarding juvenile sex offenders was revised in Act 1265 of 2003, and the code section for juvenile offenders is A.C.A. §9-27-356. The intent of these various Acts is to provide local law enforcement with information that allows them to conduct the appropriate level of community notification, which will allow the people of Arkansas a better opportunity to protect themselves from victimization by individuals who have previously engaged in criminal sexual behavior.

FINANCIAL IMPACT STATEMENT

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PLEASE ANSWER ALL QUESTIONS COMPLETELY

AUG 02 2012

DEPARTMENT Arkansas Sex Offender Assessment Committee

DIVISION _____

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LEGISLATIVE RESEARCH

PERSON COMPLETING THIS STATEMENT Wendy Kelley, Department of Correction

TELEPHONE NO. 870-267-6360 FAX NO. 870-267-6363 EMAIL: Wendy.Kelley@arkansas.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

2012 Sex Offender Assessment Committee Guidelines

1. Does this proposed, amended, or repealed rule or regulation have a financial impact? No
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
3. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____

6. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule, and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

5. What is the total estimated cost by fiscal year to the agency to implement this rule?

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

7. What is the purpose of this proposed rule? Why is it necessary?

The 2012 guidelines were updated to reflect changes in the assessment process and more clearly represent the assessment process as it exists in 2012. Changes were also made to reflect legislative changes in relation to the registration process.

8. Will a public hearing be held on this proposed rule? Yes _____ No _____

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

9. When does the public comment period expire for permanent promulgation? (Must provide a date.)

September 4, 2012

10. What is the proposed effective date of this proposed rule? (Must provide a date.) October 30, 2012

11. Do you expect this rule to be controversial? Yes _____ No _____ If yes, please explain.

12. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

Public Notice

The Sex Offender Assessment Committee is reviewing proposed changes in the Sex Offender Assessment Guidelines and Procedures. The Sex Offender Assessment Committee will review any comments prior to October 30, 2012.

Copies of the proposed changes are available for public inspection at the Arkansas Department of Correction, 6814 Princeton Pike Road, Pine Bluff, AR 71602. The proposed changes are also available for review online through the Secretary of State's website: www.sosweb.state.ar.us; Online Services, administrative rules link.

Written comments regarding the Administrative Regulation should be postmarked by September 4, 2012. Comment may be mailed to: Wendy Kelley, Deputy Director, Arkansas Department of Correction, PO Box 8707, Pine Bluff, AR 71611-8707.

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SEX OFFENDER
ASSESSMENT
COMMITTEE
GUIDELINES AND
PROCEDURES
COMMUNITY NOTIFICATION
ASSESSMENT PROCESS

122012

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SEX OFFENDER ASSESSMENT COMMITTEE
GUIDELINES AND PROCEDURES
20112012

Historical Background

The United States Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act as part of the Federal Violent Crime Control and Law Enforcement Act of 1994. On June 19, 1998, the U.S. Department of Justice published the Proposed Guidelines in the Federal Register (63 FR 33696) to implement the act as amended by "Megan's Law," the Pam Lyncher Sexual Offender Tracking and Identification Act of 1996, and §115 of the General Provisions of Title I of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 1998. The Wetterling Act was further modified by the "Campus Sex Crimes Prevention Act" (§1601 of Public Law 106-386). This federal law, enacted October 28, 2000, provides for the tracking of, and availability of, notification information to the campus community about convicted, registered sex offenders enrolled as students, working, or volunteering at institutions of higher education. These

requirements are tied to state eligibility for certain types of federal grant funding and must be implemented through state law. The Adam Walsh Child Protection & Safety Act of 2006 further expanded Title 1 to include certain juvenile offenses, possession of child pornography, sex trafficking, and a new definition of sex offense.

As of the 2011 legislative session, Arkansas has taken no action to adopt the provisions of the Adam Walsh Child Protection & Safety Act of 2006.

Should we add that Arkansas has no plans to adopt this legislation or leave it alone?

Arkansas Legislation

The 81st General Assembly of the State of Arkansas passed Act 989 of 1997 entitled, "The Sex and Child Offender Registration Act of 1997." This legislation was has been amended on several occasions including: Act 1353 of 1999; Acts 1740 and 1743 of 2001 (which renamed the Act to read "Sex Offender Registration Act of 1997"; Act 21 of the 2nd Extraordinary Session of the 84th General Assembly in 2000; Act 4 of the First Extraordinary Session of 2006; Act 394 of 2007; Act 1023 of 2011 and Act 286 of 2011.

Current code section references for adult offenders are A.C.A. §§12-12-901 through 9234. Because the assessment and registration requirements are different for juveniles adjudicated as sex offenders, the law relating to juvenile sex offenders was revised in Act 1265 of 2003. The code section for juvenile offenders is A.C.A. §9-27-356. The intent of these various Acts is to provide local law enforcement with information that allows them to conduct the appropriate level of community notification, which will allow the people of Arkansas a better opportunity to protect themselves from victimization by individuals who have previously engaged in criminal sexual behavior.

The 81st General Assembly of the State of Arkansas passed HB 1061, which became Act 989, "The Sex and Child Offender Registration Act of 1997." This legislation was amended by the 82nd General Assembly of the State of Arkansas by passing HB 1963, which became Act 1353 of 1999. Act 1353 was modified by Acts 1740 and 1743 in the 83rd General Assembly. Acts 1740 and 1743 were combined and amended into Act 21 of the 2nd extraordinary session of the 84th General Assembly. Because the assessment and registration requirements are different for juveniles adjudicated as sex offenders, the law relating to juvenile sex offenders was revised in Act 1265 of 2003. Act 4 of the first extraordinary session of 2006, and Act 394 of 2007 further revised the sex offender registration laws. A.C.A. §12-12-9243 establishes electronic monitoring for sexually violent predators for 10 years following release from prison. A.C.A. §12-27-125 establishes enhanced monitoring for sex offenders in the Arkansas Department of Community Correction ("DCC"). Act 1023 of the 88th General Session prohibits Level 3 & 4 sex offenders from working in a private day care center while children are present. Act 286 of the 88th General Assembly provides that local law enforcement may conduct Community Notification at Level 4 the originally assessed level on any sex offender assigned a Community Notification Level 4, who seeks administrative review of the assigned level until the administrative review and/or judicial review are completed.

Act 1023 of the 88th General Session prohibits Level 3 & 4 sex offenders from working in a private daycare center while children are present. Act 286 of the 88th General Assembly provides that local law enforcement may conduct Community Notification at Level 4 on any sex offender assigned a Community Notification Level 4, who seeks administrative review of the assigned level.

Current code section references for adult offenders are A.C.A. §§12-12-901 through 9234. The additional code section for juvenile offenders is §9-27-356. The intent of these various Acts is to provide local law enforcement with information about registered offenders to that allows them to provide conduct the appropriate level of community notification to Arkansans, placing them in a , which will allow protect the people of Arkansas a better positionopportunity to protect themselves and their families. from victimization by individuals who have previously engaged in criminal sexual behavior.

The Sex Offender Assessment Committee

Arkansas law at A.C.A. § 12-12-921 establishes a nine (9) member Sex Offender Assessment Committee ("SOAC"). Subject to confirmation by the Senate, the Governor appoints the following six (6) members:

- A defense attorney
- A prosecuting attorney
- A licensed mental health professional
- A victim's rights advocate
- A law enforcement officer
- A member with expertise in juvenile justice or treatment

Also serving on the Committee is

- The director of the Arkansas Department of Correction ("ADC"), or the director's designee
- The director of the Arkansas Crime Information Center ("ACIC"), or the director's designee
- The director of the DCC, or the director's designee

The SOAC is charged with promulgating guidelines and procedures for disclosure of relevant and necessary information to the public when the release of the information is necessary for the public protection. The Committee must also establish qualifications for examiners and qualify examiners to prepare reports in accordance with the assessment protocol.

Adult assessments are completed by the Sex Offender Screening & Risk Assessment Program (SOSRA). SOSRA is a unit within the ADC. Correspondence to the SOAC and to the staff for SOSRA is to be directed to Post Office Box 6209, Pine Bluff AR 71611-6209, faxed to (870) 850-8446, or e-mailed to adc.sosra@arkansas.gov. The office may be reached by phone: (870) 850-8429.

The ADC contracts with the Family Treatment Program (FTP) through Children's Hospital and the University of Arkansas for Medical Sciences to conduct assessments of juvenile offenders, according to standards and procedures developed by that organization and approved by the Sex Offender Assessment Committee.

Arkansas Crime Information Center

Maintenance of the Sex Offender Registry and Web Site and responsibility for tracking of sex offenders in the community are vested in the ACIC. Information is available through the Internet, <http://www.acic.org>. The Internet links provide statistical information, as well as individual information, on ~~high risk~~ offenders and sexually violent predators as authorized by law. Correspondence is to be directed to the Arkansas Crime Information Center, One Capitol Mall, Little Rock, AR 72201. The phone numbers for the Sex Offender Registry at ACIC are (501) 682-7439 or (501) 682-7441. The fax number is (501) 683-5592.

~~The ACIC may release information regarding individual offenders only to members of the criminal justice system. However, if a member of the public believes that a sex offender should have registered, but did not, or has changed address or employment without proper notification, that notification, that information should be given to the ACIC by that member of the public at the above listed numbers listed above.~~

~~The ACIC maintains a website that provides information on level 2 adult offenders where the victim was fourteen (14) years of age or younger, and all level 3 and level 4 sex offenders. The public may access that website at <http://www.acic.org>.~~

Sex Offender Registration

A.C.A. § 12-12-905 requires that the following persons must register:

- (1) A person who is adjudicated guilty on or after August 1, 1997, of a sex offense, aggravated sex offense, or sexually violent offense;
- (2) A person who is serving a sentence of incarceration, probation, parole, or other form of community supervision as a result of an adjudication of guilt on or after August 1, 1997, for a sex offense, aggravated sex offense, or sexually violent offense;
- (3) A person who is acquitted on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense;
- (4) A person who is serving a commitment as a result of an acquittal on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense; and
- (5) A person who was required to be registered under the Habitual Child Sex Offender Registration Act, formerly § 12-12-901 et seq., enacted by Acts 587 of 1987, §§ 1-10 and 989 of 1997, § 23.

7 numbers
12-12-906

A.C.A. §12-12-906 requires registration for sex offenders moving to Arkansas.

12-12-906 (2) Duty to register or verify registration generally - Review of requirements with offenders.

(2)(A) A sex offender moving to or returning to this state from another jurisdiction shall register with the local law enforcement agency having jurisdiction within three (3) business days after the sex offender establishes residency in a municipality or county of this state.

(B)(i) Any person living in this state who would be required to register as a sex offender in the jurisdiction in which he or she was adjudicated guilty of a sex offense shall register as a sex offender in this state whether living, working, or attending school or other training in Arkansas.

(ii) A nonresident worker or student who enters the state shall register in compliance with Pub.L. No. 109-248, as it existed on January 1, 2007.

Pursuant to A.C.A. § 9-27-356, the court determines whether or not a juvenile is required to register.

Target Offenses:

Pursuant to federal law, (42 U.S.C. 14071 a, (3) A and B), target offenses include:

- Kidnapping of a minor, except by a parent;
- False imprisonment of a minor, except by a parent;
- Criminal sexual conduct toward a minor;
- Solicitation of a minor to engage in sexual conduct;
- Use of a minor in a sexual performance;
- Solicitation of a minor to practice prostitution;
- Any conduct that by its nature is a sexual offense against a minor;
- Any sexually violent offense regardless of the age of the victim (18 U.S.C. Sections 2241 and 2242);
- An attempt to commit any of the above offenses if the legislature chooses to make such an attempt a criminal offense requiring registration;
- Exceptions to the above may be made if the act is criminal based on the age of the victim and the perpetrator is 18 years of age or younger;
- Any other offense that the Arkansas Legislature determines is a sexual offense or violent offense against a child.

Additionally, the court may require registration of any offense for which there was a sexually motivated component. If the court determines that there is a sexual component,

registration may be required. (For example, some stalking cases are not sexually motivated and others are.) Adults convicted of any of the following offenses must register:

- | | |
|-----------------------------------------------------------------------------------------------------------|------------|
| 1. Kidnapping of a minor, not by a parent | § 5-11-102 |
| 2. False imprisonment of a minor 1 st , not by a parent | § 5-11-103 |
| 3. False imprisonment of a minor 2 nd , not by a parent | § 5-11-104 |
| 4. Permanent detention or restraint of a minor, not by a parent | § 5-11-106 |
| 5. Rape | § 5-14-103 |
| 6. Sexual indecency with a child | § 5-14-110 |
| 7. Indecent exposure, if a felony offense | § 5-14-112 |
| 8. Exposing another person to HIV, when ordered by the Court to Register | § 5-14-123 |
| 9. Sexual Assault 1 st degree | § 5-14-124 |
| 10. Sexual Assault 2 nd degree | § 5-14-125 |
| 11. Sexual Assault 3 rd degree | § 5-14-126 |
| 12. Sexual Assault 4 th degree | § 5-14-127 |
| 13. Video Voyeurism, if a felony offense | § 5-16-101 |
| 14. Voyeurism, if a felony offense | § 5-16-102 |
| 15. Incest | § 5-26-202 |
| 16. Permitting abuse of a minor | § 5-27-221 |
| 17. Engaging children in sexually explicit conduct for use in visual or print medium | § 5-27-303 |
| 18. Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, | § 5-27-304 |
| 19. Transportation of minors for prohibited sexual conduct | § 5-27-305 |
| 20. Internet Stalking of a Child | § 5-27-306 |
| 21. Employing or consenting to the use of a child in a sexual performance | § 5-27-402 |
| 22. Producing, directing or promoting a sexual performance | § 5-27-403 |
| 23. Distributing, possessing, or viewing matter depicting sexually explicit conduct involving a child | § 5-27-602 |
| 24. Computer child pornography | § 5-27-603 |
| 25. Computer exploitation of a child | § 5-27-605 |
| 26. Promoting prostitution in the first degree | § 5-70-104 |
| 27. Stalking when ordered by the court to register | § 5-71-229 |
| 28. An attempt, solicitation, or conspiracy to commit any of the above offenses. | |

This list of target offenses is not exclusive. The registration requirement extends to the requirements of other state laws, tribal laws, military laws, and additional federal laws. Newly enacted sex offenses or current target offenses subsequently modified by legislation shall be considered target offenses unless otherwise specified by the legislature. The sentencing court has the authority to order the registration of any offender shown in court to have attempted to commit or to have committed a sex offense, even if the offense is not listed as a target offense. Any individual living in or moving into Arkansas, or entering Arkansas for employment, education, or training, who has been convicted of a target offense, or a differently titled, but equivalent offense by a federal court, tribal court, military court, or court of another state, that is the substantial equivalent of a target offense, or is required to register under the laws of another state is required to register and to submit to assessment in Arkansas.

Aggravated Sex Offenses

“Aggravated sex offense” means an offense substantially equivalent to “aggravated sexual abuse” as defined in 18 U.S.C. § 2241 as it existed on March 1, 2003, which principally encompasses:

- (A) Engaging or attempting to engage in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence; or causing or attempting to cause another person to engage in a sexual act either by using or threatening force against that other person or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; Engaging in sexual acts involving the penetration of victims below the age of twelve (12) by knowingly rendering another person unconscious and then engaging in a sexual act with that other person; or by administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct and engaging or attempting to engage in a sexual act with that other person.
- (B) Crosses a state line with intent to: engage or attempt to engage in a sexual act with a person who has not attained the age of twelve (12) years.
- (C) Knowingly engages or attempts to engage in a sexual act with another person who has not attained the age of twelve (12) years; or knowingly engages or attempts to engage in a sexual act under the circumstances in A and B above with another person who has attained the age of twelve (12) years but has not attained the age of sixteen (16) years and is at least four (4) years younger than the alleged offender.

Determination as to whether an offense qualifies as an “Aggravated Sex Offense” may depend on the circumstances surrounding the offense. The court must indicate on the judgment and commitment or judgment and disposition form whether or not the offense is an aggravated sex offense.

Should there be any confusion regarding whether a sex offense qualifies as an "Aggravated Sex Offense" the Court will be contacted during the course of the assessment of the offender.

Individuals convicted of (an) aggravated sexual offense(s) are required to register for life.

Registration of Offenders

A court in which an individual is either adjudicated guilty or acquitted on grounds of mental disease or defect of a sex offense, aggravated sex offense, or sexually violent offense, shall advise the individual that he or she is required to register as a sex offender. The Registration form, the ACIC Acknowledgment form, and Sex Offender Advisement form shall be a part of the paperwork completed at the time of conviction and shall be included with any other paperwork completed by the offender at that time. The prosecutor is to provide these forms to ACIC with the packet of information completed by the sex offender. These forms are available at the ACIC website.

~~Can we add something about the fact that the law requires that offenders convicted of target offenses must register; therefore, unless specifically ordered by the court NOT to register, the offender must register???~~ This issue here is the fact that sometimes the judgments are not marked one way or another. The other issue is they often are mistakenly marked NO. This is more rare than it used to be, but still does occur. Just thinking of ways to help with this.

The law enforcement agency having jurisdiction will ensure that sex offenders moving into their jurisdiction register. The law enforcement agency with jurisdiction shall complete the registration form and have the offender read and sign the ACIC Acknowledgement form and immediately fax those forms to ACIC or use CENSOR, the electronic system established by ACIC. Law enforcement officials shall also fax these forms to SOSRA (Fax: 870-850-8446) unless the information is entered into eSOMA, the electronic sex offender management system in use by SOSRA. This will alert SOSRA to the need to begin the assessment process and/or alert SOSRA to the fact that an offender has relocated.

The ADC, the DCC, the Department of Human Services (DHS), and the Arkansas State Hospital shall complete the registration form for any offender being released from confinement ten days prior to release. The custodian shall also have the offender read and sign the ACIC Acknowledgement form. These forms shall be faxed to ACIC and SOSRA.

Sex offenders released from custody must register with the law enforcement agency where they will reside upon release.

Residency

Residency is defined by A.C.A. § 12-12-903(10) as the place where a person lives notwithstanding there may be an intent to move or return at some future date to another place. Residency also includes place of employment, training, or education. An offender must register in each law enforcement jurisdiction where he or she lives, attends school or is employed. For example, a convicted sex offender who is a college student must register with law enforcement (chief of police or sheriff) in the jurisdiction in which he or she lives, and the campus police or safety office, and possibly a third jurisdiction if working in a different city or county from where he or she resides.

Residence shall include a motor home, vehicle or boat when that is where the individual resides.

Nonresident worker(s) or student(s) from outside Arkansas whom have been or would be required to register by the laws of the jurisdiction in which they were adjudicated are required to be assessed and to register.

Verification of Residency

Pursuant to Act 64 of 2011, A.C.A. § 12-12-909, the Arkansas Crime Information Center (ACIC) was directed to provide an electronic format for the law enforcement community to use to register, update and verify sex offenders in their jurisdiction. The system created by ACIC is called Centralized Electronic Network of Sex Offender Registries (CENSOR). The new legislation eliminated the need to mail certified letters to sex offenders informing them of their next verification visit date. This date is indicated on the acknowledgement form. This form shall be a portion of the electronic program...this is printed from CENSOR and given to the offender upon completion of the registration process.

*
exception
(a)(3)

To verify residency, Level 1, Level 2 & Level 3 offenders must present themselves every six (6) months to the law enforcement agency having jurisdiction. Levels 1, 2, and through Level 3 sex offenders must notify ACIC and law enforcement of any change of address ten (10) days prior to change. For an unexpected emergency change of address as in the case of a dwelling fire or natural disaster changes must be reported within three (3) days: A.C.A § 12-12-906. (c)(1)(A)(vii)

(b)(1)

authority
90 days (c)

Sexually Violent Predators/Level 4 offenders, must present themselves every three (3) months to the law enforcement agency having jurisdiction to verify residency. According to A.C.A § 12-12-923, Sexually Violent Predators (Level 4), released from confinement after 04/07/2006, are subject to electronic monitoring for ten (10) years.

90 days
(a)(5)

Level 1 through 3 sex offenders must notify ACIC and law enforcement of any change of address ten (10) days prior to change. For an unexpected emergency change of address

~~as in the case of a dwelling fire or natural disaster changes must be reported within three (3) days. A.C.A. § 12-12-906.~~

~~Sexually Violent Predators must present themselves every three (3) months to the law enforcement agency having jurisdiction to verify residency.~~

~~Sexually Violent Predators released from confinement after 04/07/2006 must present themselves to local law enforcement, and are subject to electronic monitoring for ten (10) years. A.C.A. § 12-12-923.~~

~~ACIC no longer sends a Verification of residency. The offender is informed that he/she must remember to verify their Residency every 6 months or every 3 months if they are a Level 4. They are then responsible for going into the police department to verify. Paula can help with the language.~~

~~All other offenders not determined to be Sexually Violent Predators, level 4, must present themselves to the law enforcement agency having jurisdiction to verify residency every six (6) months.~~

~~ACIC will send a Verification of Residency form to the offender's home and that form must be presented to the local law enforcement agency in order to verify residency. ACIC no longer sends a Verification of residency. The offender is informed that he/she must remember to verify their Residency every 6 months or every 3 months if they are a Level 4. They are then responsible for going into the police department to verify. Paula can help with the language.~~

Failure to register or maintain registration is a Class C Felony. A.C.A. § 12-12-904.

Individualized Community Notification Assessment

~~The SOSRA under the auspices of the SOAC must conduct a community notification assessment on each sex offender required to register in Arkansas, unless the offender was assessed by a law enforcement agency prior to the development of SOSRA and that assessment information was entered into to the ACIC database. Assessments completed by local law enforcement prior to the development of SOSRA, but not entered into the ACIC database, will not be considered a invalid assessment. In those instances, SOSRA will conduct an assessment.~~

~~Community Notification notification Assessments assessments are conducted strictly for the purpose of determining the most appropriate level of community notification. Information garnered during the assessment process is used to assign levels 1-4, which in turn allows local law enforcement agencies to appropriately notify members of the community. The community notification level assigned by SOSRA strictly indicates the level of notification to be performed by local law enforcement.~~

What does SOSRA do?

- ▶ Provides a Community Notification level to law enforcement

Levels range from:

- ▶ Level 1 (Low)
- ▶ Level 2 (Moderate)
- ▶ Level 3 (High)
- ▶ Level 4 (Sexually Violent Predator)



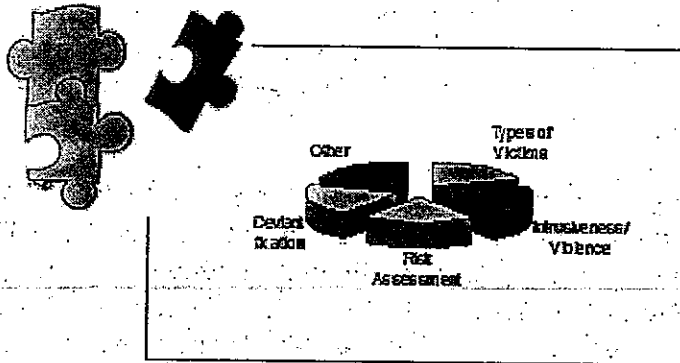
Assessment Process

Community Notification Assessments may include, but are not limited to, the following:

- A review of the sex offender's criminal history, with particular attention given to any offense that was sexual or violent in nature.
- An interview of the sex offender completed by SOSRA staff.
- A polygraph examination or a Computerized Voice Stress Analysis in cases in which SOSRA staff ~~do not believe that they have adequate information to accurately assess the offender~~ believe truth verification will help provide a more accurate assessment.
- A thorough review of any mental health or treatment records available to SOSRA staff at the time of assessment that which may be relevant to the offender's risk to the community.
- Psychological testing when deemed necessary by SOSRA psychologists.
- Child maltreatment reports, incident reports, disciplinary charges from correctional facilities, and criminal offenses for which the offender was charged but not convicted.
- Other information that is relevant to the offender's offense history and/or pattern of behavior.
- Completion of appropriate actuarial instruments designed to assess individuals convicted of sexual offenses. It should be noted that the use of appropriate actuarial instruments is only one piece of the assessment process.

The information below will better demonstrate the assessment process:

Major Components in a Community Notification Level



The assigned community notification level is based on a consideration of all of the relevant factors mentioned above and any other information obtained by SOSRA that impacts the community's need to be notified. All of that information is contained in the SOSRA assessment file. An individualized assessment, which considers all of the relevant information, provides community members with information to best protect themselves and their children.

It should be noted that the use of appropriate actuarial instruments is only one piece of the assessment process. The following examples will help the reader understand the need for individualized assessment that does not rely entirely upon actuarial instruments. Also of relevance, is the fact that many in the sex offender management community is making the transition to an assessment process that depends on more than actuarial instruments. (Do we need ATSA statement here???)

Example 1: An offender in his 40's has been convicted of a sex offense for engaging in intrusive sexual contact with a 5 year old female. His conviction occurred in the 1990's and very little official documentation was available. He has no other criminal history and no other known victims. His actuarial instruments were low to low moderate for recidivism risk. During his SOSRA interview, he admits that he has approximately 40 other victims. He knows this because he wrote their names in a journal. He admits that he has sought relationship with women, in order to gain access to victims. He reported he first molested a child when he was age 7 and the child was 5. He has offended on male and female children. He admitted numerous offenses during his junior high years. He denied ever offending on a stranger. He went into great detail about ways he manipulates

children to have sexual contact with him and the manner in which he gains their trust. He verbalized that he is able to sense "innocence and vulnerability in his victims, which allows him to exploit them. He admitted a great deal more during his interview with SOSRA; however, the information provided here should make it clear why this offender was assigned a Community Notification Level 4, as opposed to the risk level 1 or 2 as indicated by the actuarial instruments. Actuarial instruments are designed based on measurable information, such as charges & convictions. They do not fully account for the victims for whom offenders have not been caught; however, this information is vital to community notification.

Example 2: A 19 year old male engages in sexual contact with a 13 year old female. They are in a dating relationship and there was no force or coercion involved in the sexual offending. This offender is now in his 30's and has no other criminal history. He passes a truth verification examination as to any other victims. His actuarial instruments are in the low range for recidivism. With no other known victims and no other criminal history, a passed polygraph or CVSA exam, and low actuarial instruments, Community Notification Level 1 would likely be the appropriate level. To conduct far reaching community notification on this offender could ruin his chances at work, could disrupt his family, etc. To place him on a public website with offenders who are genuinely dangerous could mislead the public.

Example 3: After Hurricane Katrina, many prostitutes moved from Louisiana to Arkansas. Louisiana requires prostitutes to register as sex offenders; therefore, they had to register and be assessed in Arkansas. For those prostitutes who did not engaged in recruiting or forcing minors into prostitution, is it necessary to notify everyone in the community about their criminal history? If the offender has a lengthy criminal history, they could conceivably score somewhat high on the actuarial instruments.

In fact, however, to place them on a public website, indicating their crime was prostitution and describing their physical characteristics, including a picture and what type of behavior in which they participated, & their address could actually lead to them having more clients in Arkansas.

Hopefully, these three examples will help the reader better understand the importance of individualized assessment and the pitfalls of depending only on actuarial instruments.

Referrals

Sex Offenders may be referred to SOSRA for assessment in a number of ways. ACIC submits a list of newly registered offenders monthly. ACIC should electronically alert SOSRA on each newly registered Sex Offender. Law enforcement agencies should alert SOSRA of refer sex offenders living in their jurisdictions. They may notify SOSRA electronically, by phone, by fax, or by email. A court or prosecutor can refer an offender for assessment and shall, when possible, include copies of any relevant case files when making such a referral. The Arkansas Parole Board can refer an offender for

assessment. The DCC can ~~may~~ also refer an offender for assessment. Additionally, an offender may call and alert SOSRA of the need for assessment upon conviction or upon moving, working, or attending school into Arkansas and/or a new jurisdiction.

Initial Information Gathering

917(b)(2)(A)(ii)
~~Effective April 7, 2006, as a result of Act 4 passed in the 2006 first extraordinary session of the General Assembly Pursuant to A.C.A. 12-12-917, prosecutors shall forward a copy of their file to SOSRA within 30 days of conviction of an offense requiring that led to the registration of a sex offender. SOSRA will seek the assistance of the Office of the Prosecutor Coordinator to develop a list of relevant information and documents to be sent by the prosecutor upon conviction of a sex offender.~~

~~Referrals from law enforcement, a court, and/or a prosecuting attorney make the referral, the initial information will be gathered on the Law Enforcement Call in Sheet to the extent possible should include the following information will be obtained and documented in the electronic sex offender management (eSOMA) system and paper file:~~

Name of Caller

Date of Call

Agency of Caller

Address & Phone Number of Caller

Offender name

Offender Date of Birth

Offender Social Security Number

Offender Address

Offender Phone Number

Sex Offense Conviction(s)

Date of Sex Offense Conviction(s)

Jurisdiction of Sex Offense Conviction(s)

If the law enforcement agency making the referral was the arresting agency, a request will be made that they forward **all available information** from the investigative file, including, but not limited to. That information includes but is not limited to:

- Arrest Report/Incident Report
- Number & Age of Victims
- Victim Statement
- Offender Statement
- Injury to Victim/Force Used
- Whether a weapon was used in the commission of the crime
- Any Medical Information

~~If the law enforcement agency making the referral is not the arresting agency, enough information will be gathered utilizing the Law Enforcement Call in sheet to allow SOSRA to run an ACIC/NCIC printout. In lieu of the Law Enforcement Call In Sheet, a copy of a completed registration form may be faxed to SOSRA. That form will give SOSRA enough information to proceed with information gathering.~~

Arkansas Crime Information Center Referral: If the referral is received via a list received ~~electronic referral~~ from the Arkansas Crime and Information Center, SOSRA will run an ACIC/NCIC printout and begin the information gathering ~~assessment~~ process.

Arkansas Department of Community Correction Referral: If the Department of Community Correction is the referring agency, ~~it~~ they will forward any information ~~they~~ it has ~~ve~~ pertaining to sex offense conviction(s) involving the offender.

Arkansas Parole Board Referral: If the Arkansas Parole Board is the referring agency, the Boardy will provide the name, ADC#, and any relevant information about the offender's incarceration history.

Offender Self-Referral: If the offender makes the initial referral, the ~~Offender Call In Sheet will be utilized, and the information on that form will be gathered.~~ following information will be obtained and documented in the eSOMA and the paper file:

Date of call

Offender name

Offender Date of Birth

Offender Social Security Number

Offender Address

Offender Phone Number

Sex Offense Conviction(s)

Date of Sex Offense Conviction(s)

Jurisdiction of Sex Offense Conviction(s)

What does the offender report say happened that led to his/her conviction?

General Information Gathering

Diligent attempts will be made to gather all available information necessary to complete an accurate assessment and all attempts will be documented.

Desired information for a complete and accurate assessment is listed below. The list is not exhaustive, and the staff member is expected to use his/her best judgment as to what further information may be required to complete the assessment. ~~Not all information will be available for every assessment.~~

- Judgment & Commitment or Judgment & Disposition Order for each sex offense

- Affidavit & Warrant for Arrest
- Detailed description of each sex offense(s)
- Detailed description of nonsexual violent offense(s)
- Current & Complete ACIC/NCIC Report(s)
- Drug & Alcohol history & Treatment Information
- Community Sex Offender Treatment information
- ~~RSVP/SOFT~~ Treatment Information (~~RSVP Final Evaluation & MSI~~).
- Medical information regarding possible injuries to the victim(s)
- Relevant incarceration information
- Relevant probation/parole information
- Felony information

~~If the offender is incarcerated in the ADC, the DCC, the DHS, or the Arkansas State Hospital all possible information will be gathered following the above mentioned procedure. Information will also be gathered from the institutional file, mental health file, RSVP file, & any other available files, as appropriate.~~

~~A separate sheet of paper listing all documents obtained will be placed in the file. The offender will be provided with this list upon request. A list of documents obtained will be maintained in the electronic sex offender management system and the list mailed to the offender along with his community notification level letter.~~

Prosecutor's File

~~Effective April 7, 2006, as a result of Act 4 passed in the 2006 first extraordinary session of the General Assembly, Assembly, prosecutors shall forward a copy of their file to SOSRA within 30 days of conviction of an offense that led to the registration of a sex offender. SOSRA will seek the assistance of the Office of the Prosecutor Coordinator to develop a list of relevant information and documents to be sent by the prosecutor upon conviction of a sex offender~~

5th Amendment

~~A.C.A. § 12-12-917(b)(4)(B) protects any admissions to SOSRA made by the offender during the assessment interview from use in a criminal proceeding. In this way, the individual's Fifth Amendment rights are protected. Therefore, the offender may not avoid answering questions by claiming protection under the 5th amendment right to avoid self incrimination. (This protection does not relieve SOSRA staff of legal reporting obligations.)~~

Interview

A.C.A. § 12-12-917(b)(4)(B) protects any admissions to SOSRA made by the offender during the assessment interview from use in a criminal proceeding; therefore, the offender may not avoid answering any questions by claiming protection under the 5th amendment right to avoid self-incrimination. In this way, the individual's Fifth Amendment rights are protected. Therefore, the offender may not avoid answering questions by claiming protection under the 5th amendment right to avoid self-incrimination. (This protection does not relieve SOSRA staff of legal mandated reporting obligations.)

Upon receipt of the necessary information the record will be assigned to and reviewed by a SOSRA interviewer in preparation for an interview. The interviewer may gather additional information.

Offenders residing in the community are required to travel to the SOSRA Offices at 2403 E. Harding Avenue in Pine Bluff, unless they are hospitalized or have a medical condition that would prevent them from traveling. In such cases, offenders must provide written documentation from a physician of that the medical condition currently prevents them from traveling. The written documentation must come from a physician. In rare instances, if local law enforcement or a probation/parole officer is able to confirm the existence of a condition preventing an offender from traveling, SOSRA will work with that agency to ensure an assessment is conducted in the most appropriate setting.

Offenders will be given two opportunities to appear for an interview. The first notice will be sent first class mail. If the offender fails to appear, a second notice will be mailed by first class mail and by certified mail. SOSRA will send the letter scheduling the interview to the most recent address registered with -ACIC- address, unless the offender, law enforcement agency with jurisdiction, or the DCC provides SOSRA with a more recent more current address, due to a recent move. Provision of a new address to SOSRA does not relieve the offender of the obligation to provide the current address directly to law enforcement. The offender shall have the burden of establishing evidence that he/she failed to receive both notices.

~~Efforts will be made to assess sex offenders in ADC prior to their release. In the event that is not possible, priority will be given to those ADC offenders referred by the Arkansas Parole Board and/or who have a transfer eligibility date within one year. Copies of the Offender Profile Report will be provided to the Arkansas Parole Board on all ADC offenders.~~

Interviews taking place at the SOSRA offices will be recorded. Video recording will be used if for any reason, it is not possible to visually record an interview, it will be audio recorded.

Information gathered during the interview includes, but is not limited to:

- Number of sex offense convictions.
- Number of offenses that were sexual in nature, but pled to another offense.
- Number of violent convictions/incidents.
- Manner in which the offender gains access to victims.
- Number of victims.
- Age & sex of victims.
- Relationship of offender to victims.
- How the offender gained compliance.
- Whether the offender has caused physical injury to victim(s).
- Deviant sexual interests.
- Any sadistic behavior/interest on the part of the offender.
- Any other information deemed necessary for the accurate completion of actuarial instruments and/or to accurately assess the offender.

Primarily, The SOSRA psychologist will determine whether enough information exists within the SOSRA file to find determine whether the offender fits the criteria of a Sexually Violent Predator. The SOSRA administrator may also participate in the staffing of SVP cases with the psychologist prior to referring the case to the SOAC, if any questions exists. In the absence of the SOSRA psychologist, the SOSRA Administrator may refer a case to the SOAC for consideration. A SOSRA psychologist may participate in or conduct a supplemental interview of any offender who may fit the criteria for Sexually Violent Predator. The psychologist will document his/her participation in the file, including any diagnoses made as a part of the assessment.

The salient aspects of the interview will be documented in a typed Interview Summary Risk Assessment & Profile Report (Profile Report). The interview summary Profile Report should include the official version of all known sex offenses and violent offenses, as well as the offender's version of these events. The information listed above and any other relevant information used to determine a community notification level should also be included; however, not all information in the case file can be written into the Profile Report. However, it is important to note that the profile report is primarily for use by local law enforcement agencies to determine an appropriate notification plan. While it includes a great deal of information, it should not be considered all inclusive. The entire case file is reviewed prior to making a Community Notification Level decision.

Actuarial Instruments

The interviewer will complete the actuarial instruments deemed appropriate by SOSRA psychologists. Those instruments will be completed in accordance with the scoring guidelines for each instrument. The actuarial instruments are only one component of the assessment process and are considered in conjunction with other relevant information to determine the appropriate level of community notification.

It should be noted that the use of appropriate actuarial instruments is only one piece of the assessment process. The following examples will help the reader understand the need for individualized assessment that does not rely entirely upon actuarial instruments. Also of relevance, is the fact that many in the sex offender management community is making the transition to an assessment process that depends on more than actuarial instruments.

Default Assessment Determination: Failure to Appear for Interview; Inappropriate Behavior; Voluntary Termination of the Assessment.

If an offender living in the community fails to appear for his/her first scheduled interview, he/she will be sent another letter scheduling a second interview. If the offender fails to appear for the second appointment; refuses to cooperate in the assessment process (where the offender's aggressive, threatening, or disruptive behavior prevents an assessment); or the offender voluntarily terminates the assessment after having been advised of the consequences, he/she will be assigned a default level 3 or will have information reviewed for consideration of Sexually Violent Predator status. If a SOSRA psychologist determines that there is adequate information available to indicate that the offender fits the criteria of a Sexually Violent Predator, the offender will be referred to the SOAC for consideration.

SOSRA will refer appropriate incidents to the prosecutor for refusal to cooperate with the assessment process, a Class C Felony (see A.C.A. §12-12-904(a)).

Paperwork/DNA/Digital Photographs

While conducting the assessment, a SOSRA staff person will be assigned to monitor offenders, complete the SOSRA Consent/Refusal/Confidentiality form, the ACIC acknowledgement form and instruct them about basic assessment information. If the offender refuses to sign the forms, the SOSRA staff person will attempt to obtain a witness to document the offender's refusal. Both witnesses will sign and date the form.

SOSRA will make attempts to ascertain whether or not an offender's DNA has been obtained prior to an interview at the SOSRA offices. If evidence does not exist that DNA has been gathered, SOSRA will obtain a DNA sample.

Whenever possible, a digital photograph will be taken of each offender during the assessment process. The offender will be identified at the time the photographs are taken. The photos will be transferred to the Offender Fact Sheet. In the event that an offender is

not photographed at the time of his interview, a photograph will be obtained from another source, such as the eOMIS system, local law enforcement, the DCC, or ACIC.

Truth Detection-Verification Techniques

If SOSRA staff determines that additional information may be obtained, there is insufficient information to accurately assess a sex offender, a polygraph examination and/or voice stress analysis a computerized voice stress analysis (CVSA) or polygraph may be used to seek further information. Generally, sex offenders may be considered for a polygraph or voice stress analysis when truth verification technique if:

- ~~The sex offender was convicted of a "hands off" sex offense (i.e. exhibitionism, child pornography, etc.) to inquire about undetected victims.~~
- ~~The sex offender offended on victims inside his or her own household to ensure there are not any victims outside his or her home.~~
- ~~Offenders are female to gain additional information, as research and data for assessment of female offenders is limited.~~
- ~~When there are strong indications of sadistic behavior during the sex offense and the offender does not admit sexual arousal to the sadistic elements,~~
- ~~The sex offender has one known victim but there are indications of a deviant sexual interest to ensure that there are no other victims.~~
- ~~The offender claims to have remained offense free for an extended period of time.~~

~~Each case is different and this list does not prohibit a polygraph or voice stress analysis to be conducted in other situations in order to seek additional information for an assessment. However, staff generally should make a recommendation for polygraph when the above conditions are met. The SOSRA administrator and/or SOSRA psychologist can will make the final decision whether to use a truth detection measure with an offender.~~

Offenders will be given one opportunity to present themselves and submit to a truth detection examination or analysis. Failure to appear for the scheduled examination as part of the assessment process will result in the offender being assessed a Level 3 by Default or referred to the SOAC for a determination of Level 4 if appropriate.

Any behavior by the offender to influence the results of a truth detection examination or analysis will result in the offender defaulting him/herself to a Level 3 or referral to the SOAC for a Level 4 consideration. The offender may be referred for prosecution for failing to cooperate with the assessment process, a Class C Felony. (see A.C.A. 12-12-904(a).)

Sexually Violent Predator ("SVP")

Sexually Violent Predator refers to a person who has been⁽¹⁾ adjudicated guilty of a sex offense or acquitted on the grounds of mental disease or defect of a sex offense⁽²⁾ and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sex offenses. ~~or has a sexual offense history or a psychological diagnoses, which would require the broadest level of community notification. (I don't remember if we left can add anything to this because of the statutory language. If we can, we should.)~~ The designation indicates that the highest and most visible means of community notification should be conducted on these offenders. Sexually Violent Predator status should be considered for the following:

- Offenses involved multiple instances with multiple victims;
- The offender caused or threatened serious harm to the victim(s);
- The offense(s) involved bizarre, ritualistic, or sadistic behaviors;
- The offense(s) involved attempts on the part of the offender to manipulate him/herself into a position of power or authority over, or establish a relationship with the victim for the primary purpose of violation, exploitation, or victimization; and/or
- Evidence of sexual deviancy or psychopathy exists.

Potential routes for determination as to whether an individual should be designated a Sexually Violent Predator:

1. Pursuant to §12-12-918, a prosecutor may allege SVP status and upon conviction, the Court shall enter an order for an assessment by an examiner qualified by the SOAC. SOSRA will prepare a report to be sent to the Court with copies to the prosecuting attorney and the defense attorney. Upon receipt of a report, the Court shall determine if SVP status is appropriate.
2. Pursuant to A.C.A. §12-12-922, if during the course of a SOSRA assessment grounds are found for believing that an individual may be a SVP, that information will be presented to the SOAC by SOSRA. SOAC will determine whether the offender meets the criteria for SVP by a majority vote.

Sex Offenders moving into the State of Arkansas from other states will be considered Sexually Violent Predators, if that or an equivalent, determination has been made by the sending state. If terminologies or criteria differ, SOSRA will request the offender's assessment file. SOSRA may make a determination based on that file or may require the offender to submit to assessment in Arkansas.

~~If a sex offender has been deemed a Community Notification Level 4 Sexually Violent Predator and seeks an administrative and/or judicial review of that status, local law~~

~~enforcement may proceed with community notification at the assigned level, until such time as that level is changed by either the Sex Offender Assessment Committee or a court with jurisdiction. (Need help with wording.)~~

Community Notification Levels

After completing the assessment process, each offender will be assigned one of the following community notification levels.

- ~~Level 1: Typically offenders in this category have no prior history of sexual offending and the community can be protected with notification inside the home and to local law enforcement authorities. Level 1 would not generally be appropriate with should be reserved for those without a prepubescent victim(s), without indications of predatory behavior, without a history of sexual interest in children (child porn), without a history of working with children or around children (if their victim was a child), and without allegations of force or threats of physical harm were used in their offense. Each of these incidents render only notification inside the home insufficient.~~
- ~~It should be noted that offenders who engage in sexual activity with a pre-pubescent victim(s) would almost certainly necessitate notification outside the home to protect any children visiting in the offender's home or neighborhood children living near the offender. A sexual interest in children is the number one risk factor mentioned in most of the research, in terms of re-offense. (Mike???) Please see the Considerations for Increased Community Notification below.~~
- Level 2: Typically offenders in this category have a history of sexual offending where notification inside the home is insufficient. Community notification requires notice to the offender's known victim preference and those likely to come into contact with the offender.
- Level 3: Typically offenders in this category have a history of repeat sexual offending, and/or strong antisocial, violent or predatory personality characteristics. These are individuals whose offense and criminal history require notification throughout the community.

~~Offenders who appear for the assessment under the influence of alcohol, illegal drugs or who fail to timely disclose the use of medications, individuals who fail to appear for any phase of the assessment, individuals who are aggressive, threatening, or disruptive to the point that SOSRA staff cannot proceed with the assessment process,~~

~~and individuals who voluntarily terminate the assessment process having been advised of the potential consequences will be classified as being a Level 3 or referred to SOAC for Sexually Violent Predator status.~~

Level 4: Sexually Violent Predator refers to a person who has been adjudicated guilty of a sex offense or acquitted on the grounds of mental disease or defect of a sex offense that makes the person likely to engage in predatory sex offenses. The designation indicates that the highest and most visible means of community notification is required.

Default: Offenders who appear for the assessment under the influence of alcohol, illegal drugs or who fail to timely disclose the use of medications, individuals who fail to appear for any phase of the assessment, individuals who are aggressive, threatening, or disruptive to the point that SOSRA staff cannot proceed with the assessment process, and individuals who voluntarily terminate the assessment process having been advised of the potential consequences will be classified as being a Level 3 or referred to SOAC for Sexually Violent Predator status.

Overrides & Departures

The actuarial tools used during the assessment are only one component of a community notification assessment. The other components of the assessment have been previously described in these guidelines. The following additional information will be used in connection with the results of actuarial tools and the other components of the assessment previously discussed. In instances where an actuarial instrument is used, the following are nonexclusive and non-binding descriptions of when an increase or decrease from the actuarial score may be appropriate in determining the notification level.

Considerations for Increased Community Notification

- If the offender has committed previous juvenile or adult sexual offense(s); has multiple offenses; or has multiple victims, whether or not there are convictions, the community notification level may go beyond the recidivism risk suggested by the actuarial instruments. This may extend to known or self-admitted molestations, offenses that were reported and reliably investigated even if not prosecuted, and offenses primarily sexual in nature but pled down to non-sexual offenses.

- If statements made by the offender during the interview, or relevant historical data suggest there are psychological abnormalities that may predispose the offender to sexual offending; a physical condition, addiction or other psychological impairment that decreases his/her ability to control sexual impulses, or increases his/her potential for sexual violence; or other data that suggest higher risk than the actuarial model predicts, the community notification level should go beyond the recidivism risk suggested by the actuarial instruments.
- If the offense involved extreme physical injury, death, or other heinous actions, the offender should be assigned no lower than a Level 3.
- If the offender has provided information on record or during the interview that he/she is likely to commit subsequent sex offenses, the offender may be assigned Level 3 or referred to the SOAC for a determination of Level 4, if appropriate.
- If the offender's offense history, behavior, or victim characteristics (e.g., extremely young victim, stranger victim, extra-familial victim, etc.) indicates community notification should go beyond the recidivism risk suggested by the actuarial instruments.
- ~~If the offender's supervision history, criminal history and/or treatment history, since his target offense conviction(s) indicates he has a disregard restrictions placed on his behavior as a result of his offense history, his community notification level may be increased.~~

Should we include anything here about Internet Offenses? With known "hands-on" victims"?

Considerations for Decreased Notification

- If after treatment, (behavioral, anti-androgen or other), the offender is able to show evidence that the treatment has significantly enhanced the offender's impulse control, ability and decreased the predisposition to re-offend, the community notification level assigned may be lower than the recidivism risk suggested by the actuarial instruments, unless the offender has been classified at Level 4, Sexually Violent Predator.
- If there is evidence to show that the offense was a temporary aberration unlikely to recur, or the nature and pattern of the offense is such that it poses less of a risk to the community at large, the community notification level assigned may be lower than the recidivism risk suggested by the actuarial instruments.
- If the offender's current risk assessment data is at such variance with aspects of the official record (e.g., the alleged victim recanted, or the spouse or other witness admitted that the allegations were fabricated out of spite), the community

notification level assigned may be lower than the recidivism risk suggested by the actuarial instruments.

- If the official documentation of the sex offense indicates that it was a statutory offense, without evidence of violence, coercion or a deviant attraction, and if there is not a pattern of illegal sexual behavior, the community notification level assigned may be lower than the recidivism risk suggested by the actuarial instruments.

Sex Offender Profile Report

A sex offender profile report may be written summarizing the important aspects of each record completed, indicating the level of community notification level assigned the offender, and providing recommendations for purposes of notification and monitoring.

The report may include:

- Identifying demographic information,
- Sexual offense conviction(s) and date as indicated on the Judgment and Commitment or Disposition,
- Brief synopsis (overview) of the sex crime,
- Prior (other) criminal convictions of a violent or sexual nature for which SOSRA has a judgment,
- Interview synopsis,
- A history of learning or intellectual problems,
- A history of mental illness or mental health treatment,
- Additional factors affecting community notification level,
- The assessed community notification level,
- High risk behaviors impacting supervision, and
- Signature line.

A Disclaimer should be placed at the end of the report identifying those individuals who have access to this information and the requirement for them to delete any identifying victim information if given to anyone other than law enforcement.

Offender Fact Sheet

The Offender Fact Sheet will include the following information:

- A recent photo of the offender/Date of Photo, if known
- Offender name
- Known aliases
- Social security number
- Fingerprint ID class/code

- SID#
- CSN#
- ADC#
- Driver's license number
- Date of birth
- Height
- Weight
- Race
- Identifying marks or scars
- Hair color
- Eye color
- Community notification level
- Date of DNA sample
- Anticipated legal address/Date Last Verified
- Temporary address (if applicable)
- Probation/Parole Office
- Place of employment
- Brief description of crime
- Criminal History/Sexual Violence
- Victim preference
- Factors most likely to affect community notification level
- Treatment history

Notification to the Offender

The offender will be notified by both certified mail and first class mail of the assessed community notification level and the rights and procedures for administrative review. The notification will be mailed to the address provided to the Arkansas Crime Information Center for purposes of registration, unless there is a valid reason to deviate from this policy, i.e., the offender calls and has just updated his address, but it is not yet in ACIC.

Administrative Review

The offender's request for an administrative review must be made, in writing, within fifteen (15) days of receipt of the advisement of the assessment level notification sent to the offender by certified mail and first class mail; receipt of the advisement of the risk level notification will be presumed within five (5) days of postmark. The offender is responsible for delivery of the request for administrative review to SOSRA. The offender should send a written request for administrative review to P.O. Box 6209, Pine Bluff, AR. 71611.

The offender must clearly state and support, with documentary evidence attached to the request, his/her basis for the administrative review. The following shall be considered as a basis for administrative review:

1. The rules and procedures of the SOSRA were not properly followed in reaching a decision of the community notification level of the sex offender;
2. Documents or information not available at the time of assessment have a bearing on the risk that the sex offender poses to the community; or
3. The assessment is not supported by substantial evidence.

The administrative review is a review of the record only and is conducted by a member of the SOAC. The offender has no right to a hearing in which he/she will appear and/or call witnesses.

Upon receipt of a request for an administrative review, the SOSRA administrator will forward the request and the record to the reviewing official. The reviewing official will review the record and determine whether to uphold the assessment or submit the review to SOAC for modification consideration. A majority vote of SOAC will be required to modify the notification level based upon the administrative review. If an administrative review cannot be completed within thirty (30) days of receipt of the request for administrative review, the reviewing official shall notify the offender of the delay by regular mail. Once completed Upon completion of the administrative review, the results of the administrative review will be documented in a Finding of Fact and forwarded to the offender by certified mail. For those incarcerated, service shall be as provided in the Arkansas Rules of Civil Procedure or by personal delivery to the offender. Community notification at the risk level assigned in the administrative review will commence five (5) days after the postmark of the administrative review decision to the offender. (Does the FOF information need to be more descriptive?)

During the Administrative Review, the local law enforcement agency having jurisdiction may make community notification only at the initial level of assessment upon which immediately below the assessed community notification level upon which the review has been requested. A.C.A. 12-12-922(b)(5). During the Administrative Review, law enforcement may make community notification only at the level immediately below the assessed community notification level upon which review has been requested. SOSRA will notify law enforcement of the conclusion and results of the administrative review and community notification will be adjusted pursuant to any change in the level assigned. at which time additional notification may be made by law enforcement based upon the results of the administrative review.

Judicial Review

Upon receipt of the findings of the administrative review, the offender has thirty (30) days to file a petition under the Arkansas Administrative Procedures Act in Pulaski County Circuit Court or in the Circuit Court of the county in which the offender resides, requesting judicial review of the community notification level.

As part of the judicial review process, the Committee may ask the court to seal statements of victims, medical records, and other items that could place third parties at risk of harm.

Community notification will continue at the level determined by the Administrative Review during the pendency of a judicial review. The community notification level will be adjusted pursuant to any change ordered by the court as a result of the judicial review process.

When notice of a judicial review is received, SOSRA will fax copies of the notice to the Arkansas Attorney General's Office, and the ADC's Compliance Office.

Preparing the Record

SOSRA will use the following procedure when preparing the record for the judicial review:

- Copy ~~each section as it is divided~~ information contained in the record,
- Number each page before it is copied,
- Remove duplicates, unless the duplicates have notes written on them or contain information not on the original document,
- Retain any duplicate documents in a manila folder marked "duplicates" in the original file,
- Make four (4) copies of the file,
- Bind copies ~~in the same manner as the original records~~ four-part folder,
- Certify each copy as true and correct, and
- Provide three (3) copies of the file to the Arkansas Attorney General's Office.

Notification

If a request for Administrative Review is not received within twenty (20) days after postmark of the advisement of the community notification level, the notification process will proceed. A copy of the Sex Offender Risk Assessment & Profile Report, Offender Fact Sheet, and the Notification Guidelines will be mailed to the Local Police Department, Local Sheriff's Department, Prosecuting Attorney, DCC, the ACIC, and the Arkansas Parole Board.

The law enforcement officer having jurisdiction over an offender shall review the notification guidelines and procedures, and the offender fact sheet. Prior to notification, the law enforcement agency should confirm the offender's location. Any discrepancies

on the Offender Fact Sheet should be immediately brought to the attention of the SOSRA: Phone (870) 850- 8429 or FAX: (870) 850-8446.

Local law enforcement agencies are permitted to perform notification regarding sex offenders to members of the community.

Notification Guidelines

The notification guidelines indicate which segments of the community must be notified. Notification given to any individual or agency does not authorize that individual or agency to disseminate information beyond those residing with the individual, or beyond those who have a need to know within the agency.

The higher the community notification level assigned, the broader the notification that must be given. These notification guidelines apply to adult offenders. It is the responsibility of the Chief Law Enforcement Officer to interpret these guidelines and prepare a notification plan. Should circumstances change that may increase the offender's threat to the community, it is the responsibility of the Chief Law Enforcement Officer to modify the existing notification plan or request a reassessment.

Discretion must be used in applying the guidelines to any offender. The harm that may be caused by a particular notification must be weighed against the protection that would be afforded the public. ~~For example, notifying the neighbors about a Level 1 or Level 2 incest offender may further victimize the offender's spouse and child if the offender's family is known to the community at large.~~

Level 1 / Low Community Notification

- The law enforcement agency having jurisdiction, and other law enforcement agencies likely to encounter the offender. This may include state and federal law enforcement agencies, campus police, school safety officers, and the like.
- All adult members of the household where the offender is residing or intends to reside, unless the offender is residing or intends to reside in a residential treatment facility, group home, foster home, half-way house or other supervised living arrangement, in which case only the residence supervisor or foster parent should be notified.
- Victims or guardians of victims of adult offenders are notified through the VINE system operated by the ADC. Victims or guardians of victims of juvenile offenders should be notified by law enforcement.

Level 2 / Moderate Community Notification

- All parties specified in level 1 must be notified.
- The heads of agencies and organizations that serve individuals in the offender's target group must be notified. This may include, but is not limited to, schools, day care

- centers, community and youth groups, religious organizations, libraries, the DHS, women's organizations and shelters, park security, businesses frequented by children.
- Employers must be notified.
 - State licensing boards will be notified as deemed appropriate by local law enforcement, when the person is licensed by the board.
 - Individuals or heads of families with members within the offender's target group who are likely to encounter the offender, or live in the same neighborhood as the offender must be notified.
 - Offender Fact Sheet information on adult offenders rated at Level 2 with a victim who is fourteen (14) years of age or younger will be available to the public on the ACIC web site (<http://www.acic.org/>).

Level 3 / High Community Notification

- All of the entities and individuals listed for Levels 1 and 2 must be notified, unless to do so would cause harm to the victim(s).
- Notification must be made to any member of the community whom the offender is likely to encounter, based on the offender's prior history, recreational or religious interests, employment, or the characteristics of the offender's victims.
- Notification should be conducted face-to-face between law enforcement and citizens to the extent possible. Those likely to encounter the offender, including all neighbors, are to be given an Offender Fact Sheet and cautioned about the appropriate use of the information.
- Offender Fact Sheet information on offenders rated at Level 3 (high) or Level 4 (Sexually Violent Predator) will be available to the public on the ACIC web site (<http://www.acic.org/>).

Level 4 / Sexually Violent Predator

- All of the entities and individuals listed for Levels 1 through 3 must be notified.
- Notification of members of the general public in the vicinity of where the offender lives, travels and works should be done. It is preferable to notify these individuals in a face-to-face meeting, and to encourage assistance in monitoring the offender rather than instigating harassment, fear or hatred. However, open community meetings or meetings with neighborhood watch groups are also acceptable.
- Any individual having good reason may request an Offender Fact Sheet from the Chief Law Enforcement Officer. Each individual given an Offender Fact Sheet must be advised that it is not for publication, but may only be used in accordance with the law and these guidelines.
- The media may also be used to conduct level 4 notification, if the Chief Law Enforcement Officer having jurisdiction deems it necessary to protect the community.

- Printed material, posters, and electronic media may be used to notify and inform the public in the most necessary and potentially dangerous situations.
- The Offender Fact Sheets of all Sexually Violent Predators will be available to the public on the ACIC website.

Re-Assessment

Adult offenders may request reassessment five (5) years after the date of the most recent assessment. Reassessments will include a polygraph, or voice stress analysis, or plethysmograph (measure of sexual interest examination), as deemed appropriate by the SOSRA. The cost of polygraph and/or computerized, voice stress analysis and/or plethysmograph examinations will be billed to the person being reassessed. (Is it possible to say that this has to be 5 years of free time? We are getting multiple re-assessment requests from offenders who have not been out of ADC since their last assessment. Nothing has changed. And they may be within 18 months of their TE date, with no hopes of going anywhere?????)

Reassessments of incarcerated individuals will include administration of a polygraph examination, and/or computerized voice stress analysis and/or plethysmograph (measure of sexual interest), as deemed necessary by SOSRA staff. The cost of these examinations will be borne by the SOSRA.

Reassessment may be requested by the DCC, the law enforcement agency having jurisdiction, or the Arkansas Parole Board to the SOAC at any time, by submission of the Sex Offender Re-Assessment Form or a statement of reason to the SOSRA Program. The cost of any polygraph, voice stress analysis and/or plethysmograph examinations on referrals by law enforcement will be borne by the SOAC. Forms for requesting reassessment are available from the ACIC web site or may be obtained from the SOSRA.

Refusal of, or non-compliance with, reassessment will result in a written notification to law enforcement in the area in which the offender resides, and to any supervising agency. Refusal or non-compliance will also result in the offender being assigned a default level 3 or a level 4, if enough information exists to determine that he/she fits the SVP criteria.

Offenders who are reassessed based upon their request will be given one opportunity to appear for re-assessment. If the offender provides advance notice of an inability to make the scheduled appointment, he/she will be allowed one additional opportunity to appear. If the reassessment is at the request of a state or local agency, the offender will have two opportunities to appear.

OFFENDERS ADJUDICATE DELINQUENT AS JUVENILES BOTH INSIDE ARKANSAS AND FROM ANOTHER STATE.

Termination of Requirement to Register

Termination of the registration requirements are found in A.C.A. § 12-12-919.

Expungement of criminal convictions under the provisions of A.C.A. §§ 16-93-301 - 303 does not relieve an individual of the duty to register or reregister. The requirement to register due to a criminal conviction is relieved if the underlying conviction of the offender is reversed, vacated, or set aside, or if the offender is pardoned.

Records

The SOAC will maintain all documentation gathered and all assessments administered. Original documents will be maintained for at least one year, after which time case files may be stored electronically and the original documents can be destroyed. If there is ongoing litigation that would necessitate the hard copy being maintained beyond one year, the files will not be digitally imaged until the resolution of the court proceedings.

Access to documents generated by the SOAC may be granted to ACIC, and to any law enforcement agency or court of competent jurisdiction.

The offender may request copies of all reports generated and a list of all documents obtained from other agencies from the SOSRA. A copy of the tape or video of the interview may also be requested.

The SOAC will not provide copies of working notes, or of copywritten psychological tests that are restricted to licensed professionals. Copies of records generated by other agencies will not be released except under court order.

These documents are not subject to the Freedom of Information Act.

Research

The assessment process will be the subject of ongoing research in an effort to develop an Arkansas specific actuarial tool and to improve the accuracy of the overall assessment process.

Access for the purpose of research must be requested in writing and is subject to approval by the ADC with recommendation by the SOAC.

Immunity

Public officials, public employees, public agencies, and members of the SOAC are immune from civil liability for good faith conduct under Act 989 of 1997, as amended.

Nothing in Act 989 of 1997, A.C.A. 12-12-920, shall be deemed to impose any liability upon, or give rise to a cause of action against, any public official, public employee, public agency, or member of the SOAC for any discretionary decision to release relevant

and necessary information, unless it is shown that the official, employee, agency or Committee member acted with gross negligence or in bad faith.

Resources

ADULT ASSESSMENTS

Sex Offender Screening & Risk Assessment

P.O. Box 6209

2403 E. Harding Ave.

Pine Bluff, AR 71611

Phone: (870) 850-8429

Fax: (870) 850-8446

SEX OFFENDER REGISTRATION

Arkansas Crime Information Center

One Capitol Mall, Room 4d, 200

Little Rock, AR 72201

Phone: (501) 682-2222

Fax: (501) 683-5592

JUVENILE ASSESSMENT

Family Treatment Program

1120 Marshall, Suite 401

Little Rock, AR 72202

Phone: (501) 364-3815

Fax: (501) 364-3816

CHILD ABUSE HOTLINE

Arkansas State Police

(800) 482-5964

INFORMATION ABOUT ABUSE

Commission on Child Abuse, Rape & Domestic Violence

University of Arkansas for Medical Sciences

4301 W. Markham, Slot 606

Little Rock, AR 72205

Phone: (501) 661-7975

Fax: (501) 661-7977

VICTIM ASSISTANCE

Arkansas Crime Reparation

323 Center St., Suite 1100

Little Rock, AR 72201

Phone: (501) 682-1020

(800) 448-3014
Fax: (501) 682-5313

