

**Rogers, Laura**

**From:** dispatch2@ohiomuskingumsheriff.org  
**Sent:** Wednesday, June 13, 2007 8:39 AM  
**To:** GetSMART  
**Subject:** AWA

As a member of the Ohio Region 8 CART team I want to thank you for the new guidelines and your determination to keep our children safe. It is going to take a bi-partisan effort and cooperation on all fronts to fight the hard fight for our children and their ongoing safety. It is high time that all sex offenders specifically Predators realize they are going to be watched very closely regardless of how much whining that they do. Again thank you for your diligence and willingness to provide a safe country for our children.

Joleen Y Kinsel  
Muskingum County Sheriff Office  
Ohio Region 8 Cart - Dsipatcher

8/16/2007

**From:** Bob White [REDACTED]  
**Sent:** Monday, July 23, 2007 5:54 PM  
**Subject:** GetSMART  
Sex Offender Laws

I would like to take a moment to thank you for putting together a National Sex Offender Guideline that for once all 50 states can follow.

Currently our system in this country is nothing but a joke. Some states do not do hardly anything and other states go so far overboard that they have offenders living under bridges.

The state of Georgia wrote such a bad law (HB 1059) that almost every part of it is being picked apart by the courts.

The biggest problem is not as much how the law has been written, but how the law is being applied. This is part of the problem with what you are doing with the National Standards for Sex Offenders.

Have you really taken the time to research all the facts on how a Judge would react with these standards?  
What about the Sheriff's department and local probation officers? The problem is that you are writing laws that sound good on paper, but do not work in the real world!

I would be happy to share with you on some insite to some of the flaws that are in your current writings.  
If you continue to focus on one group of criminals and continue to banish them from everything in our socity, then you are not just banishing them, but the families of the offenders as well.

Bert White

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**Rosengarten, Clark**

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**From:** Rogers, Laura on behalf of GetSMART  
**Sent:** Monday, August 06, 2007 10:49 AM  
**To:** Rosengarten, Clark  
**Subject:** FW: OAG Docket No. 121  
**Attachments:** 4184385160-Neely\_Ltr. SMART Office.doc

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**From:** Larry Neely [REDACTED]  
**Sent:** Tuesday, July 31, 2007 7:16 PM  
**To:** GetSMART  
**Subject:** OAG Docket No. 121

Letter attached with comments.

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Choose the right car based on your needs. Check out [Yahoo! Autos new Car Finder tool](#).

8/6/2007

Larry Neely



Laura L. Rogers  
SMART Office  
U.S. Dept. of Justice  
810 7<sup>th</sup> Street NW  
Washington, DC

Via email: getsmart@usdoj.gov

Re: OAG Docket No. 121

Comments on the Attorney General's National Proposed Regulations  
Adam Walsh Sex Offender Registration (SORNA).

The comments I wish to submit regarding the Proposed Regulations are as follows:

1. The retroactive application will force the states to engage in expensive litigation. This is likely as a result of the provision requiring those with older convictions to register after a new encounter with the criminal justice system. It is probable there will be numerous ex post facto challenges asserted along with ineffective assistance of counsel claims.
2. The increase of the period of time a person must register from 10 years to either 25 years or lifetime will dissuade many from continuing to register as they will see no hope of ever getting off registration. Since only misdemeanors can be designated as Tier I offenses, most will be required to register for either 25 years or life.
3. Local law enforcement will be required to track offenders for a significantly longer period of time without additional funding. This comes at a time when most Sheriffs are already stretched to the limit. The net result will be, a needless diversion of scarce resources, to track registrants that pose little threat to our communities. This is another un-funded Federal mandate on the states.
4. States that currently assess their offenders for risk of re-offending will have no incentive to incur the expense for such assessments as the Tier designations have no correlation with the predicate offense. Additionally, most offenders would be unlikely to cooperate with a risk assessment if there is nothing to be gained by doing so.
5. Presently, the law in many states, *does not* require offenders assessed either low or moderate risk to be posted on the internet. We can anticipate a lack of motivation for treatment if there is no means for a registrant to prove he/she has been rehabilitated or at least successfully treated. This provision alone will significantly undermine the goals of the Adam Walsh Act. Statistics consistently prove that treatment reduces the likelihood of recidivism.

6. If the states are forced to display more information on their websites, i.e.: employer's address and exact home address, there is a strong likelihood of more acts of retribution against the registrants or the businesses that employ them. The unintended consequences are likely to be more registrants re-offending and employers not hiring sex offenders to avoid becoming targets of negative publicity *for employing a sex offender*.
7. There has been documented cases of murders and revenge attacks as a result of information displayed on sex offender registries. More offenders are likely to fear retribution or loss of their jobs and could discontinue registering. You should consider Iowa's experience in terms of their residency restrictions. Many (previously compliant) registrants have simply disappeared.
8. The Adam Walsh Act only establishes minimum criteria the states must adopt. It is very likely that some states, in order not to be outdone, will enact even more stringent laws. If this happens, other states trying to be reasonable will feel compelled to pass new laws that equal or surpass the surrounding states.
9. If the states again begin to "one up" each other, we will be back in the same predicament as we are today with 50 totally different statutes. During a recent Georgia legislative session, a legislator remarked, "[M]aybe they will all leave." No state will want sex offenders from another state to move in. As a result, the competition between the states to be the toughest will continue.
10. The cost for the states to track the offenders and administer their programs will be enormous with a diminishing return to the citizens.

These proposed regulations are bad public policy, counter-productive their stated goals, and a costly un-funded mandate on both States and Counties. It is my hope that the Justice Department will reconsider and amend these regulations prior to their adoption.

Sincerely,

Larry Neely

**Rogers, Laura**

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**From:** Tim Poxson [REDACTED]  
**Sent:** Wednesday, July 18, 2007 1:30 PM  
**To:** christine\_leonard@judiciary-dem.senate.gov  
**Cc:** GetSMART  
**Subject:** OAG Docket No 121

I am writing to you today as I have done many days since the SNORA Rules were posted.

Today however I will first start by saying I am a retired Police officer with over 25 years of service.

I am writing to you today from the hart to tell you how much I am against the SNORA as written.

I understand the need of those in government to be hard on crime, however the real truth is you should be smart on crime. Most of what the SNORA will do is cause more problems than good. This country now has over 600,000 sex offenders on sex offender registries. This number will grow to an number that is going to be two or more times what it is now. I am from the state of Michigan and we have over 38,000 sex offenders on the registry now. And the problem is that most of them are of no danger at all to the public. And when you talk to members of the public they will tell you that the sex offender registry is not what they think it should be. Of course many in the public think that if a person is on the registry they must be a danger.

As you write these rules and sit in your office, yes they may look good on paper but lets talk for a minute about what they are and are doing.

1. In some states they are causing sex offenders to move because of local laws passed or state laws. This is causing some sex offenders to go underground, or give false addresses. This is not good if you think that sex offender registries are a good thing.
2. They are causing law enforcement to use up very limited resources to check on and register low level offenders. This manpower could be better used to track and monitor high risk predators. ( You will not hear many in law enforcement say this as since they are still on the payroll, it is hard for them to come out with any such statement because they would be taken as soft on crime.)
3. The SORNA will add more offenders that should not be on it, but they will be added only because they committed a low level sex offense, or in some cases they will be placed on it even though they have no conviction at all! The sex offender registry should be used only for those who have been convicted. And then only those sex offenders who are high risk offenders. The SNORA should adopt a tiered approach to identify these high risk offenders founded on empirically based risk factors.
4. The SONRA should provide a reasoned , circumspect petition process for removal from state and federal registries. No public good is served by stigmatizing and isolating low risk or rehabilitated people , exposing them to harassment, depriving them of normal opportunities for education, employment, and housing. Further more some of those who have been on public web sex offender registries, have been murdered. Some have had damage done to their property. And many have lost jobs. If the SONRA is not going to be punitive it must give the offenders a chance to show they are of no danger to anyone.

7/21/2007

3. Juveniles should not be required to be on any sex offender registry unless they were tried as an adult. In our country we have always treated juvenile offenders different than adult offenders. Research has shown time and time again that most youth who break the law during their childhood or adolescence can and will mature out of this behavior given the appropriate treatment and consequences. If however they are subject to having to be on a sex offender registry for 15 years, 25 years or a life time, they will not see any hope and will most likely keep going down a road of crime.

What I have seen first hand the sex offender registry now in place does.

1. causes some a loss of all hope and some give up and go back to crime.
2. I have seen people who are on the registry become the victim of an assault because they are on the public registry.
3. someone who was running a business, employing five people and was convicted of a minor sex crime. Well Michigan was going to require that all sex offenders must notify all those who work for him that he was on the sex offender registry, so this sex offender laid off his employees and moved his company to a smaller building so he could run the business himself.
4. a sex offenders female child was sexually assaulted because the boy said " your father is on the sex offender registry so you must be easy". (This police report is available from the a sheriff department in Vermont.)
5. The public that uses the sex offender registry in Michigan (the SORNA will be the same way) has very little understanding of who is a danger, and who is not so they give up. If they do not give up they feel that they are safe from any sexual assault because they know were all the sex offenders are that live near them. The problem with this type of thinking is as you know already; over 90% of sexual assaults are committed by a person well known and trusted by the victim. With over 50% of sexual assaults committed by a family member.
6. The public is not told that the US Dept. of Justice Bureau of Justice Statistics on Recidivism show that within 3 years of release from prison 3.5% of sexual offenders are re convicted for another sex crime. This is one of the lowest recidivism rates with the exception of those who are in prison for murder.
7. Sex Offender Registries have created a group of people that the government has given the public the license to hate and hurt. And the government has given those in the public that may want to hurt; the name and address and all the other information about this group, making it easier to find them to hurt them or do damage to their property. This group of people are hated more than blacks people were by some in the public. More hated than Jewish people were hated under the germans. So hated that they have been added as a target group the KKK will go after. The government has feed this hate by not giving the public all the facts on who is committing most sex crimes. The government has made sure that the public does not forget to hate this group of people, by naming the laws after children that were killed (this is an act by the goverment of putting gas on a fire.)
8. Because of sex offender registries; some will not report to the police that a family member is sexually assaulting them, because they fear a loss of the home they live in when that offender is placed on a Public sex offender registry. They do not see the government as trying to aid the offenders to get appropriate treatment, helping the offender to end this cycle of assault. And then letting the offender move forward as a productive member of this society. They see the governments role as only to oppress

the accused and the family of the accused.

9. THE REAL TRAVESTY IS THAT A MAJORITY OF THOSE OFFENDERS THAT WILL FOLLOW ALL THE RULES OF THE SONRA, WILL NOT RE OFFEND AT ALL. IF ALL ONE HAS TO DO TO STOP CRIME IS PASS LAWS, THEN WE WOULD HAVE NO CRIME AT ALL. Those offenders that are going to re-offend will do so with or with out the SONRA. The SONRA will be of limited help to investigate sex crimes after the fact if it is loaded with so many sex offenders on it. By placing those who are at greatest risk to re-offend on sex offender registries we are then able to use it as a law enforcement tool. And by setting up a system of reward for not doing any more sex crimes the sex offender is then rewarded by being able to petition the court for removal from state and federal registries. This one thing would be far greater in Crime Prevention effort than all of the money the states and federal government have already put into crime prevention legislation they have enacted to date.

So after saying all of that you must think I am against sex offender registries in total. NO I AM NOT! I want the government to place only those of high risk to re offend on sex offender registries as I stated those who are identified as high risk offenders founded on empirically based risk factors.

The SONRA is as written a punitive measure, that shows that this Attorney General has forgotten he is the Attorney General for all the people, not just an official that works only for the government. The A.G.'s office should do what is right and re write the rules for the SONRA. You are not elected to office so you could be looking at all sides of an issue.. You were appointed to office not to enact rules that will be seen as ex posto facto. I welcome any return e mail to my comments. I am open and willing to hear your thoughts also.

WE MUST MOVE FROM BEING HARD ON CRIME TO BEING SMART ABOUT CRIME. Only then will we place some of the burden on the criminal to stop the criminal behavior. Being hard on crime has not reduced crime at all.



## Rosengarten, Clark

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**From:** Rogers, Laura on behalf of GetSMART  
**Sent:** Thursday, July 26, 2007 3:46 PM  
**To:** Rosengarten, Clark  
**Subject:** FW: OAG Docket No 121

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**From:** Tim Poxson [REDACTED]  
**Sent:** Wednesday, July 25, 2007 4:13 PM  
**To:** GetSMART  
**Cc:** christine\_leonard@judiciary-dem.senate.gov  
**Subject:** OAG Docket No 121

I hope you will take the time to read this article. thank You Tim P.

[http://www.usatoday.com/news/nation/2005-03-24-sex-offenders-usat\\_x.htm](http://www.usatoday.com/news/nation/2005-03-24-sex-offenders-usat_x.htm)

Girl's death raises questions about tracking of sex offenders

By Mark Memmott, USA TODAY

The arrest of a convicted sex offender this week in the kidnapping, rape and murder of a 9-year-old Florida girl underscores a national problem, experts say: Authorities don't have enough money to identify, treat and monitor the sex offenders most likely to repeat their crimes.

John Couey's name was on Florida's sex-offender registry when he got a job at Jessica Lunsford's school.

By Phil Sandlin, AP

"The systems at the state and federal levels need to be fixed," says Allison Taylor, executive director of the Texas Council on Sex Offender Treatment, which coordinates that state's sex-offender treatment strategies.

"We have 41,000 names on our (sex offenders) registry," she says. "If we could take our money and focus it on the 10% or so who are most likely to reoffend, we could make great progress."

In fact, most sex offenders are less likely to reoffend than other criminals.

Studies show that most sex offenders do not reoffend after being caught," says Karl Hanson, a psychologist and senior research officer at Public Safety and Emergency Preparedness Canada, that country's

equivalent of the U.S. Department of Homeland Security.

Hanson, one of the world's leading authorities on sex offenders, says counseling, an offender's past, and even polygraph tests help identify the "highest-risk reoffenders." Those individuals need to be imprisoned for "very long sentences," he says.

Jessica Lunsford was reported missing from her home in Homosassa, Fla., on Feb. 24. Her body was found March 19, buried behind the trailer home in Homosassa where John Couey had been living. The grave was 150 yards from □ and within sight of □ Jessica's home. Couey, 46, has been charged with murder, battery, kidnapping and sexual battery on a child under the age of 12.

Couey had been convicted in 1991 of committing a "lewd and lascivious act in the presence of a child." The police report filed at the time stated that Couey exposed himself to a 5-year-old girl, masturbated in her presence and had her touch his genitals, according to Officer Ralph Herrera of the Kissimmee (Fla.) Police Department.

Couey was sentenced to five years in jail for that crime and served about four years.

Though Couey's name was put on Florida's registry of sex offenders after its creation in 1996, he still was able to get a job on a construction project at Jessica's school last year. He had informed the local sheriff of his presence in the county, as sex offenders in the state are required to do, but apparently no one checked his criminal record when he applied for the job.

Jessica's murder and Couey's arrest have prompted Florida state Rep. Charles Dean to draft legislation that would require the state's convicted sex offenders not only to be registered and to report their whereabouts to authorities, but also to wear GPS tracking devices after being released from prison.

About 50,000 names are on the state's sex-offender registry.

Experts who treat sex offenders say tracking devices and registries alone won't protect the public. "If we're just going to go down that path, we do ourselves and society a great disservice," says Fred Berlin, director of the National Institute for the Study, Prevention and Treatment of Sexual Trauma in Baltimore and a professor of psychiatry at Johns Hopkins University.

What's not widely understood, Hanson and other researchers say, is that most sex offenders are relatives or acquaintances of their victims □ not strangers such as Couey. Few are on the registries.

Studies show that fewer than 3% of convicted rapists are arrested for the same crime within three years of their release, and "10% to 15%

(of all sex offenders) will be recaptured or rearrested" within five years, Hanson says.

Both percentages are well below recidivism rates for most other types of criminals.

If correct treatments are used, Hanson says, studies show the recidivism rate for sex offenders drops even further.

That's why federal and state agencies need to concentrate their spending on the worst offenders, Texas' Taylor says.

Taylor says the state must try to keep tabs on everyone on the registry, no matter how likely each is to commit another crime. That drains money from efforts to identify, treat and monitor the most hard-core offenders.

"Our thinking needs to be overhauled," Taylor says. "And it's really sad that it takes the homicide of an innocent child for us to take a step back and look at these things."

## Rosengarten, Clark

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**From:** Rogers, Laura on behalf of GetSMART  
**Sent:** Monday, July 30, 2007 11:56 AM  
**To:** Rosengarten, Clark  
**Subject:** FW: OAG Docket No 121

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**From:** Tim P [REDACTED]  
**Sent:** Friday, July 27, 2007 4:06 PM  
**To:** GetSMART  
**Cc:** christine\_leonard@judiciary-dem.senate.gov  
**Subject:** OAG Docket No 121

The SORNA and what can be done to improve it and make it work to protect the citizens of the USA.

It is imperative for the safety of USA citizens that we reduce the unintended, detrimental consequences to young people and low risk offenders, their families, and out communities. To that end these are some of the changes that should be made to the SORNA.

**Remove the registration requirement for juvenile offenders.** There are enormous differences between the nature of juvenile offense and those of an adult, predatory sex offender. Research demonstrates that most youth who break the law during their childhood or adolescence can and will mature out of this behavior given appropriate treatment and consequences.

**Remove the registration requirement in the SORNA for individuals who do not have a conviction on their record.** Individuals who are now on sex offender registries are losing jobs, housing, and educational opportunities, solely because they are included on a sex offender registry.

**Adopt a tiered approach to identify high risk offenders founded on empirically based risk factors.** The SORNA is so broad that law enforcement will be more hampered in its efforts to protect the citizens of the USA from high risk offenders. Law enforcement is going to be forced to use more precious resources tracking low risk offenders rather than monitoring high risk predators.

**Provide a reasoned, circumspect petition process for removal from state and federal registries.** A provision is needed to allow registered individuals, identified empirically as low risk to the community, the opportunity to petition for release from the registry. No public good is served by stigmatizing and isolating low risk or rehabilitated people, exposing them to harassment, and depriving them of normal opportunities for education, employment, and housing.

**Establish a central location/ agency to assist registrants with compliance in each state.** A definitive resource should be available to answer questions regarding sex offender related laws and the specified registration requirements. Currently, it's difficult for individuals to comply with the sex offender laws because they are hard to interpret, frequently modified, and difficult to access. This will even become a bigger problem with the on set of the SORNA. Because of these challenges, law enforcement agencies and municipalities are now often misinterpreting and misapplying the law.

## Rosengarten, Clark

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**From:** Rogers, Laura on behalf of GetSMART  
**Sent:** Tuesday, July 31, 2007 11:02 AM  
**To:** Rosengarten, Clark  
**Subject:** FW: OAG Docket No 121

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**From:** Tim P [REDACTED]  
**Sent:** Monday, July 30, 2007 3:53 PM  
**To:** GetSMART  
**Cc:** christine\_leonard@judiciary-dem.senate.gov  
**Subject:** OAG Docket No 121

The SORNA states that it is trying to bring together all the past laws and make it easier to deal with the issue of sex offenders. One such law was the Jacob Wetterling law passed by many states. One of the founders of the Jacob Wetterling foundation **Patty Wettering**, (mother of the victim) has gone on record that the SORNA and many of sex offender laws have gone "to far". In doing so she is trying to call your attention to the problems that many of these laws have crated. Furthermore she pointed out that these laws were supposed to be be for the worst of the sex offenders. The SORNA is a far reaching law that will sweep up all sex offenders even those that are no risk, and paint the offender with one rush. Just as no one can say that all the people who hold political office are just out for themselves, no one can say that all sex offenders are going to go back to do a sex crime. The US Dept. Of Justice statistics on recidivism even paint a different picture. 3.5% re convicted of a sex crime within 3 years of release from prison is one of the lowest recidivism rates among all criminals. Even **John Walsh** the father of the victim this law is named after **Adam Walsh**, has gone on record as saying his intent for this law was just to "make the public aware of those sex offenders that are the most danger". This is not were the SORNA has gone. The SORNA does not mandate a tiered approach using testing to find out which sex offenders are at most risk to re offend. The SORNA does not mandate tiered approach to identify **high risk offenders using empirically based risk factors**. The SORNA could be a chance to correct these issues. The public should be protected from high risk sex offenders. And low risk offenders should have the right to continue a life free of crime, free of harassment, free of a loss of housing, job opportunities and educational opportunities.

**Rogers, Laura**

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**From:** [REDACTED]  
**Sent:** Thursday, June 28, 2007 4:38 PM  
**To:** GetSMART; christine\_leonard@judiciary-dem.senate.gov  
**Subject:** OAG Docket No 121  
**Attachments:** 6-27-07 SEX OFFENDER LAWS UNDER FIRE.htm

Attached is an artical about the sex offender laws from a person who had a child killed by a sex offender. You should take the time to read it you will see that Mrs. Wattering does not support the direction these laws are taking.

[http://www.operationawareness.com/whats\\_new.html](http://www.operationawareness.com/whats_new.html)

7/21/2007

I. Smith  
[REDACTED]  
[REDACTED]  
[REDACTED]

Laura Rogers  
Director  
Smart Office  
Office of Justice Programs  
DOJ  
810 7<sup>th</sup> St. NW  
Washington DC  
20531

**RE: SORNA REGULATIONS Docket #OAG 121**

Dear Ms. Rogers:

The following comments pertain to the proposed guidelines "to interpret and implement the Sex Offender Registration and Notification Act."

**OVERVIEW:**

The Supplementary Information states:

"the Sex Offender Registration and Notification Act (SORNA), contains a comprehensive revision of the national standards for sex offender registration and notification. The SORNA reforms are generally designed to strengthen and increase the effectiveness of sex offender registration and notification for the protection of the public, and to eliminate potential gaps and loopholes under the pre-existing standards..."

First, the governmental interest in originally enacting the registration requirements was the protection of the public. The foundation for said protection was the stated allegation that convicted sex offenders posed a high risk of reoffending. That foundation no longer supports increased registration legislation. The DOJ's own statistics reveal that less than 6% of convicted sex offenders were arrested for a new sex offense over a 3 year period, [sexhttp://www.ojp.usdoj.gov/bjs/crimoff.htm#recidivism](http://www.ojp.usdoj.gov/bjs/crimoff.htm#recidivism).

These statistics are consistent with findings by the states of Minnesota, <http://www.doc.state.mn.us/documents/04-07SexOffenderReport-Recidivism.pdf>, and Pennsylvania, [http://www.cor.state.pa.us/stats/lib/stats/SexOffenderResearch\\_2005.pdf](http://www.cor.state.pa.us/stats/lib/stats/SexOffenderResearch_2005.pdf).

Second, experts in the field generally agree that the more restrictive the sex offender regulations, the less effective they become, which puts the public at greater risk as the

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[Signature]

offenders tend to go underground just to co-exist. Which is why a varied collection of experts, advocates, citizen groups and law enforcement personnel are speaking out against sex offender regulations that have become counterproductive. <http://minnesota.publicradio.org/display/web/2007/06/11/sexoffender1>. This includes Patty Weterling.

Third, there is nothing in the record to suggest the states are not providing adequate public safety with respect to registration of convicted sex offenders. "Potential gaps and loopholes" has no real meaning.

#### **SECTION 114(a)(7)—Internet Identifiers and Addresses:**

First, this subsection applies to all RSOs, not just those whose crime involved the use of a computer or the Internet. Those on conditional release are already required to provide this information. This is a sweeping requirement indicating punishment, not public safety, is the thrust of the regulation. In addition, Internet identifiers and addresses are not like home addresses. Google an internet identifier and you not only see where the individual has gone, but the content of any postings. These postings would include political speech, medical forums, case research, etc. There is no corresponding regulation with regards to tracking one's regular mail, nor could there be.

Second, the proposed guidelines contemplate a scenario that would allow third part website administrators to access the non-public Internet identifiers and addresses to block RSOs from accessing their websites. This is state sanctioned censorship. Using privacy information controlled by the government to deny a RSO the right to engage in legal conduct, free speech, is clearly a violation of the First Amendment.

#### **SECTION IV.A. Convictions Generally:**

"...or under which the convictions of such sex offenders may nominally be ``vacated'' or ``set aside,'' but the sex offender is nevertheless required to serve what amounts to a criminal sentence for the offense. Rather, an adult sex offender is ``convicted'' for SORNA purposes if the sex offender remains subject to penal consequences based on the conviction, however it may be styled. Likewise, the sealing of a criminal record or other action that limits the publicity or availability of a conviction, but does not deprive it of continuing legal validity, does not change its status as a ``conviction'' for purposes of SORNA."

It's unclear from the above language whether Sorna applies to "expunged" records, which of course are sealed documents. Under Missouri law, revealing the contents of sealed documents, absent specific and narrow exceptions not applicable here, is a class B misdemeanor <http://www.moga.state.mo.us/statutes/C600-699/6100000125.HTM>. In fact, one can deny the conviction without consequence, absent the same exceptions.



A federal rule that forces one to commit a state offense in order to comply with said rule is unconstitutional on its face. Carving an exception for sex offenders would also violate the Equal Protection Clause, as the benefits of an expunged record must apply to all.

If SORNA does apply to "expunged" convictions, serious Constitutional considerations are at stake, which will likely involve protracted litigation.

For these and other reasons, the proposed guidelines need to be revised and rethought.  
Thank you.

Sincerely;

July 26, 2007

From: Rogers, Laura on behalf of GetSMART  
Monday, August 06, 2007 10:47 AM  
To: Rosengarten, Clark  
Subject: FW: Comments on Proposed SORNA Guidelines  
Attachments: Comments on SORNA - 2007.doc



Comments on  
SORNA - 2007.doc (.doc)

-----Original Message-----

From: [REDACTED]  
Sent: Wednesday, August 01, 2007 2:24 AM  
To: GetSMART  
Subject: Comments on Proposed SORNA Guidelines

Please see attached MS Word file.

Thanks.

When I was 7 years old, I never could have imagined that someday I'd be in this position.

When I was 7 years old, it was 1977, and the nation as a whole had a different outlook on sex crimes, and crimes against children. My parents were advised by the police, then, to not press charges, as the word of children would not be held against the word of an adult. Sadly, this was in California, which has had a sex offender registry since the 1950's (if I recall correctly). Whether Mr. Randolph was on the registry or not, I don't know – the registry was not available to the public, or if it was, that fact was not made known to my parents – it's moot; Mr. Randolph died when I was still very young. But there was no closure, for me or my two sisters – who were 5 and 3 years old at the time. This shared abuse affected each of us in different ways – I did receive some therapy from a child counselor, but it never really treated the underlying feelings of shame and sexual discomfort.

Many children survive their abuse with determination to do better, and to make reforms towards a safer society. Other children lock their emotions inside, and release it later inappropriately, to the detriment of their standing in society – and their rights to enjoy the pursuits of “life, liberty, and happiness” with the same ease as their fellow citizens. Sadly, they allow themselves to become like those who abused them – even when the crime itself might be quite different in nature.

I am pleased to see that the legislative and judicial landscapes have changed, and that children's voices are heard in courts, and are taken seriously when they report abuse – whether it be by a family member, a stranger, or the neighborhood children librarian's husband, whom she assisted by luring in the local kids with books to read.

There are still generations of victims, however, who did not receive proper therapeutic assistance, and did not feel their voices were heard by any Higher Authority. I ask that you hear mine now, and consider my thoughts on the SORNA guidelines, as proposed by the Attorney General. I will do my best to only comment with subjective merit.

My concerns, which I will elaborate following, and which are touched on in the SORNA requirements, have to do with not causing unreasonable hindrance of “life, liberty, and the pursuit of happiness” to classified “low risk” / Tier I offenders who have a good record of post-conviction conduct, and are making efforts to be productive, contributing members of society.

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<b>Specific Comments as Relate to SORNA Requirements</b>
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- **I feel that Tier I offenders should not be listed online, or not in their entirety; I do agree that Tier I offenders need to register with local jurisdictions, as it IS an active deterrent:**
  - The average person is not properly educated about what constitutes a “sex offense”, and sees only “child molesters” in that terminology. Regardless of any disclaimers put to the web site, large portions of the population will continue to associate “registered sex offenders” with “child molesters”.
  - At a minimum, Tier I offenders should be identified as being low risk sex offenders, making clear that the underlying conviction was not for a crime against a child (as applicable), or specifically a sex act upon another person (as applicable)
  - The information made available online should be less specific, such as county or general zip code (but without address publication), for Tier I offenders required to be listed online; full information would still be retained by registering jurisdictions.

addresses. I understand the concern where the sex offender has targeted minors, or has previously committed crimes through the use of the Internet as a medium. I do not see where it should be enforced on those that have not committed such crimes, as even sex offenders may have legitimate reasons for establishing online personas – such as adult social networking, or to maintain contact with friends from other locales.

- **SORNA has the primary stated purpose to protect the public, rather than apply further punitive actions to the sex offender (aka Title XII – Comment 1).**
  - Could it feasibly be made to include the availability of funded programs to assist those offenders who are earnest in being rehabilitated. Some programs are more effective than others (Washington State, for example), and most “sex addictions” are related to some underlying abuse or neural inhibitor issue. “Sex Offender Treatment Programs”, as called for in SORNA Title XII, are not unilaterally available and affordable.
  - Rehabilitation should be a goal of SORNA, as this removes the ‘sex’ component from the offenders methodology, and thereby protects the public welfare.
  - Treatment for victims who were Minors, at the time the crime was committed, should also be included, perhaps offset by additional registration costs paid for by Sex Offenders whose crimes were committed against Minors. The cycle of “Offender:Victim → New Offender:New Victim” needs to be prevented – or, at least, minimized.
- **For a “non-punitive” set of regulations, sex offender registration is easily perceived as being punitive, while under its jurisdiction (aka Title XII – Comment 2).**
  - It limits accessibility, and basic rights to the pursuit of life, liberty, and happiness for all classes of sex offenders, without regard to circumstances or outside factors.
  - I would like to see a national standard for a “Certification of Rehabilitation”, which would be applied to all jurisdictions unilaterally, upon satisfaction of its requirements. This would be an expansion on the rules of Title XII (Duration of Registration). This amendment to that title would reinstate full rights (except handgun ownership for convicted felons) to the “offender” for all of the states, territories, and tribes of the USA; as exists now, one can be relieved of duty to register in one jurisdiction after 15 years, but still be required to register in a second jurisdiction for 25 years – which could create the “circular” argument in a third jurisdiction of the need to register, in that the offender is still required to register in at least one other jurisdiction.
- **Some offenders are of a class deemed “low risk” in their “native” jurisdictions, and afforded certain protections relating to what is available to the general public online.**
  - In the case where a jurisdiction requires registration SOLELY on the basis of the registrant being required to register in the jurisdiction where a “registerable” offense was charged & convicted, and not for an underlying crime that would also be “registerable” if committed in THAT jurisdiction, the information collected and shared with the public should be based on what the native jurisdiction would require.
  - The intent of such “jurisdictional inclusion” regulations was to prevent offenders from leaving one jurisdiction to a less effective jurisdiction, to evade registration requirements; while I applaud that effort, the reverse should be noted, as the crimes which qualify as a “sex offender” vary amongst jurisdictions, and the native community to a jurisdiction may not understand that a non-resident’s sex offense may be for a less severe act of a sexual nature.
  - At a minimum, I would offer that online registry wording includes that out of state offenses be noted as such, and to identify the original jurisdiction; the ideal would be that

- **For those whose work requires travel, whether as a consultant, truck driver, construction worker, or other profession; the associated provisions of SORNA and local jurisdiction requirements becomes a burden that can compromise the security of said job, and the effective ability of the offender to contribute most effectively not only to society, but to their own rehabilitation.**
  - I would like to offer a provision for a Federal component of SOR, whereby a person whose position requires travel could register with a Federal jurisdiction body, and carry an identification card demonstrating compliance for other jurisdictions. The program could be limited by offense type, and length of time as a registrant without acquiring new convictions, or other deemed appropriate restrictions, in line with the reasoning of Title XII's "registration durations".
  - A person participating in such a "Federal Mobile" program, when traveling for legitimate reasons, would notify their federal contact, verify their primary address (if changing), notify of their temporary secondary address(es), length of stay(s), means of contact, and other pertinent information.
  - The federal contact would notify the local jurisdiction, and provide the underlying offense information as required; if the local representative required a face-to-face verification with the offender entering his/her jurisdiction, arrangements could be made that didn't compromise either's schedule (as this is a facet of doing business as a sex offender, and not a punitive action).
  - The registrant would appear on the National website, and their "permanent residency" jurisdiction's website, but would not be placed onto the websites for "temporary residency" jurisdictions. A time component would be included; perhaps a stay of more than 14 days (which many states default as their temporary residence reporting time) constitutes a 'temporary move', and allows them to be placed, on that temporary basis, on the local jurisdiction's web site.
  - If such is not feasible, then a "Good Faith" provision by which if a registered sex offender contacts a jurisdiction to verify their requirements, for short-term travel into that jurisdiction on the behalf of their existing "home state" employer, and is given inaccurate or false advice by that jurisdiction's authorized representative, the sex offender won't be considered to be in violation of reporting requirements for either jurisdiction, except such as that he/she fails to comply with officials once the miscommunication is made clear.
- **Petition for Clemency in Application of Registration Provisions.**
  - For those sexual offenders that have demonstrated good behavior, have not had subsequent convictions, are considered to be of "low risk" to re-offend, and have demonstrated an ability and willingness to contribute positively to society, and expressed remorse for their past grievances.
  - Perhaps with a requirement for therapy, and regular reports by the therapist to the registering jurisdictional agency, to verify that the offender appears to remain low risk.
  - The specifics of the "Clemency" (assuming that's the correct term) would be to allow that the Sex Offender, while being required still to register, and not being (as yet) eligible to be relieved of their duty to register, would be omitted from the online published registry of sex offenders. (Perhaps with the provision that members of the public could still appear in person at their jurisdiction's registration authority, and request information about any (real or suspected) sex offenders living in their community.

As you may have surmised, I am a Registered Sex Offender in a subsequent jurisdiction, for a crime committed in California in 1992, which if committed in my residing jurisdiction would not have been a registerable offense: indecent exposure (self-gratification in my vehicle, witnessed by an adult female).

Most jurisdictions in the USA do not count this as a registerable offense, but do uphold the requirements of other jurisdictions' registration laws, to discourage offenders from relocating solely to bypass the registration requirements of the jurisdiction in which the offense was committed. I can not argue the intent and validity of this action, as it has its merit.

I was provided "alternative sentencing" in a "Furlough" program, which allowed me to pursue my B.S. degree at San Jose State University; I resided in a supervised dormitory facility, with both Work and Student furlough participants, for about 4 months. I served a total of five years of Adult Probation, and have made every effort to be compliant in meeting my continuing registration requirements. I have had no convictions in any jurisdiction since my registering offense in 1992 (sentenced in 1993).

At this time, I participate in a 12-Step program, and regularly see a therapist to discuss my abuse, interpersonal relationships, mourning of loved ones, and past inappropriate behaviors (not a jurisdictional requirement). I was also diagnosed with Sleep Apnea, and currently use a CPAP medical device; this corrected many of the underlying patterns of impulsivity and rash decision-making.

My personal interests, naturally, may have biased my preceding input; I rely on the judgment, and learned education, of those reviewing these comments, to sort through the words and apply merit where so warranted. Please comment back if you have any questions, wish a point to be clarified, or require personally identifying information so as to weigh my input.

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- **Addressing the SORNA requirements as both a child molestation victim, and a registered sex offender, I understand the challenges and concerns from both sides – and limitations.**
    - I agree that parents need to know about potential child predators, and have a right to pursue relief from those that have assaulted their children.
    - I don't know that the Registration in of itself does that, as generally speaking, those stories that grab the media's attention more often involve offenders who did not register, moved to evade registrations, or gave false information; increasing penalties and tightening regulations only puts additional duress upon those sex offenders who are, and have been, in compliance with the registration programs' requirements.
    - The laws will not prevent high-risk offenders from exploiting loopholes, or otherwise going "underground", as I have seen them written. Furthermore, greater penalties increase the chances that repeat child molesters will harm their victims, in an attempt to avoid or prolong capture and prosecution. I am concerned that political aspirations might be driving some legislation which, by its design, ultimately puts child victims in greater physical jeopardy – at least, according to the "newsworthy" trends.
    - Most parents don't look at their child victim and see that they could become an adult offender; parents, children, and the public need "sex offense awareness" training, both to recognize suspect behavior in persons close to their children, and to promptly assist their children in receiving treatment if their child has been the victim of a sexual nature crime.
    - SORNA doesn't address the underlying factors that create new sex offenders, despite the publicity, and the "now-known" consequences of being classified as a 'sex offender'.
    - Laws need to be applied to male and female equally – still illegal in some states for only a male to look into a female's window, and not the other way around.

adies, such as Paris Hilton, Lindsay Lohan, and Britney Spears, who expose themselves to photographers and the public, essentially flaunting that they their lives do not have the same limitations and repercussions as those of other citizens – not to mention sending mixed messages to our youth.

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Thank you for making the time to review this commentary on the proposed SORNA guidelines. I hope that it has been a positive contribution, and that it will carry some weight for discussion of existing and proposed sex offender provisions. I understand that it may not be taken as having full merit, with the admission that I am directly affected by its application; I feel, however, that this admission adds to the integrity of the review and commentary, as I have not attempted to mask the extent to which it is a personal issue for me, as both a surviving child victim and an adult sex offender.

I appreciate the task before you, in weighing judicial, political, and humanitarian concerns. I honestly pray that you will find value in what I have contributed here, and will implement some aspect of it, as I feel these concerns are representative of other concerned parties' feelings, balanced with what is good for the overall security and safety of the general populace – and especially of our children.

Sincerely,

July 31<sup>st</sup>, 2007,

From: Rogers, Laura on behalf of GetSMART  
Sent: Monday, July 30, 2007 11:55 AM  
To: Rosengarten, Clark  
Subject: FW: OAG Docket No. 121

-----Original Message-----

From: Maria Kupillas [REDACTED]  
Sent: Friday, July 27, 2007 5:43 PM  
To: GetSMART  
Subject: OAG Docket No. 121

To Whom It May Concern,

I am writing to express my concern regarding the proposed national guidelines for sex offenders. While protecting our children from pedophiles should be a priority for our justice system, consideration should be given to those who are labelled as sex offenders but whom the law was clearly not intended to cover. Specifically, those who are on sex offender registries as a result of youthful indiscretions.

As such, I make the following suggestions:

- . The State should be able to take existing offenders who qualify for exemption as per the new legislation off of the registry without fear of losing federal funding.
- . Solicitation of a Minor to engage in sexual conduct, any direction, request, enticement, persuasion or encouragement of a minor should have an exemption for teens within three years of age.
- . A clause should be added to allow offenders under the age of 18 or within three years of the age of the victim to be categorized as a level one offender if the state deems them to be a low risk to re-offend.
- . The guidelines do allow states to elect to allow a non public registry for level one offenders.
- . States should be able to decide if offenders within three years of their victim that committed a felony are eligible for the level one non- public registry. Many states today have this non- public registry for youthful offenders that are considered a low risk to re-offend. The new guidelines as written would take this option away. The states should, however, continue to be permitted to have a non-public registry for these youthful offenders.
- . Tier one offenders can petition for a shorter registration of 10 years if they successfully complete a sex offender treatment program certified by jurisdiction. This should only be if you were sentenced by the judge to do so. If it was not required at sentencing then it should not be required for the petition.
- . In a tier system a level two offender is required to register for 25 years. A clause should be added that allows offenders who are within three years of the victim to petition for a reduction in years of registration if their record is clean for 10 years.
- . Some states, like Michigan, allow for a reduction in years of registration for offenders convicted of a felony, who were within three years of the victims age, who have completed probation, who have been prosecuted specifically because of the age of the victim and who have proven that they are at low risk to re-offend. These offenders have had their registration reduced to 10 years by a judge. The new guidelines would require these same individuals to now register for 25 years. This should be changed to allow the individual to register as per the judge's decision. The Michigan law should be considered a model for the implementation of national guidelines.

Thank you for your consideration.

Maria R. Kupillas, Esq.  
[REDACTED]  
[REDACTED]



## Rosengarten, Clark

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**From:** Rogers, Laura on behalf of GetSMART  
**Sent:** Monday, July 30, 2007 11:50 AM  
**To:** Rosengarten, Clark  
**Subject:** FW: OAG Docket No. 121

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**From:** [REDACTED]  
**Sent:** Saturday, July 28, 2007 4:51 PM  
**To:** GetSMART  
**Subject:** Re: OAG Docket No. 121

Dear Director Laura L. Rogers,

I am writing you concerning the new national sex offenders guidelines under review by the Smart Office. I want every effort made to eliminate registration altogether for youthful indiscretions. Clearly these are not individuals the American public wants on sex offender registries. The purpose of the registry is to protect children from predators. As the Godfather to a 4 year old girl I appreciate the spirit and intent of the law. At the same time, I am also a relative of a youth whom, at 18 years of age, received the stigma and punishment reserved for sex offenders for consensual sex because his partner, who was only a few months younger, was under the age of 18 years old. In this day and age this type of injustice is not acceptable.

Below are a few additional clauses I would add to your guidelines.

1. It is very necessary for the State to be able to take existing offenders who qualify for exemption as per the new legislation of the registry without fear of losing federal funding.
2. Solicitation of a Minor to engage in sexual conduct, any direction, request, enticement, persuasion or encouragement of a minor should have an exemption for teens within four years of age, otherwise many teens could become susceptible to this offense.
3. In a Tier system, Tier one, as written, can not include Romeo & Juliet cases that involve intercourse because it only includes cases that involve jail sentencing of less than a year. All cases where intercourse or oral sex is involved would require sentencing of more than a year. A clause should be added to allow offenders under the age of 18 or within four years of the age of the victim to be assessed as a level one if the state deems them to be a low risk to re offend. In this way a state has the option to take their residence prosecuted in their state off the registry and they have options on how to treat a offender coming in from a stricter state.
4. The guidelines do allow states to elect to allow a non public registry for level one tier. States should be able to decide if offenders within four years of their victim that committed a felony are eligible for the level one non public registry. Many state today already have this non public registry for youthful felonies that are considered low risk to re offend, the new guidelines as written would take this option away. This option must remain in tack for the states.
5. Tier one can petition for a shorter registration of 10 years if they have a clean record for the ten years. It should only require a clean sexual record.
6. Tier one can petition for a shorter registration of 10 years if they successful complete a sex offender treatment program certified by jurisdiction. This should only be if you were sentenced by the judge to do so. If it was not required at sentencing then it should not be required for the petition.
7. In a tier system a level two offender is required to register for 25 years. A clause should be added that allows offenders who are within a 4 year age difference of the victim to petition for a reduction in years of registration if

7/30/2007

their sexual record is clean for 10 years.

8. Some states like Michigan already allow for reduction in years of registration for offenders, convicted of a felony, who were within three years of the victims age, who have completed probation, who have been prosecuted specifically because of the age of the victim and who have proven that they are at low risk to re offend. These offenders have had their registration reduced to 10 years by a judge. The new guidelines would require these same individuals to now register for 25 years. This should be changed to allow the individual to register as per the judges decision.

With careful consideration of all who might be affected by the national sex offender registry, the results sought, i.e., to protect children, can be achieved.

Sincerely,

[Redacted signature]

[Redacted signature]

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Got a little couch potato?  
Check out fun summer activities for kids.

From: [REDACTED]  
Sent: Sunday, July 08, 2007 4:22 AM  
: GetSMART  
Subject: OAG Docketr no. 121 SORNA response

As a citizen and member of the public I would like to make the following suggestions regarding SORNA :

1. Provisions and regulations should BE ADDED for the use of such information by any non-governmental organization or agency.
  - a. Prevents misuse of information
  - b. Pre set guidelines for agencies or contractors that may form the business of maintaining the tracking system.
2. Define the Tiers by risk or crime and not the punishment; Crime definition remains the same / punishments differ .
  - a. Would reduce confusion, maintain ease of tier placement / classification by jurisdictions
  - b. Promote public and jurisdictional confidence of the system.
  - c. It would promote fairness.
  - d. It would prevent movement of SOs; If all states had the same mandatory guideline, SOs would not keep moving around causing more havoc for the tracking system ? which is the goal for public safety.
3. Jurisdictions must NOT be free to exceed the SORNA minimum standards.
  - a. Decrease Jurisdictional and cross-jurisdictional confusion and differences.
  - b. Would standardize across the board.
  - c. Make it a comprehensive mandatory system. Remove the word ?guideline? Increase the public?s trust in the system.
  - d. Increases the understanding and education of all parties.
4. Jurisdiction MUST NOT include address, telephone #, email, IM, employment
  - a. Protection from harassment
  - b. Promote reentering into society (work).
  - c. Public should use their own zip code to research local SOs
  - d. Public should then call law enforcement for any further issues.
  - e. Serve and protect the public - SOs are part of the public also. We would want these SOs working, paying taxes, and not living under bridges.
5. SO Harassment by the public: Sec 118 (F) change wording from MAY to SHALL or WILL BE
  - a. Discourage public misbehavior
  - b. Promote SO confidence in the system thereby promoting compliance
6. Sec 118 (c ) Make it MANDATORY for jurisdictions to keep Tier I off public registry.
  - a. Tier I are your low risk
  - b. More likely the ones trying to return to society and no re-offense
  - c. For public Safety, the Tier III photos should stand out in the registry - not lost in the sea of faces of low-risk offenders.
  - d. Make it work the best for the public.
  - e. Make it an efficient system for the tracking agencies.
7. Reduce punishment time for Failure (10 years)
  - a. Provide a First infraction leniency
  - b. Have the punishment fit the crime.
  - c. Promote compliance ? positive outcomes, such as reduction in monthly fee
  - d. Provide toll free phone numbers to make access reasonable  
Provide access for notification from any jurisdiction ?.
8. Residency restriction ? standardize
  - a. Promotes confidence w/ public
  - b. Prevents movement of SOs

9. Provide for a data collection resource
  - a. Mandate statistical evaluation
    - Cause of death & crimes against SO vs Crimes & deaths committed by SO
    - Mandate annual report
  - c. Interpret system's public safety effectiveness
  - e. Determine the effects on the SOs
10. Include a system to remove the SO from the registry:
  - a. Three days within completion of the term of compliance
  - b. Three days from the death of the SO

Thank you for allowing me to voice my opinion and suggestions.

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[http://club.live.com/home.aspx?icid=club\\_hotmailtextlink1](http://club.live.com/home.aspx?icid=club_hotmailtextlink1)

From:

Sent:

Wednesday, June 20, 2007 4:04 PM

GetSMART

SONRA Issues

Subject:

Aside from constitutional issues which need to be addressed, here are some things I and others feel need to be considered before enacting these laws.

1. Sec 118 subsection (f) This is the section on using the list to cause injury or harassment to commit may be a crime.

Issue; I feel the word may should be changed to shall result in civil and criminal penalties. This would require if the word shall were put into the law the police would have to take a report if an SO is harassed or injured because their information was on the SOR.

2. Sec 114 (a) (7) this section states that if a SO is going to stay in any one place more than 7 consecutive days they must register that location as one they may stay in.

Issue; I feel that this should read in 7 seven days anyone calendar year

3. Sec 114 (a) (6) (a) (7) All vehicles including water craft or any type of vehicle shall be part of the SOR.

Issue; As I see it this information should only be available to Law Enforcement and be added to section 118(b) and Part VII as mandatory excluded information from the public. I have many reasons that I feel this information should not be public. But the main one was what happens when other people drive that vehicle; not the SO, these people will be subject to possible road rage and harassment as they travel down the roads, this will be a danger to all the people around them. Furthermore this could cause more unjust convictions of person on the SOR as this would give a person enough information on the SO to report a false crime that the SO did.

4. Sec 113 (a) (b) (c) and also in sec. 117 (a) This is the 3 (Business days) day rule that req. the SO to report any change in address, school, or work. Also it requires the SO to report immediately any change in vehicles, phone numbers; cell or land line and any change in internet status. (IE new e mail address, new screen name and so on)

Issue this is to short of a time frame to report, take for example a person moves to Lansing to go to MSU. And they are going to work in DeWitt. This requirement as I read it says they will report to all 3 locations within 3 days. Now I am using this example because all 3 of these locations are in different jurisdictions and would require a lot of traveling to get to each one. I would say a person could take one or two full days going to each of these locations. If they are trying to start a job this would possibly cause them a hardship and maybe a loss of the job.

5. Each state may post the registrants communications on the public web sight. The SONRA is letting each state set its own boundary here.

Issue; if a state does post this information on the public web sight, SO will get e mails or phone calls of a harassing nature. I feel this information should only be available to Law Enforcement.

If for some reason the public would like to check a phone number or e mail address, then they should have to submit that request with the phone number or e mail to law enforcement in some form of written request (even e mailing it in) and law enforcement can tell them if that phone number or e mail belongs to a sex offender. I see many other issues with this one also. I said in my e mail to the smart office that I was afraid this would encourage SO's to communicate and work to get these very laws overturned. That is the last thing these people would want to see happen.

5. Sec 118 (c) This section lets the states determine if they will leave Tier 1 off the public SOR.

the public registry. I said that if the SNORA is truly trying to protect the public from SO's then having Tier 1 on the public SOR will not be in true line with that thinking. Furthermore it will just add more names to a SOR that have no value to the public and make the public look though more faces to pick out those SO's that really are of a danger.

7. Employment sec 114 (a) (4) and (a) (7) call for address of employer to be on the SOR. The state may decide that they will leave out the name of the employer.

Issue. I wanted the name and address of the employer mandatory off the public SOR. The reasoning I gave was that if we truly want to protect the public from the SO we should want the SO working. If we place the information of the employer on the SOR, employers are going to have a hard time in this day and age hiring a SO. We want the SO working so they are paying taxes and not a drain on the system.

8. Sec 114 (a) (7) The SO to provide information on any place they are staying 7 seven or more days.

Issue this is an overly broad statement and should only be required of tier 3 offenders. Also see the issue above were this is also talked about.

9. Sec V and Sec III (2) (4) Classes of sex offenders. The states are NOT required to set up a tier system but will follow general guide lines as to what the SO must do based on the their system in the SNORA. This is to be used as a starting point and states may make it harder on the SO if they like. (my words) The SNORA as it is being read by the AG office could it they liked set up a Tier system but the guide lines would not let many states have very many Tier 1 offenders as the SNORA says any sex crime that a SO can get more than one year in prison shall be a Tier 2 or in some cases a Tier 3 classification. In Michigan even CSC 4th is a two year misto. so this would get the SO a Tier 2 under the guide lines as written.

Issue. If the SNORA is really being set up to protect the public then a Tier system should be mandatory for all states. A tier system that uses empirically based risk factors. If the tier system is so broad it will hamper the publics ability to pick out who is a real danger.

Furthermore if the present SNORA system is used; the system will include many who are of no risk at all but yet Law Enforcement will be forced to use precious resources tracking low - risk offenders rather than monitoring high risk offenders. Furthermore if the present guide lines are put in place the Tier system as recommended will cause one state to classify some offenders as Tier 2 when in another state that same offender with the same sex crime will be classified as a Tier 1. This type of classification discrepancy will lead the public into not trusting the SNORA. Furthermore it may cause SO's to move to a state that is more favorable to the tier system so they can get a better tier rating. This will place an undo burden on the states with a tier system that is favorable to the SO's. If the tier system is thought to fair and correct in all the states with all using a empirically based risk factors, both the public and the SO's will be more inclined to go along with it. Also if states fail to set up a tier system and paint all the SO's as the same, the likely hood that a SO will take this system to court is greater. And given that the US Dept. of Justice Bureau of Justice Statistics on Recidivism show that within three years of release from prison 3.5% of sex offenders are reconvicted of a new sex crime. In that this is one of the lowest recidivism rates among all criminals with the exception of murder's; the US Attorney General will have a hard time defending the SONRA in court. By setting up a tier system using empirically based risk factors the AG will be in a better position to defend the SONAR when it goes to the Supreme court.

10. 18 USC 2250 reads that knowingly failing to register is up to ten years in jail.

Issue; How can the crime of failing to register draw an SO more time than the original sex offence they were convicted of. In that if the SNORA's purpose is to protect the public, and not to punish the SO's. If that is the case knowingly failing to register should only draw the same amount of jail time as the original crime.

. Indian tribes will have a loss of power under the SNORA.

Issue; since the beginning of the written laws of the USA we have under treaty with the indian tribes always let them govern themselves. This would be the first time in the

to the states if the indian tribes fail to act.)

THE FOLLOWING ISSUES ARE NOT ADDRESSED IN THE GUIDELINES AND SHOULD BE ADDED.

1. A system should be in place to enable a SO to be reevaluated from a Tier II to a Tier I.

13. The SNORA does not mandate that States set up a toll free phone number that the SO can call when they have issues with the SNORA, such as not understanding when and where to register, or other questions they may have. Also should they have an emergency that for some reason the SO can not get in to register in time, they could call this number and a notice would be sent to the local agency that registers this SO. This would help with compliance of the law.

14. The SNORA is punitive given that the US Dept. Of Justice Bureau Of Justice Statistics on Recidivism show that only 3.5% of sex offenders are reconvicted of a sex crime within 3 years of release from prison. Also given that over 90% of sex offenses are committed by a person known to the victim, with over 50% of those being a family member, then the SNORA is of little value. If the AG and the congress really wants to protect the public they will set up a national registry for Drug Dealers, Drunk Drivers (OUIL) and others that are a greater risk to hurt and kill the public. (this is not going to get added to the SNORA but it is a point that should be made to the OAG's office at some point when you write to them.)

15. If the SNORA is set up to be a catch all for sex offenders crimes, then the SNORA should add a provision that only the States and the Federal government are able to set up laws that govern sex offenders and sex offender registries. This would include the fact that local ordinances and laws may not provide for limits on where sex offenders can live. Given that the SNORA is not meant as an additional punishment, and that studies have shown that residency restrictions do not protect the public and in fact may make it more dangerous for them in that SO's will go underground or report false address, and Law Enforcement does not have the manpower to check all of the address. Furthermore if local laws of government pass their own laws in this area, we will have a patch work of laws that are different from one government unit to the next.

16. As addressed above the guide lines on the SNORA as they are written now will have the same offender with the same crime being placed in the tier system different in each state. The only true way to make sure we are getting all the high risk offenders on the SNORA is to have empirically based risk factors to place the SO on a Tiered system based on that and not one system in one state and another in a different state.

17. Each state under the SNORA should be required to set up a central location that keeps the information on the following acts. 1. Death of a SO by suicide, 2. Death of a SO by vigilantes or the victim causing death of the SO 3. any crime committed against a SO who is on the public registry. This information would be helpful to show if the SNORA is being used by the public in the way it was intended or if the SNORA is being abused.

18. Each state should be required to set up a tiered approach to placement of SO's on the SNORA within 3 years of passage of the SNORA's guidelines. This would show that the real reason behind the SNORA is for public protection and not as a punitive law.

19. Upon the death of a sex offender the death certificate will be presented to one of the SO's registry points and they shall cause the SO's information to be removed from the SNORA.

Signed,  
An American Citizen

From: Rogers, Laura on behalf of GetSMART  
Sent: Tuesday, July 31, 2007 11:01 AM  
To: Rosengarten, Clark  
Subject: FW: Regarding OAG Docket No. 121

-----Original Message-----

From: Michael Eisdorfer [REDACTED]  
Sent: Monday, July 30, 2007 5:01 PM  
To: GetSMART  
Subject: Regarding OAG Docket No. 121

To Whom It May Concern,

I read the OAG Docket No. 121 and I would like to voice my concerns with it. I want every effort made to eliminate registration altogether for youthful indiscretions. Specifically, I respectfully request that those who engage in consensual experimentation, who are under the age of eighteen and are within 2 years of each others' age, should not be placed in the registry, or labeled as "offenders." These people are teenagers, who were tempted by their new bodies and made a wrong decision by engaging in exploration with a peer. There are too many young people on the sex offender list who have been condemned for years based on stupid decisions or teenage mistakes they made in their past.

Below are a few additional clauses I would like added to your guidelines:

1. The state should be able to take existing offenders who qualify for exemption as per the new legislation of the registry without fear of losing federal funding.
2. Solicitation of a Minor to engage in sexual conduct, any direction, request, enticement, persuasion or encouragement of a minor should have an exemption for teens within two years of age, otherwise many teens could become susceptible to this offense.
3. In a Tier system, Tier one, as written, can not include Romeo & Juliet cases that involve intercourse because it only includes cases that involve jail sentencing of less than a year. All cases where intercourse or oral sex is involved would require sentencing of more than a year. A clause should be added to allow offenders under the age of 18 or within two years of the age of the victim to be assessed as a "level one" if the state deems them to be a low risk to repeat the offense. In this way, a state has the option to take their residence prosecuted in their state off of the registry and have multiple options as to how an offender coming in from a stricter state will be treated.
4. The guidelines do allow states to elect to allow a non public registry for level one tier. States should be able to decide if offenders within two years of their victim that committed a felony are eligible for the level one non public registry. Many states today already have this non public registry for youthful felonies that are considered low risk to repeat an offence. The new guidelines as written, would take this option away. This option must remain intact for the states.
5. Tier one can petition for a shorter registration of 10 years if the offender have a clean record for the ten years. It should only require a clean sexual record.
6. Tier one can petition for a shorter registration of 10 years if they successfully complete a sex offender treatment program certified by jurisdiction. This should only be required if you were sentenced by a judge to probation. If it was not required at sentencing, then it should not be required for the petition.
7. In a tier system a level two offender is required to register for



sexual record is clean for 10 years.

7. Some states like Michigan already allow for reduction in years of registration for offenders, convicted of a felony, who were within three years of the victims age, who have completed probation, who have been prosecuted specifically because of the age of the victim and who have proven that they are at low risk to repeat the offence. These offenders have had their registration reduced to 10 years by a judge. The new guidelines would require these same individuals to now register for 25 years. This should be changed to allow the individual to register as per the judges decision.

Please make the effort to protect those who need protecting. Teens are too young to be held accountable for laws that we as a society should do a better job in teaching them. Placing a boy on a list with rapists, when he had consensual sex with a high school peer (a few months over a year apart in age) is absurd. These young men and women should not be condemned because of teenage curiosity and they should not be punished and labeled as "sexual offenders and predators" when their individual circumstances were not predatory to begin with.

As a country, it is our obligation to teach our children and our teenagers the law and how to abide by it. Realistically speaking, statutory rape is not explained to youths as a peer on peer encounter; it is explained as a "sick person," a "bad person," an "older person" with bad thoughts and who is harmful in an attacking way. These teens are not aware that they themselves could be considered "predators." They are not aware of these extreme laws that could hinder their future. In adulthood, ignorance of the law is no excuse, but to condemn a high school teenager for ignorance to this law is shameful on us as a society. I respectfully ask that my plea for our youth be considered.

Thank you,

Shael Eisdorfer

[Redacted signature block]

## Rosengarten, Clark

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**From:** Rogers, Laura on behalf of GetSMART  
**Sent:** Monday, July 30, 2007 12:00 PM  
**To:** Rosengarten, Clark  
**Subject:** FW: OAG Docket No. 121

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**From:** Ed Lynch [REDACTED]  
**Sent:** Wednesday, July 25, 2007 10:44 PM  
**To:** GetSMART  
**Subject:** OAG Docket No. 121

To: Laura Rogers, Director  
From: Edmond R. Lynch  
Date: 7/26/07  
RE: OAG Docket no. 121

The concept of a national registry is somewhat appealing, if not for any other reason than it can perhaps sort out some of the ill intended consequences for poor legislation at the state level. However, if this is not done properly, it may serve to make poor legislation worse. A few items of utmost importance are:

- A: Youthful indiscretions must be protected. Young men and women cannot be stained with the internet age Scarlet Letter for 1 mistake in their teens.
- B: States must be able to remove existing offenders without risk of losing federal aid. Though our society does have some absolutes, they are few, and the laws put in place to identify and punish sexual predators are particularly subject to moral interpretation. As a result, judges must be given discretion to fully understand the facts of the case, and states must be able to reduce punishment and exempt people from the list.
- C: A tiered system can be useful, particularly as it can differentiate between true sexual predators and cases where the parties are within 4 years of each other. Offenders who are younger than age 18 should be treated more leniently than older offenders. States and judges should be given discretion.
- D: States should have the option to keep a non-public registry.
- E: Other non sexual violations should not impact length of time on registry.

Please give careful consideration to how to allow for the delisting of Romeo & Juliet cases. These young people are making mistakes that have been made for centuries, with the difference being that those on the list in today's society were caught. Let us not rob them of the opportunity to grow into mature, contributing members of society while still protecting our nation's youth from true sexual predators. It does us no good to have the list inflated with people who are not true risks.

Thank you for your consideration,

Edmond R. Lynch  
[REDACTED]

**Rogers, Laura**

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**From:** Peterson, Laurie [REDACTED]  
**Sent:** Sunday, July 22, 2007 8:50 PM  
**To:** GetSMART  
**Subject:** SORNA comments

While the new legislation under AWA improves some of the shortfalls of the old mandates, it is imperative that we address the offenses that were non violent and singular on these registries as soon as possible. A substantial number of state crimes classified as felonies fall under the tier 2 mandates of AWA, requiring a 25 year public registration. Statutory rape is only one of such crimes, that is going to be inconsistently dealt with from state to state allowing some of these offenders to be tier 1's (if their crime was punishable by less than 1 year in the state of residence) versus the same offense in a neighboring state that requires a felony conviction (more than 1 year) for the exact same circumstances. This is not consistent and does not benefit public safety. Further, the online registry must be narrowed to those who are CLEARLY violent and predatory or who may have repeat offenses or a psychological diagnosis for desiring children as sex objects. Please do not ignore the comments and position on these issues of Patty Wetterling, the founder of the first registration law, named after her son Jacob. She has recently spoken out on the broad brush approach that has been used, specifically citing how children themselves are now required to register as sex offenders, as well as teenagers involved consensually with somewhat younger peers. I realize there is a 4 year age difference built into SORNA/AWA, but it hardly serves the needs of justice when the sentencing judge is removed from determining the appropriate level, if any, of registration on an individual basis for those who are under 21 years of age involved in consensual acts with those 13 and above (as per the established minimum age already in SORNA for consensual acts sec 111 .5, C.) To underscore this point, Mark Lunsford's son was 4 years and 1 month older than his 14 year old girlfriend, and was arrested for felony sexual assault in the state of Ohio. Had he not been allowed to plea to a misdemeanor charge, this young 18 year old would have been subject to a 25 year registration under SORNA! This surely would have been an outrage to justice, had this occurred. Joshua's Lunsford's case is not isolated, there are thousands of teens/young men and women who are under the age of 21 who are being arrested and *convicted* of felony sexual assault for consensual sex acts across America, who are not allowed to plea down to a misdemeanor. They are then subject to federally mandated minimum 25 year registration under AWA, or a lifetime of registration under state law, since SORNA/AWA does not set a ceiling on these requirements, instead leaving them open to state discretion to exceed. Again this is not consistent. You must revise the registration guidelines to take the following into consideration:

- 1) Set a ceiling on the tier 1 and tier 2 registration limits for first time offenses. Currently the floor is set at 15 years and 25 year and lacking a mandatory ceiling which is needed for consistency.
- 2) Allow for a Tier 2 offense to be reduced to 15 years registration (or some other reduced number of years from 25) if the requirements for reducing a tier 1 offense are met as a tier 2 offender. This is imperative since the current sequence allows for those who are the most heinous level, a tier 3, to be reduced to 25 years, but there is no such remedy for a tier 2 offense.
- 3) Create a separate provision that allows states to set their own guidelines (without loss of grant money) to deal with registration requirements for those who are under 21 years of age and were involved consensually with another teen who has reached the age of 13, but is less than the state mandated age of consent.

8/16/2007

Please strongly consider these suggestions and feel free to contact me as needed.

Sincerely,

**Laurie Peterson**

Concerned private citizen

[REDACTED]

[REDACTED]

[REDACTED]

8/16/2007

This is just an informal comment/suggestion/observation. I could not get permission from my management to send this in email form.

### Observation 1: Sect V. Classes of Sex Offenders

- "Substance, not form or terminology"

- all states have different interpretations of legal terminology

- There is a guide to state specific legal terminology on [www.leg.gov](http://www.leg.gov) - for the Law Enforcement Community. This list was developed and is maintained by the FBI/NCLS Legal Research and Analysis Team. It deals with a variety of terms including juvenile adjudication for all 50 states and us territories.

You have to be a LEO member to view.

- if language was added to the law/or possibly SORNA guidelines indicating that when a subject is registered under a "tier" they are found to be a danger to themselves or others it could establish a federal firearm prohibition under 18 USC 922(g)(4). This may be a valuable source for establishing a firearm prohibition not available by other means

(over)

## Observation 2: Sect. VII Disclosure of Information

- National Databases - "NISOR" or other appropriate databases"
  - This could allow entry of records from SORNA into the NICS Index to identify federal firearm prohibitions under 18 USC 922
  - Any finding of a subject by a lawful authority that a subject is a danger to them self and others is a federal firearm prohibition under 18 USC 922(g)(4)
    - this is not just mental commitment.
- Any access to records in SORNA may assist the NICS in obtaining information and establishing federal firearm prohibitions.

William Swan  
[REDACTED]  
[REDACTED]

July 7, 2007

U.S. Department of Justice  
[GetSMART@usdoj.gov](mailto:GetSMART@usdoj.gov)

Dear Sirs:

With all due respect to the authors of the proposed guidelines for national sex offender registration<sup>1</sup>, who have clearly put in considerable effort in drafting them, I fear they have started with an incorrect premise, have gone in the wrong direction, and that the proposed guidelines will be considerably more destructive than helpful.

I have organized these comments on the guidelines into three sections: background and general issues, specific problems and constructive alternatives.

I urge you to review these comments and incorporate them into a revised set of guidelines.

Sincerely,



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<sup>1</sup> Announced May 2007, online at: [http://www.usdoj.gov/opa/pr/2007/May/07\\_ag\\_366.html](http://www.usdoj.gov/opa/pr/2007/May/07_ag_366.html) Guidelines at <http://www.ojp.usdoj.gov/smart/proposed.htm>

## 1. Background and General Issues

In this section are general comments about the proposed guidelines. Specific items will be addressed in section 2.

**1.1 It's all speculation.** The stated goal of all sex-offender registration programs, and everything that builds on them, is safety. However, it has never been established whether any safety has really been achieved by any element of those programs, which makes them merely speculative. This shows even in these proposed guidelines. For example, the introduction reads in part:

“These programs serve a number of important public safety purposes. In their most basic character, the registration aspects of these programs are systems for tracking sex offenders following their release into the community. If a sexually violent crime occurs or a child is molested, information available to law enforcement through the registration program about sex offenders who may have been present in the area **may help** to identify the perpetrator and solve the crime. If a particular released sex offender is implicated in such a crime, knowledge of the sex offender’s whereabouts through the registration system **may help** law enforcement in making a prompt apprehension. The registration program **may also have** salutary effects in relation to the likelihood of registrants committing more sex offenses. Registered sex offenders will perceive that the authorities’ knowledge of their identities, locations, and past offenses reduces the chances that they can avoid detection and apprehension if they re-offend, and this perception **may help** to discourage them from doing so.” [1. Introduction]

The word “may” appears in this sense throughout the entire guidelines -- the entire basis of these guidelines is mere speculation! Surely, in the 17 years that have passed since these laws were first enacted, there would now be sufficient information to tell whether these existing laws achieve anything of their intended effect or not. But there is none; instead lawmakers keep piling on new requirements and restrictions, such as those in these guidelines.

Some laws have proven to be extremely counter-productive (and impossible to get rid of<sup>2</sup>). It would be far better to have a completed study of the effectiveness and issues with existing laws before building weightier structures on what may prove to be not just sand, but quicksand, with very costly and damaging results. For every considered measure a pilot test should also be performed and analyzed, to be widely enacted if it proves beneficial or terminated if not.

I will note that there is currently a federally-funded study on the effectiveness of sex-offender registration being conducted by the New Jersey Department of Corrections, with results due early next year. Finalization of these proposed guidelines should at the very least be deferred until that study is published, and only then revisited.

**1.2 Perceived safety is not real safety.** Measures to increase perceived safety can reduce actual safety. If the vast majority of sex offenses were committed by previously-convicted sex offenders, these measures would make sense. But this department’s own Bureau of Justice Statistics says otherwise in its report “Sex Offenses and Offenders” (NCJ 163392): The table on page 23 shows that only 10% of rapists and 15% of sexual assaulters in prison had prior sex-offense convictions: thus 85% to 90% of the sex-offense convictions were first-time convictions.<sup>3</sup>

With all the focus placed on convicted sex offenders, the fact that over 5 out of 6 new offenses are first-time offenses is lost; not only do people think they and their children are safe if there are no *registered* sex offenders living nearby, they are even being sold on ideas such as “safe sex-offender-free communities<sup>4</sup>” (i.e., you can let your guard down here), a dangerous abuse of registration that will only result in more victims.

These measures also carry the likelihood of increased recidivism in both in-category (sex) offenses and out-of-

2 See <http://www.radioiowa.com/gestalt/go.cfm?objectid=352CF80A-92E1-67A5-6D2385E4022D9224>

3 <http://www.ojp.usdoj.gov/bjs/abstract/soo.htm>, p.24: Table 3 and bullet item 3 show all violent sex offenders falling into these two categories.

4 See <http://www.wreg.com/Global/story.asp?S=4768425> for an example.



category. Psychologists and other experts say that the best protection against recidivism is increased engagement with the community and as others note, these measures “may, in fact, make offenders more likely to commit new crimes by consigning them to social isolation.”<sup>5</sup> Every new crime means a new victim and even these guideline provide *zero* protection here; at best they move the crime to a different locale.

**1.3 Ratcheting up is very bad.** The proposed guidelines are a nasty *ex post facto* ratcheting up of the requirements to live in society. They should be applied only as an element of a conviction and not retroactively, because they break the promise of “this is all we will ever want from you” given when the original registration laws were passed.

Ratcheting up registration and notification measures (Section II.C pp. 7-9 and “Retroactive Classes”, pp. 49-51) on registered sex offenders who will not and intend not to re-offend (which appears to be about three out of four of them<sup>6</sup>) tells them quite explicitly that there is nothing they can do, no amount of good behavior, that will prevent their lives from becoming worse. Especially with the measures proposed here this is a sure-fire recipe for disaster: they will withdraw from society, and be instilled with feelings of fear and powerlessness, leading to anger, bitterness – and new victims. “If it’s only going to get worse anyway, what’s to lose?”

If anything, these guidelines should also be setting *maximum* levels on what is allowed, particularly when we have politicians dreaming up punitive “non-punishments” such as branding drivers’ licenses and license plates, and non-residency zones. (Non-residency zones have caused registration non-compliance to zoom from 5-10% to over 50%<sup>7</sup> but the first state with this law finds it can’t repeal the law<sup>8</sup> -- yet other locales continue to enact similar laws.)

**1.4 These measures are punitive by design and effect.** The very first measure enacted was simple registration, with annual verification by mail. Subsequent measures have added punitive elements such as the posting of mug shots and addresses, labeling drivers’ licenses and more – in many ways like the “shaming” punishments imposed for “deadbeat dads.” Add to that the four known murders of registered sex offenders by complete strangers using the online registries, and the untold number of registered sex offenders’ houses across the country torched in efforts to drive them away, and you already have a punishing fear that will be exacerbated by these measures.

## 2. Specific Problems and Futilities

This section evaluates the problems with and futile efforts made by specific elements of the proposed guidelines.

**2.1 Section V, pp. 24-27, “Classes Of Sex Offenders,” increases the public risk.** As studies<sup>9</sup> have shown, the severity of the offense is not an indicator of and may even be inverse to the likelihood of re-offense. The proposed change to a rigid offense-based classification is not only punitive in nature, it creates a bigger public risk than the current system of individual evaluation. The end result will be costly in terms of new victims, costs of incarceration and costs of administration by the supervising agencies.

The current system, under which each registered sex offender is independently evaluated for risk level by officials familiar with the ex-offender’s record, plus the development and refinement of accurate classification tools, should not be altered. (I address this issue further in my comment 3.1.)

5 From <http://www.cmonitor.com/apps/pbcs.dll/article?AID=/20060503/REPOSITORY/605030304/1027/OPINION01>

6 Derived by extrapolating Chart I in “Historical Review of Returns to Prison,” Washington State Department of Corrections, online at <http://www.doc.wa.gov/budget/docs/publications/Recidivism20.pdf>

7 See <http://www.tribune-georgian.com/articles/2006/07/05/news/opinion/1opinion7.5.txt>

8 See <http://www.radioiowa.com/gestalt/go.cfm?objectid=352CF80A-92E1-67A5-6D2385E4022D9224>

9 For example, see <http://www.johnhoward.ab.ca/docs/sxoffend/page1.htm>

**2.2 Section VI, pp. 28-35, requiring too much information increases the public risk and cost.** The amount of information being demanded goes so far it will lead to deliberate non-compliance. "Internet identifiers and addresses" is one such example; this is "Big Brother" punitive invasion, but to a registered sex offender intent on finding a victim online or by other means the requirement for so much information provides absolutely no deterrent at all – especially considering that penalty for the crime far exceeds the penalty for unregistered addresses or identifiers.

Note that deliberate noncompliance is *extremely* dangerous because it places the registered sex offender into the continual mindset of being an unapprehended criminal -- exactly the opposite of what is needed to avoid recidivism. The end result will be costly in terms of new victims, costs of incarceration and costs of administration by the supervising agencies.

To invasively and uselessly requiring "Internet identifiers and addresses" one should add: telephone numbers (home and cell), Social Security Number (the justification for this is silly), "temporary lodging information" (this one is so useless it is ludicrous – consider all the focus on extended contact and "grooming" by intended predator; *one week?*), travel and immigration documents, professional licenses, and DNA. (I add DNA as a special case due to the fact that the practice of acquiring DNA has gone on so long it is very unlikely that those who have not supplied will re-offend. (Risk reduction over time is mentioned in comment 3.1.)

Other specifically required items that are invasive and uselessly excessive are:

- Other residence information (excepting homeless residence locales). Consider that the registered sex offender who supplies this information and then intends to commits a crime will avoid any location he supplied to the registry. And if he's sought he will also avoid those locales, thus wasting law enforcement time while they search the locales where he will not be.
- Current photograph. Requirements for repeatedly taking mug shots (Section XI) reinforce the mindset of being forever a criminal, which makes a new offense much more likely. Treat them like criminals and you'll get more criminals. What is worse, this is costly and unnecessary – photographs are already available in drivers' license and state ID records; they can be pulled up as needed, as noted in the driver's license clause of Section 6, p.35.
- Vehicle information and habitual location. This starts out at a very high level of useless information ("in case of flight"?), and gets worse by placing no ceiling. Some locale will undoubtedly require reporting such for nothing more than borrowing a friend's car one time; instantly the registered sex offender becomes a criminal.

Information that is questionable (some of this is often already required but it is not clear if it has any value whatsoever, and it adds to the cost of the registry) is:

- employer name and address
- school information
- text of registration offense (VERY costly to add retroactively)
- criminal history and other information

The reasonably required information are names and (non-Internet) aliases, residence address or homeless alternative, date of birth, physical description but this should be allowed to "age" along with the photograph, noting again that updates are available from the driver's license database, and fingerprints and palm prints if already acquired.

**2.3 Section VII, pp36-44, disclosing too much will increase the public risk and cost.** The amount of information required to be disclosed on website will be immensely destructive to the registered sex offender's life.

- Disclosing exact address: there is no knowing how many registered sex offender's houses have been torched because their exact address was available; there have been at least four murders by strangers facilitated by this information. (Note: registered sex offenders can use this to contact each other; see comment 2.4.)

- Disclosing employer or address: any bill allowing this should be titled "The Registered Sex Offender Unemployability Act," because that is exactly what will result. Angry ex-offenders, unfairly rendered unemployed by such action, will be ripe for recidivism. (However, if they remain employed they can be contacted by other sex offenders using this information: "Hello, Acme Company? May I speak to Reggie Sexoffender, please?" See comment 2.4 and also next two items.)

- School address: this cannot be justified. Worse, it leads to the potential, even likelihood, of the registered sex offender's car being vandalized, per the next item.

- The license plate number and description of any vehicle owned or operated: it leads to the possibility of these vehicles being vandalized. Vandalism of registered sex offender's cars already occurs.

- A current photograph: incorporate here by reference my comment 2.2 on photographs.

Disclosure of any single one of these items, much less all of them, will increase the fear instilled in the registered sex offender, decrease the feeling of being a member of society again, and thus increase the likelihood of re-offense. And if any harassment or worse occurs, the feeling of isolation will be cemented forever. This will be costly in terms of new victims, costs of incarceration and costs of administration by the supervising agencies.

**2.4 Section VII, pp. 39-40, disclosing "remote communication addresses" is dangerously false security.** The proposed protection mechanisms in this section are so easily and obviously circumvented it is not worth mention; however, the registered sex offender who obeys the law could wind up penalized by exclusion.

The third paragraph of "REMOTE COMMUNICATION ADDRESSES," p. 39, enumerating all the nefarious things registered sex offenders "could" do (speculation again!) if they got together is simply laughable and its author should be quite embarrassed for his hysterics. Think it through for half a second: if this is such a problem, why do we incarcerate convicted sex offenders in prison... together... for year after year...?

Besides, whether the lists are made available to Internet social networking site owners or partially occluded via the method in the fourth paragraph, either way registered sex offenders can find each other using them.<sup>10</sup> If the lists are made available, a registered sex offender or a friend could set up a social networking site and obtain the list. If the mechanism is to test an address, set up a "sex offender only" site, use this test to keep others out, and thus accumulate a list..

But it gets worse. When researching material for these comments I found a web page that notes the high value such a list could have. One sentence bears quoting:

All a spammer has to do is to run his huge list of e-mail addresses (and whose e-mail address doesn't soon wind up on spammers' lists?) past the verifier and BINGO! he has a qualified list of sex offenders' e-mail addresses.

What purveyor of porn would not love have such a highly qualified list of potential customers?

Similar treatment of phone numbers is even riskier, because cellphones can receive audio as well as text-message solicitations. And because cellphone number ranges are known (though no longer exclusively by carrier) one

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<sup>10</sup> And even without those the proposed identification/location information can be used: see comment 2.2.

doesn't even need a list in order to scan for registered sex offender contact information.

The first paragraph of p. 40 demonstrates the dangerous false sense of security that collection of and access to this information will engender. It states, in part:

... In the case of a concerned parent as described above, for example, this could enable the parent to ascertain that the e-mail address of an individual attempting to communicate through the Internet with his or her child is the address of a sex offender...

The two problems with this are:

- 1) A registered sex offender seeking to re-offend is unlikely to use a registered address.
- 2) As noted in comment 1.2, the vast majority of convictions are first-time convictions.

There's a technical term for the child whose parents will inevitably rely on this for protection: "victim."

## **2.5 Section VIII, pp.45-47, "Where Registration Is Required" is inadequate.**

This section fails to set a universal standard for the rules for when registration is required, with dangerous results. It establishes a minimum level, but as the last paragraph demonstrates, jurisdictions can set broad standards that, without fair notification, amount to entrapment:

For example, if a sex offender who is a long-haul trucker regularly drives through dozens of jurisdictions in the course of his employment, it is not required that all such jurisdictions must make the sex offender register based on transient employment-related presence, but rather they may treat such cases in accordance with their own policies. [emphasis added]

One wonders if such registration would also be required for a registered sex offender who is an airline attendant or pilot and who is forced to land in some unanticipated jurisdiction, say, for an engine failure.

With no standard, jurisdictions can and will enact different rules, creating a non-standard patchwork of rules ready to trip up the traveling registered sex offender. Such a threat will not aid rehabilitation.

## **2.6 Sections X and XI, pp. 54-61, go over the top with in-person appearances.**

One recognizes the need for an in-person appearance upon initial registration in the jurisdiction of residence, but requiring it periodically, upon change of employment, student status or any other reason is dangerous for its extremely unpleasant effect upon the registrant.

Even without repeated fingerprinting and mug shots, the in-person appearances required here will say "you're still on probation" and block any sense of reintegration into society. This will lead to increased recidivism and is also likely to increase the number of registered sex offenders who decide to abscond. Again the proposed guidelines engage in speculation. Page 59, paragraph 3:

Likewise, from the perspective of the sex offender, periodic in-person encounter with officials responsible for their monitoring **may help** to impress on them with greater vividness than remote communications that their identities, locations and past criminal conduct are known to the authorities. Hence, there is a reduced likelihood of their avoiding detection and apprehension if they re-offend, and this **may help** them to resist the temptation to re-offend.

This is unlikely. Less than 30% of rapists and less than 15% of sexual assaulters are convicted of offenses against strangers.<sup>11</sup> These measures would do little for those whose victims were already known to them, and the others will easily figure out how to evade these measures by means such as committing the new offense in a different jurisdiction.

In addition, information provided in person might not be correct. The Kansas City Star published an article sometime on or before 6/11/2006 (it's no longer online) about one Arvel Walls Jr., a registered sex offender who had dutifully appeared in person every 90 days for years – giving the wrong address, undetected until it was

<sup>11</sup> "Sex Offenses and Offenders," NCJ-163392, U.S. Dept. of Justice, Bureau of Justice Statistics, 2/1997, p.24, Table 3.  
<http://www.ojp.usdoj.gov/bjs/abstract/soo.htm>

independently checked. It is hard to see how this meets the speculation in Section XI, paragraph 3:

Beyond these functions of directly helping to ensure the accuracy and currency of the registration information, the appearance requirement... [emphasis added]

What will certainly result is a buildup of anger and stress in all registered sex offenders who have these draconian probation-like measures imposed upon them *ex post facto*. It has been observed that the majority of sex-offender re-offenses are already non-sex-offenses<sup>12</sup>; it would not be a surprise to see the latter grow, particularly in jurisdictions who follow the hints in Section XI of requiring more frequent appearances, and/or with "more extensive or additional measures." (p. 60)

Increased recidivism, registered sex offenders who lie or abscond because maintaining registration is too onerous, the resultant (unnecessary) incarcerations, and all the administrative work of information collection and distribution... this measure will be an extremely expensive one, especially considering that it will reduce, not increase, public safety.

### **2.7 Section XI, pp. 59-61, requiring periodic in-person appearances, may be unconstitutional.**

Although not an attorney, I will note that the requirement periodic in-person appearances may be unconstitutional when applied retroactively. Such appearances may be impossible to make if the person is disabled or on extensive travel. If jurisdictions allow the police to mandate appearance on specific dates, this becomes a major impediment to the person's conduct of business, or even a threat to his employment. It is certainly a questionable and arbitrary police power with threat of incarceration for failure to comply.

I would anticipate this requirement to be immediately challenged if enacted.

### **2.8 Section X.C, pp. 57-58, "International Travel" will make such impossible.**

The international exchange of convicted sex-offender status information in Section X.C is troubling, particularly when section IV.B (pp. 17-18) implies that many jurisdictions may not have "sufficient safeguards for fundamental fairness and due process." It is almost a certainty that available conviction histories will be used by other governments to exclude Americans who bear such, as Canada does presently.

The resultant inability to travel internationally will likely affect only a minority of registered sex offenders (and may be damaging to the employment of some), but the effect will be significant, particularly when they realize that their own government has helped erect these walls against them. This will not be conducive to rehabilitation.

## **3. Positive and Constructive Comments**

### **3.1 Section XII, "Duration of Registration" is a step in the right direction.**

I commend the authors for the suggested durations of registration, although with lifetime registration requirements already implemented in many jurisdictions they should be considering a requirement centered on a specific value rather than a minimum, because there will be pressures on all non-lifetime jurisdictions to ratchet up to lifetime.

In comment 2.1 I have already addressed the major problem of "tiering" (tied to offense level) as opposed to "level" (likelihood of re-offense), and so I will address the issue in terms of "level."

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12 "Examining Sex Offender Recidivism," p.7, <http://esor.freesevers.com/Examining.pdf>, derived from "Recidivism of Prisoners Released in 1983," NCJ-116261, U.S. Dept. of Justice, Bureau of Justice Statistics, <http://www.ojp.usdoj.gov/bjs/abstract/rpr83.htm>

Available studies show the risk of re-offense declines the longer a registered sex-offender remains out without re-offending.<sup>13</sup> Clearly those who remain offense-free for a considerable period of time have worked out means or mechanisms to remain in society offense-free. Also, even those considered "most likely to re-offend" may become less likely to re-offend by illness or other incapacity, including the effects of increasing age.

The registration requirements of Section XII seem to recognize this. I encourage these to be based on the "Level" model rather than the "Tier" model, because the former is based on the observed, measurable, and refinable perspective of the likelihood of re-offense. The "Tier" model is rigid and inalterable. Note: if likelihood of re-offense turns out to be closely tied to offense level, the "Level" model could become identical to the "Tier" model.

I suggest certain amendments to this section, not as minimum but recommended guidelines. These suggestions are based upon studies that analyzed recidivism over time and appear to show that at least by twenty years post-release, if not sooner, the risk of re-offense appears to drop to the likelihood of a first offense by a member the general population.<sup>14</sup> These suggested guidelines are as follows:

- 1) Establish a task force or commission to study sex-offender recidivism rates over time and recommend modifications to the time frames in 2) through 4), following.
- 2) Level I registrants have their registration automatically terminated after 10 years as a Level 1, commencing upon release at or entry into Level 1 status. or may request termination if special conditions arise.
- 3) Level II registrants may request re-evaluation to Level 1, annually after 5 years post-release or entry into Level II status, or if special conditions arise.
- 4) Level III may request re-evaluation to Level II or I, annually after 5 years post-release, or if special conditions arise.
- 5) Evaluations made by the jurisdiction of residence (or incarceration, pending release) shall be honored by all other subsequent jurisdictions.

A benefit of this scheme is that it adds a carrot to the stick, a positive incentive to remain in society offense-free.

### **3.2 Set upper limits to what local jurisdictions may do.**

Various legislators around the country have blatantly attempted one-upsmanship games with their sex-offender registration requirements and restrictions in order to push the registered sex offender into other jurisdictions.<sup>15</sup>

The guidelines here do not restrict such actions but should, by establishing upper limits to what jurisdictions may do. My recommendation is that the upper limits should be set by a task force comprised of law enforcement, victims' advocates, civil liberties and legal organizations, and, if possible, registered sex offenders themselves (for the "inside" look at the guidelines and their effects).

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13 "Examining Sex Offender Recidivism," p.13 and 16-17, <http://csor.freecservers.com/Examining.pdf>, derived from "Sex Offenses in Washington State: 1998 Update," [http://www.wsipp.wa.gov/rptfiles/chrtbook\\_98.pdf](http://www.wsipp.wa.gov/rptfiles/chrtbook_98.pdf), and "Examining Recidivism," NCJ-96501, U.S. Dept. of Justice, Bureau of Justice Statistics, 2/1985, paper only.

14 See "Ten Year Recidivism Followup of 1989 Sex Offender Releases", Ohio Dept. of Rehabilitation and Correction, Table 19, "Time to Sex Recidivism" p. 12, [http://www.drc.state.oh.us/web/Reports/Ten\\_Year\\_Recidivism.pdf](http://www.drc.state.oh.us/web/Reports/Ten_Year_Recidivism.pdf).

15 For example, GA House Majority Leader Jerry Keen (R): "We want people [sex offenders] running away from Georgia. Given the toughest laws here, we think a lot of people could move to another state... If it becomes too onerous and too inconvenient, they just may want to live somewhere else. And I don't care where, as long as it's not in Georgia." [http://findarticles.com/p/articles/mi\\_km4464/is\\_200606/ai\\_n16578162](http://findarticles.com/p/articles/mi_km4464/is_200606/ai_n16578162)

From: Kimberly Held [REDACTED]  
Sent: Saturday, July 21, 2007 10:26 PM  
GetSMART  
Subject: OAG Docket no.121 SORNA Guideline Response

Please allow me to make the following suggestions regarding SORNA:

GOAL: To promote SO stability and registry compliance.

GOAL: To provide and maintain a comprehensive Tracking System that promotes fairness and public confidence.

Jurisdictions must provide the tools to determine distance

(ie.1000FT)

Jurisdictions must provide toll free telephone numbers with 24 hours

service

Jurisdictions must provide access for notification from any jurisdiction

Jurisdictions must provide positive reinforcement( ie register on time for 6 months, get next month fee free)

Develop a standardized Tier system that all jurisdictions must

follow

according to the risk level not the punishment

Provide the public with statistical analysis of the effectiveness by

showing registry compliance and recidivism rates in every jurisdiction and state on an annual basis

Analyze and consider the affects of the consequences of registry on the SO lives, families (sociological), communities (safety), jurisdictions, and Department of Corrections (financial).

Provide for annual jurisdictional re-examination utilizing the above analytical results.

ther than creating a unemployed and homeless population that is depressed, stigmatized, and angry, help create hope and change by providing resource centers for jobs, living quarters, and treatment.

thank you, Kim Held

Kim Held, R.N.  
[REDACTED]  
[REDACTED]  
[REDACTED]

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July 20, 2007

OAG Docket No. 121

Ms. Laura L. Rogers, Director  
SMART Office

Dear Ms. Rogers:

We have carefully read through The National Guidelines for Sex Offender Registration and Notification. Throughout the document it is stated, on numerous occasions, that the primary purpose is to protect the public. Yet, nowhere in the document nor anyplace else has the Justice Department, Congress or Attorney General Gonzalez published any scientific study or statistics to support the viewpoint that restrictive laws after prison, public access Internet information and community notification about a particular group of people, in this case former sex offenders, does and will protect the public. On the contrary, there are quite a few studies displaying statistical data that confirm the fact the majority of sex crimes, approximately 95%, are committed by **first time** offenders, not by people registered on a public Internet registry. Former Congressman Mark Foley is an example.

Another aspect of "protection of children and the public" that concerns us is that SORNA assumes people on the registry are dangerous and will reoffend. That is a reprehensibly false assumption and presupposes an individual will reoffend. It gives the former offender no opportunity to present a case that he or she will not reoffend. It does seem to violate Due Process.

Because SORNA requires former sex offender people to have personal information posted in a public-access Internet site it leads people to continue to hold the **false** belief that "once a sex offender always a sex offender." Politicians have not based SORNA on research-based facts. SORNA is based on false premises, emotions, hysteria, fear and a scant of highly media-sensationalized cases; the magnitude of the problem has been grossly over-exaggerated. SORNA

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within five years.

Source for numbers 2 through 7: Sohopeful International, Inc. Portland, Oregon, page 16. Published: September, 2005

8. The Michigan Parole Board recidivism statistics show, in an eleven-year study (1990-2000), that former sex offenders average 1.65% recidivism rate for the same crime. This is considered to be an important study because it tracks before and after public registries and **documents that a public registry has virtually no effect on recidivism.**

One of the tragedies of SORNA is that it focuses entirely on former sex offenders as the greatest threat to the "protection of children and society," whereas the research clearly indicates the majority of horrific crimes against children are committed by family and close friends. It has been well-documented that each year thousands of children are physically abused by parents and caregivers. In 2003, according to the Department of Human Services, more than 1,500 children died from the abuse of their parents or caregivers. That translates into an average of over four children every single day! To deflect, minimize and draw attention away from the crisis and tragedy happening everyday to children within the family unit to censure, publicly isolate, humiliate, blame and further punish former sex offenders as being the demons in society is unconscionable.

An added concern we have about SORNA is that Attorney General Gonzalez and Congress have said SORNA is intended to be non-punitive, but those words play with semantics to simply satisfy and weakly defend a viewpoint that is not supported by research. By definition, the word punitive entails penalty, deprivation and disciplinary measures. SORNA directly imposes penalties, restrictions, disciplinary measures and deprivation into the lives of former sex offenders and their families. The results of the penalties have had a major impact in the lives of former sex offenders and their families. Some have been forced to move, some are harassed in different ways and some are physically and verbally assaulted. Some have lost jobs and some cannot even secure a job. Some have been murdered. Former sex offenders are deprived of their privacy when information about them becomes public information; it is publicly humiliating, shames and disgraces a person. It is a form of banishment.

A further concern we have with SORNA relates to the tiered classification system. It appears SORNA wants to place former offenders into tiers based on the committed crime. For many reasons, there is great disparity in sentencing sex

offenders, even when the crime is identical. One person is sentenced to probation and another is sentenced to years in prison for the same crime. It is well-documented women generally receive lesser sentences than men. There is the considerable likelihood that a person could be placed on Tier I and in actuality have committed a greater offense than another person on Tier II. If a tier classification system is used it should be based on the individual person's past, present and future likelihood of reoffending. Only qualified professional psychiatrists and psychologists who are knowledgeable about recidivism assessment tools should assess a person's "risk of reoffending."

It has cost, is costing, and will continue to cost taxpayers millions of dollars to **falsely** protect children and the public through public Internet registries. No one seems to be asking such questions as, "How effective are the laws? Are there other alternatives that would work better? Is there a justifiable threat? How common is the threat? What are the real threats and dangers to children and society?"

Before entering a public-access Internet registry it should be required that people read the research data on sexual offending. That information should be available to people upon entering the registry. There should also be a list of sources to go to for people who wish to further their knowledge base.

It is extremely obvious to people who have read and studied the research that SORNA is not based on research or logic. It is a tragedy that the murder of a child has been linked to all former sex offenders. It is a tragedy that many thousands of people are being subjected to SORNA. It is a tragedy that the millions of dollars being spent are not being used to provide professional rehabilitative therapy for former sex offenders with the goal of positive integration into society and not segregation and isolation. It is a tragedy that millions of dollars are not being spent to professionally help the thousands of families who physically abuse their children every day. SORNA was legislated "not because it is good crime control, but because it is good politics."

Very sincerely,

*Justine Landes  
for Garry*

Rogers, Laura

tier 3, D.P.

From: [REDACTED]

Sent: Thursday, May 31, 2007 6:50 PM

To: GetSMART

Subject: sorna rules

Dear Ms rogers,

I see a lack of due process for teir 3 people to be taking off the list. I also see a lack of due process when people are forced to carry the goverments mail box when they travel. this I feel can not be made retroactive.

Steve Oakes  
[REDACTED]

8/16/2007

Dear sirs,

If the Members of congress, and other members of government have 6 months before they have to fill out any state paper work when they move, how can sex offenders have only 3 days. I see a great lack of equal due process.

Aren't Email addresses protected by the 4th admendment? And if allowed to be taken, would they not be protected as evidence.

If teir 1 can be removed from the list after 10 years, would this not deny teir 3 equal due process. these laws are suppose to be based solely on having a record, and not into the contents of the record, as per the supreme court ruleing. I can see many court challenges headed your way. I also have to wonder whats going to happen when 730 thousand sex offenders get tired of being lock up for crimes that don't apply to the rest of the public, or their leaders in government.

Steve Oakes  


**Rogers, Laura**

**From:** Bob Kerr [REDACTED]  
**Sent:** Wednesday, July 25, 2007 12:23 PM  
**To:** GetSMART  
**Subject:** Re: OAG Docket No 121

Director Rogers,

Why not focus on breaking down the registry into classes! This would reduce hardship on those who made a mistake in their youth and those who are true predators on *people not just children*. Every time I hear "For the Children" that seems to be a key word for the over zealot politicians who want to make a name for them selves.

**You have to come to you senses on this witchhunt you have fueled the fire on.**

On 7/21/07, GetSMART <getsmart@usdoj.gov> wrote:

Thank you for your feedback on the proposed National Guidelines for Sex Offender Registration and Notification. The guidelines will provide a comprehensive set of minimum standards to strengthen our ability to track and monitor sex offenders and will give us an important tool in our nation's efforts to protect children against predators. We appreciate your comments and will take them into account as we finalize this document.

Laura L. Rogers, Esq.

Director

Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office

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**From:** [REDACTED]  
**Sent:** Friday, June 22, 2007 9:02 PM  
**To:** GetSMART  
**Subject:** OAG Docket No 121

This docket is absurd. Please refocus your attention to more pressing issue instead of this media witch hunt. If you would go to the class system and quit harassing people who made a stupid mistake it would not destroy more lives!

The following is a list of issues as I see it with the SONRA. I would suggest that people write to the office of SMART. They should rewrite the issue as they see it. I am listing them by number only that is not to say the first numbers are the most important.

1. Sec 118 subsection (f) This is the section on using the list to cause injury or harassment to commit may be a crime. Issue; I feel the word may should be changed to shall result in civil and criminal penalties. This would require if the word shall were put into the law the police would have to take a report if an SO is harassed or injured because

8/16/2007

their information was on the SOR.

2. Sec 114 (a) (7) this section states that if a SO is going to stay in any one place more than 7 consecutive days they must register that location as one they may stay in.

Issue; I feel that this should read in 7 seven days anyone calendar year

3. Sec 114 (a) (6) (a) (7) All vehicles including water craft or any type of vehicle shall be part of the SOR.

Issue; As I see it this information should only be available to Law Enforcement and be added to section 118(b) and Part VII as mandatory excluded information from the public. I have many reasons that I feel this information should not be public. But the main one was what happens when other people drive that vehicle; not the SO, these people will be subject to possible road rage and harassment as they travel down the roads, this will cause a danger to all the people around them. Furthermore this could cause more unjust convictions of person on the SOR as this would give a person enough information on the SO to report a false crime that the SO did.

4. Sec 113 (a) (b) (c) and also in sec. 117 (a) This is the 3 (Business days) day rule that req. the SO to report any change in address, school, or work. Also it requires the SO to report immediately any change in vehicles, phone numbers; cell or land line and any change in internet status. (IE new e mail address, new screen name and so on) Issue this is to short of a time frame to report, take for example a person moves

--

Bob Kerr

[REDACTED]  
[REDACTED]  
[REDACTED]