



Sex Offender Registration

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

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Dear Department Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and law enforcement agency governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit, entitled Sex Offender Registration. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

New York State has enacted a Sex Offender Registration Act (SORA) to assist local law enforcement agencies and to protect communities by 1) requiring sex offenders to register with the State and 2) providing information to the public about certain sex offenders living in their communities. SORA took effect on January 21, 1996. It contains provisions establishing reporting obligations for sex offenders and defines related responsibilities for local law enforcement agencies (Departments) in ensuring compliance. SORA requires the NYS Division of Criminal Justice Services (DCJS) to maintain, assisted by local law enforcement agencies, a statewide database to enable the public to access reliable information on sex offenders.

Among the obligations assigned to sex offenders by SORA are the requirements to provide a current photograph and to verify their residential address. Our audit focused on the obligations of Level 2 (moderate-risk) and Level 3 (high-risk) offenders. Moderate-risk offenders must report to an assigned law enforcement agency to have their photograph taken every three years. High-risk offenders must report yearly. Additionally, offenders must verify with DCJS, on an annual basis, their address of residence. If an offender fails to satisfy these obligations, DCJS notifies the local law enforcement agency. In response, Departments are expected to take action to ensure compliance with SORA and report back to DCJS with respect to their enforcement results.

SORA also requires local correctional facilities to process a change-of-address form when they incarcerate a sex offender and to change the address of the offender prior to the offender's release from the correctional facility.

Scope and Objective

The objective of our audit was to determine if Departments took action to help enforce the State's SORA for the period January 1, 2008 through January 22, 2014. Our audit addressed the following related questions:

- Are local law enforcement entities taking action when DCJS notifies them of a sex offender's non-compliance with SORA notification requirements?
- Are local law enforcement entities complying with SORA legal provisions?

Audit Results

Although we found Departments are taking some actions to help enforce SORA, they could do more to ensure that sex offenders comply with the SORA provisions and that the State's Sex Offender Registry and Subdirectory (which provides information about moderate- and high-risk "sex offenders"¹ residing in NYS communities) contain up-to-date offender information and photographs.

We audited 15 Departments, comprising county sheriffs' offices in Broome, Cayuga, Oneida, Ontario, Saratoga, St. Lawrence, Steuben and Warren counties, city police departments in Buffalo, Mount Vernon, Ogdensburg, Rochester, Syracuse and Utica, and a county police department in Suffolk.

Ten Departments (Broome, Buffalo, Cayuga, Mount Vernon, Ontario, Rochester, Saratoga, St. Lawrence, Steuben and Warren) did not always act on DCJS photograph notifications in a timely manner to manage their offender populations. Although an offender's failure to report to update their photograph is a felony, our testing showed no action was taken on 170 of the 322 photograph notifications examined (53 percent).

Overall, the 15 Departments generally took action when they were notified that an offender failed to return the annual address verification form. However, five Departments (Mount Vernon, Rochester, Steuben, Suffolk and Syracuse) took no action on eight of the 132 notifications issued by DCJS informing them that offenders in their jurisdictions failed to comply with the annual address verification requirement.

We also found that some Departments are not fulfilling their SORA responsibilities. Eight Departments maintain a county correctional facility (Broome, Cayuga, Oneida, Ontario, Saratoga, St. Lawrence, Steuben and Warren) and are therefore required to process a change-of-address form for each offender when they incarcerate and later release the offender from their facility. Broome, Ontario and Saratoga County consistently processed the change-of-address forms. However, the other five Departments did not process the forms for 15 offenders who were admitted to their correctional facility and, more importantly, for 23 offenders who were released.

Lastly, we reviewed the SORA policies and procedures adopted and implemented by the Departments and found they varied widely in their scope and comprehensiveness. There were varying degrees of Department compliance with their own established policies and procedures. Specifically, five Departments (Broome, Cayuga, Ontario, Saratoga and Steuben) adopted policies and procedures that did not include provisions for all of their SORA responsibilities.

Comments of Local Officials

The results of our audit and recommendations have been discussed with local officials and their comments, which appear in Appendix A, have been considered in preparing this report.

¹ Under SORA, a "sex offender" is defined as any person who is convicted of any of the offenses set forth in New York State Correction Law Section 168-a(2) or (3).

Introduction

Background

Megan’s Law,² a federal law enacted May 17, 1996, is intended to protect the public from sexually violent offenders. It requires states to release relevant information necessary to protect the public concerning registered, convicted sex offenders. The State enacted the Sex Offender Registration Act (SORA)³ to comply with this law, assist local law enforcement agencies and protect the public.

SORA requires the NYS Division of Criminal Justice Services (DCJS) to establish and maintain a Registry and a Subdirectory. The Subdirectory, which is available to the public on the DCJS website, provides information about moderate- and high-risk “sex offenders”⁴ residing in NYS communities. It includes, among other things, the sex offender’s name, age, exact address, employment address, photograph, physical description and distinctive markings.

When an individual is convicted of a sex offense and then sentenced, a risk level is assigned based on the degree of risk of repeat offense, as follows: Level 1 (low-risk), Level 2 (moderate-risk) or Level 3 (high-risk and a threat to public safety). Further, if warranted, the offender is given a designation as a sexual predator, sexually violent offender or predicate sex offender.⁵ Once certified by the court as a sex offender, the individual is required to register with DCJS and abide by the specific registration requirements.⁶

SORA assigns a “local law enforcement agency having jurisdiction” (i.e., chief law enforcement officer of a town, village or city; or, if none, the chief law enforcement officer of the county) to each convicted offender based on his or her residence. Sex offenders are required to verify their address annually and must register with DCJS within 10 days of any change of address. As a requirement of SORA, Level 1 and Level 2 offenders also must have their Registry photograph updated every three years, while Level 3 offenders are

² Megan’s Law (PL 104-145) is named for Megan Nicole Kanka, a seven-year-old murdered in 1994 near her New Jersey home by a neighbor who was a convicted sex offender. Megan’s Law amended the 1994 Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, which had the effect of requiring states to implement and maintain registries of certain sex offenders and offenders convicted of certain crimes against minors.

³ SORA; Article 6-C of the Correction Law, effective January 21, 1996

⁴ Under SORA, a “sex offender” is defined as any person who is convicted of any of the offenses set forth in Correction Law §168-a(2) or (3).

⁵ See definitions in Appendix C.

⁶ General requirements are detailed in Appendix C.

required to have their photograph updated each year. Additionally, Level 3 offenders and sex offenders designated as sexual predators must personally report to the local law enforcement agency having jurisdiction every 90 days to verify their address.

If a sex offender fails to meet the annual address verification, DCJS notifies the offender's local law enforcement agency (Department) having jurisdiction that the offender failed to comply and asks it to follow up. DCJS also notifies the sex offender and the agency having jurisdiction when the offender is required to have the Registry photo updated.

Further, Departments responsible for maintaining correctional facilities are required to process change-of-address forms when sex offenders are incarcerated and again when the sex offenders are released from their facilities. The address changes are reported to DCJS to update the Registry and Subdirectory with the sex offenders' most current residential address.

We audited 15 local Departments in six cities and nine counties across the State to determine whether they enforced SORA during the period January 1, 2008 through January 22, 2014. New York State has over 37,000 registered sex offenders. Our audit focused on the obligations of over 3,600 moderate- and high-risk sex offenders in these communities. Figure 1 provides relevant statistics for these cities and counties.

Figure 1: City and County Statistics for Audited Departments

Local Law Enforcement Jurisdiction	2013 Department Budget (Millions)	Population (2010 Census)	Moderate- and High-Risk Sex Offenders (As of July 2013)
Buffalo Police Department	\$79.6	259,400	570
Broome County Sheriff's Office	32.5	198,000	123
Cayuga County Sheriff's Office	14.5	80,000	86
Mount Vernon Police Department	20.3	67,900	66
Ogdensburg Police Department	3.6	11,000	120
Oneida County Sheriff's Office	35.8	233,600	310
Ontario County Sheriff's Office	11.4	108,500	129
Rochester Police Department	85.4	210,500	540
Saratoga County Sheriff's Office	26.7	222,100	146
St. Lawrence County Sheriff's Office	11.7	112,200	167
Steuben County Sheriff's Office	12.1	99,000	145
Suffolk County Police Department	428.6	1,500,000	413
Syracuse Police Department	44.5	144,200	483
Utica Police Department	21.0	62,000	205
Warren County Sheriff's Office	20.7	65,500	99

Objective

The objective of our audit was to determine if local law enforcement entities are taking action to help enforce SORA. Our audit addressed the following related questions:

- Are local law enforcement entities taking action when DCJS notifies them of a sex offender’s non-compliance with SORA notification requirements?
- Are local law enforcement entities complying with SORA legal provisions?

Scope and Methodology

For the period January 1, 2008 through January 22, 2014, we interviewed law enforcement officials and staff, reviewed Department policies and procedures, identified the SORA requirements, became familiar with DCJS practices and reporting methodologies, and reviewed samples of Departments’ sex offender populations to ensure compliance with SORA.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on

such standards and the methodology used in performing this audit is included in Appendix B of this report.

Comments of Local Officials

The results of our audit and recommendations have been discussed with local officials and their comments, which appear in Appendix A, have been considered in preparing this report.

Notification Usage

DCJS routinely communicates with local law enforcement entities regarding sex offenders assigned to their jurisdiction. Among these communications are offender notifications relative to an offender's compliance with their SORA obligations, such as photograph notifications and annual address verification notifications.

We found that many Departments did not always take action on DCJS notifications to manage noncompliance by their sex offender populations. Ogdensburg, Oneida and Utica acted on all their DCJS notifications. Ten Departments (Broome, Buffalo, Cayuga, Mount Vernon, Ontario, Rochester, Saratoga, St. Lawrence, Steuben and Warren) showed no action taken on 170 of the 322 photograph notifications examined. Five Departments (Mount Vernon, Rochester, Steuben, Suffolk and Syracuse) also took no action on eight of the 132 notifications issued by DCJS informing them that offenders in their jurisdictions failed to comply with the annual address verification requirement. Further, although three Departments (Buffalo, Mount Vernon and Steuben) took follow-up action on 73 address verification notifications, they did not report the investigation results back to DCJS in 21 instances. Figure 2 summarizes the Departments' enforcement actions with regard to offender photograph updates and address verifications.

Figure 2: Usage of DCJS Notifications

Local Law Enforcement Jurisdiction	Offenders With Overdue Photographs		DCJS Address Verification Notifications	
	Offenders Included in DCJS Report	No Enforcement Action	Notifications Examined	No Enforcement Action
Broome County Sheriff's Office	16	16	0	0
Buffalo Police Department	64	30	26	0
Cayuga County Sheriff's Office	12	9	6	0
Mount Vernon Police Department	23	20	28	3
Ogdensburg Police Department	69	0	9	0
Oneida County Sheriff's Office	2	0	11	0
Ontario County Sheriff's Office	6	3	13	0
Rochester Police Department	42	41	22	1
Saratoga County Sheriff's Office	8	6	21	0
St. Lawrence County Sheriff's Office	29	27	27	0
Steuben County Sheriff's Office	17	15	19	1
Suffolk County Police Department	14	0	49	2
Syracuse Police Department	13	0	14	1
Utica Police Department	2	0	31	0
Warren County Sheriff's Office	5	3	15	0
TOTAL	322	170	291	8

Photograph Updates

DCJS notifies sex offenders when they must report to their Department to update their Registry photograph, and notifies the Department when to expect each sex offender who needs their Registry photograph updated. DCJS also maintains lists of offenders who have not updated their photograph, as required, and makes this report available to each law enforcement entity through an online system. Level 2 (moderate-risk) offenders must report to their law enforcement agency to have their photograph taken every three years. Level 3 (high-risk) offenders must report yearly.

Ten Departments (Broome, Buffalo, Cayuga, Mount Vernon, Ontario, Rochester, Saratoga, St. Lawrence, Steuben and Warren) do not always act on DCJS photograph notifications in a timely manner to manage their sex offender populations. For example, Mount Vernon officials told us they were not aware that DCJS made available to

them a list of offenders residing in their jurisdiction who failed to report to the Department for updating their Registry photograph.

Within the 10 Departments, 322 sex offenders, as listed on the DCJS reports, did not report to their local law enforcement agency to have their updated photographs taken. Of these, 170 offender photographs, or 53 percent, were not updated on the DCJS website. Departments did not always act on these reports in a timely manner to manage their sex offenders. For example, while Buffalo had 64 offenders on its report, that Department resolved 34 of them. In addition, Broome did not take action to bring in any of the 16 offenders who did not update their photographs and who were on the DCJS report, which resulted in outdated photographs remaining available to the public and law enforcement.

We also found that four Departments (Broome, Rochester, St. Lawrence and Warren) with a total of 26 updated sex offender photographs on file either did not transmit the new photograph to DCJS or did not confirm to DCJS that the Registry and Subdirectory were updated. As a result, DCJS believed the offenders violated SORA and retained their names on the reports as failing to fulfill their SORA responsibility, a felony offense. Moreover, the Registry and Subdirectory continued to reflect old photographs.

When up-to-date offender photographs are not available, both law enforcement and the public cannot easily recognize sex offenders and are potentially limited in their ability to identify offenders in their communities.

Annual Address Verification Each year, DCJS mails a non-forwarding Address Verification Form to each sex offender's last reported address. The sex offender must sign and return the form to DCJS within 10 days of receipt. If an offender fails to do so, DCJS notifies the offender's law enforcement agency that the offender failed to comply with the annual verification requirement and asks the Department to follow up. In such cases, DCJS asks the Department to determine if the offender still resides at the reported address and to report the investigation results to DCJS, and requires Departments to respond by indicating one of the following three resolutions:

- The offender is residing at the registered address
- The offender no longer lives at the registered address and a change of address was processed or

- The offender could not be located and an arrest warrant was issued.

DCJS also maintains a list of offenders who have failed to verify their address as required and makes this list available to the Department through an online system.

The 15 Departments generally take action when they are notified that an offender failed to return the annual address verification form.⁷ However, five Departments (Mount Vernon, Rochester, Steuben, Suffolk and Syracuse) took no action on eight of the 132 notifications issued by DCJS informing them that offenders in their jurisdiction failed to comply with the annual address verification requirement.

For example:

- Mount Vernon did not investigate why a Level 3 offender⁸ failed to verify his address for three consecutive years.
- Rochester did not investigate why a Level 2 offender⁹ failed to verify his address for two consecutive years.

Department officials had no explanation for not investigating these instances. Although they receive annual failure notices for sex offenders, Department officials told us that certain offenders test the system and will not return the forms to DCJS but still reside at the address, resulting in a Department investigation. For example, Suffolk has three moderate-risk and two high-risk sex offenders who for four consecutive years did not return their verification forms, but Department follow-up action showed that the recorded addresses were accurate.

We also found that three Departments (Buffalo, Mount Vernon and Steuben) took follow-up action on 73 address verification notifications, but did not report the investigation results back to DCJS in 21 instances. For example, Mount Vernon conducted investigations of two offenders:

- A Level 3 offender¹⁰ did not verify his address, and the Department investigated the case and could not locate the

⁷ At the time of our audit, 92 addresses were confirmed, 17 change-of-address forms were processed, two warrants were issued, seven investigations were ongoing, and five offenders were found to be in jail or in an institution.

⁸ Convicted of forcibly touching a 16-year-old girl

⁹ Convicted of having intercourse with a girl under the age of 15 and raping a woman older than 18 years of age

¹⁰ Convicted of raping and sodomizing a 15-year-old girl

offender. Officers explained that they prefer to locate offenders and bring them into compliance rather than arrest them. At the time of our visit, this high-risk sex offender's location was unknown for three months.

- A Level 2 offender¹¹ did not verify his address and could not be located. Officers said they believe the offender moved to another state, and told us they do not pursue arrest warrants unless the offender resides in or returns to New York State. At the time of our test, this moderate-risk sex offender's location was unknown for 10 months.

It is important that Departments not only notify DCJS of their investigation status, but also be proactive in taking appropriate measures to resolve cases. Sex offenders who fail to satisfy their SORA obligation to report their change of address or verify their address annually can reside in a community and interact with vulnerable populations undetected, which can place children and the general public at risk. Therefore, Departments should take follow-up action on each notification they receive from DCJS and ensure that the results of those actions are on the public record.

Recommendation

1. Department officials should use all DCJS notifications and resources to manage the sex offender population under their jurisdiction, notify DCJS of the current status on each case and follow up to ensure the notifications have been received.

¹¹ Convicted of sexually abusing a 23-year-old woman

Department Compliance

SORA requirements are in place to ensure that the statewide database enables the public to access reliable information regarding sex offenders. The local correctional facilities' requirements to submit address changes assists in keeping the public informed and protected. To do so effectively, written policies and procedures provide guidance to employees as to their roles and responsibilities.

We found varying degrees of Departments' compliance with their established policies and procedures. Specifically, five Departments (Broome, Cayuga, Ontario, Saratoga, and Steuben) adopted policies and procedures that do not include provisions for all of their SORA responsibilities.

Change-of-Address Forms

SORA requires local correctional facilities to process a change-of-address form when a sex offender is incarcerated and requires them to complete and process the address change prior to the offender's release from the correctional facility. Additionally, Level 3 offenders and sex offenders designated as sexual predators must personally report to the local law enforcement agency having jurisdiction every 90 days to verify their address.

Eight of the Departments included in our audit maintain a county correctional facility (Broome, Cayuga, Oneida, Ontario, Saratoga, St. Lawrence, Steuben and Warren) and are therefore required to process a change-of-address form each time an offender is incarcerated and again when the offender is released into a community. Broome, Ontario and Saratoga processed all of their change-of-address forms, while the remaining five Departments did not, as shown in Figure 3.¹²

¹² Subsequent to issuing the draft of this report to the law enforcement agencies for their review, we updated Figure 3 to reflect that the law requiring change-of-address processing may not apply to transfers of offenders between correctional facilities (as opposed to their release into a community). Figure 3 now reflects timely completion of change forms, where applicable.

Figure 3: Change-of-Address Processing

County Correctional Facility	Offenders Incarcerated	Offenders Released	Change-of-Address Forms		
			Completed and Processed	No Admission Form	No Release Form
Broome County Sheriff's Office	25	23	47	0	0
Cayuga County Sheriff's Office	4	3	5	0	1
Oneida County Sheriff's Office	29	24	46	3	3
Ontario County Sheriff's Office	13	12	25	0	0
Saratoga County Sheriff's Office	5	5	8	0	0
St. Lawrence County Sheriff's Office	24	24	28	1	14
Steuben County Sheriff's Office ^a	21	20	23	8	4
Warren County Sheriff's Office	18	14	25	3	1
TOTALS	139	125	207	15	23

^a During our review, we found one admission change-of-address form and two release change-of-address forms in the Department's files. However, the information was not reported to DCJS.

For the period January 1, 2008 through January 22, 2014, we reviewed a total of 264 admissions and releases, from the eight correctional facilities to determine if they complied with the requirement to complete and process the offenders' change-of-address forms. We found 36 instances of address forms not consistently being completed and processed for admissions and releases. Of special concern, 23 of those instances related to sex offenders who had been released from incarceration; therefore, their address would remain as that of the correctional facility shown on the Registry and Subdirectory, until the offender – on his or her own initiative – reports a new change of address.

Departments generally indicated that either they forgot to process the change-of-address forms or the releasing officer did not know of the requirement to process the form. If a change of address is not processed when offenders are released from incarceration, the Registry continues to report that they are in prison when they are not. Because the current system relies on offenders updating their addresses on their own initiative – whether to DCJS or to a Department – the Registry may not be updated. These reporting omissions could place the public at an increased risk of harm. It is therefore essential that Departments assume the responsibility for following up on DCJS reports to ensure that offenders' addresses are properly updated.

Policies and Procedures

Effective written policies and procedures allow employees to understand their roles and responsibilities in carrying out day-to-day responsibilities, allow management to guide operations without constant intervention, and help ensure that management's expectations are clearly conveyed. Reliance on unwritten policies and practices may lead to misunderstandings and inconsistency. Written policies and procedures should be clearly conveyed and regularly reviewed to ensure that they continue to meet management's expectations.

We reviewed the SORA policies and procedures adopted and implemented by the 15 Departments and found they varied widely in their scope and comprehensiveness. We also found varying degrees of compliance with Departments' own established policies and procedures. For example:

- Utica requires Level 3 offenders to personally report to the Department to verify their address, as required by SORA, and have a new photograph taken every 90 days, whereas Steuben allows Level 3 offenders residing in the jurisdiction to call in to verify their address every 90 days without appearing in person and updates their photo once a year.
- Cayuga's and Buffalo's policies and procedures do not reflect their current practices. Cayuga personnel destroy sex offender records once they have been addressed and do not maintain them, which is contrary to policy. Buffalo's policy and procedures, established in 2000, have not been reviewed or updated in at least the past decade. Officials informed us that the policy and procedures are outdated and do not reflect current practices.

Each county that maintains a correctional facility is required to process a change-of-address form when it incarcerates and later releases an offender from their facility. The Suffolk County Police Department does not operate a correctional facility so it would not process change-of-address forms when offenders are incarcerated, as this is handled by the Suffolk County Sheriff's Office. However, five (Broome, Cayuga, Ontario, Saratoga, and Steuben) of the eight other counties have not incorporated this responsibility into their policies and procedures. While each Department understood it was required to complete the change-of-address forms, only Ontario consistently does so.

In addition, we found that while the remaining three counties (Oneida, St. Lawrence and Warren) had policies and procedures that required personnel to process the forms, none of the units consistently

followed them. For example, although St. Lawrence had policies and procedures that required officers to process a change-of-address form when an offender was jailed or released, the Department did not update the addresses in 19 of the 24 offender incarcerations that we examined.

Policies and procedures can be an effective way for management to convey their expectations and ensure day-to-day operations are carried out as expected. However, for this to happen, policies and procedures must be written, adopted and fully implemented.

Recommendations

Department officials should:

2. Ensure the change-of-address forms are completed and processed when an offender is incarcerated and later released from the Department's correctional facility
3. Ensure their sex offender policies and procedures are complete and comprehensive and reflect management's expectations and
4. Ensure that the policies and procedures are fully implemented.

APPENDIX A

RESPONSES FROM LOCAL OFFICIALS

We provided a draft version of the respective individual audit reports to each of the 15 law enforcement agencies audited, and received 11 responses. While three agencies expressed concerns with findings relative to their specific agency, generally the units agreed with our audit findings and recommendations. We addressed the specific concerns of the three agencies in their individual audit reports. We also provided a draft copy of this global report to the agencies and requested responses. We received responses from three agencies.

The following comments were excerpted from selected responses.

Overall Comments

Broome County law enforcement officials said: “Due to constant changes in technology and trends, our written policy has not been made current to coincide with the manner in which we were managing our sex offender registry. Those changes have since been made and we can now continue to successfully manage our sex offender program.”

Saratoga County law enforcement officials said: “As a whole, the Sheriff’s Office is pleased with the results of the audit. The audit was conducted in a fair and impartial manner and sufficient opportunity was given for members of the Sheriff’s Office to actively participate in the process and provide guidance and explanations as necessary.”

City of Utica law enforcement official said: “Due to the sensitive nature of monitoring sex offenders throughout New York State, I feel that such audits like this should take place more frequently. This may assure that all departments follow the SORA act in a uniform fashion. This will not only help with communication between respective departments, but will also give the sex offender some uniformity from jurisdiction to jurisdiction. I believe this will in turn lead to better sex offender compliance of SORA regulations.”

Change-of-Address Processing

Warren County law enforcement officials said: “The law infers the inmate as being sentenced to our facility, as notification [of change of address] is required 10 days prior to release or discharge. The law also infers the inmate is being released to the community based upon the items to be reported.”

OSC Response

We updated the Warren County audit report to reflect that the law may not apply to transfers between correctional facilities and that the Department completed the change form in a timely manner for the inmate released by a court during an appearance.

We also modified Figure 3, “Change-of-Address Processing,” in this global report to show timely completion of change-of-address forms by various agencies, as applicable.

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

To determine if the Departments took action when DCJS notified them of an offender's non-compliance with SORA address verification requirements, we asked Department officials for the list of offenders who failed to verify their address. This list was provided by DCJS, from eJusticeNY. We also generated random audit samples and examined sex offender files to determine if the sample sex offenders failed to verify their addresses. We interviewed Department officials and examined related supporting documentation to determine what actions were taken to verify the offender's address.

To determine if the Department responds to DCJS notifications regarding offenders with photographs to be due soon, and if the Department uses DCJS-provided resources that identify offenders with expired photographs, we obtained the DCJS list of offenders that owed photographs and met with Department officials to learn why a photograph was not taken and what actions they took to bring the offender into compliance.

To determine whether the Departments that operate correctional facilities obtained DCJS change-of-address forms relating to a sex offender being admitted to and released from the county correctional facility, we requested a list of sex offenders who had been incarcerated in the facility during our scope period. We selected a judgmental audit sample of 143 offenders from these lists; because each unit had unique record systems, our selection process varied from unit to unit. When possible, all records were examined. For each offender selected, the Departments provided the offender's jail admission and release dates, and we searched the related offenders' hardcopy files for DCJS address change forms corresponding to these dates. We interviewed the Departments' correctional facility supervisor and examined DCJS Offender Detail reports to determine if the jail obtained the required address change forms and whether the information had been transmitted to DCJS.

We also reviewed each Department's policies and procedures and compared them to Department practices to determine if they address all of the Department's SORA responsibilities.

APPENDIX C

DEFINITIONS, REGISTRATION REQUIREMENTS, CONVICTIONS IN OTHER JURISDICTIONS AND THE SORA WEBSITE

Definitions (from Correction Law §168-a)

Sex Offender: Includes any person who is convicted of any of the offenses set forth in subdivision two (2) or three (3) of Article 6-c, Section 168-a of the NYS Correction Law.

Sexual Predator: A sex offender who has been convicted of a sexually violent offense as defined in subdivision three (3) of Section 168-a of the NYS Correction Law and who suffers from a mental abnormality that makes such person likely to engage in predatory sexually violent offenses.

Sexually Violent Offender: A sex offender who has been convicted of a sexually violent offense defined in Subdivision three (3) of Section 168-A of the NYS Correction Law.

Predicate Sex Offender: A sex offender who has been convicted of an offense set forth in subdivision two (2) or three (3) of Section 168-a of the NYS Correction Law, when the offender has been previously convicted of an offense set forth in subdivision two (2) or three (3) of section 168-a of the NYS Correction Law.

Registration Requirements

An offender's basic obligations are as follows. Sexual predators, sexually violent offenders and predicate sex offenders all must register for life and:

- Report annually where they live by signing and returning an annual verification form to DCJS within 10 days after receiving it
- Notify DCJS in writing of a new address no later than 10 days after moving
- Report in person to a local police agency to have a current photograph taken every three years (Level 1 and 2 offenders) or every year (Level 3 offenders and offenders labeled as a sexual predator)
- Notify DCJS in writing of any institution of higher education they are attending and enrolled in, confirming they are living and indicating whether they are employed. Any change in status must be reported to DCJS no later than 10 days after the change and
- Provide in writing Internet service providers, Internet screen names and email accounts.

Level 2 and Level 3 offenders must annually state that they are still employed at the last reported address.

Level 3 offenders and offenders with a sexual predator designation must personally verify their addresses every 90 days with law enforcement. Law enforcement may at that time photograph a Level 3 offender if that offender's appearance has changed.

Note: The preceding is a basic list of responsibilities; please refer to Correction Law Article 6-C for more detailed information.

Convictions in Other Jurisdictions

(Source: DCJS website: <http://www.criminaljustice.ny.gov/nsor/sortab1.htm>)

Individuals convicted in another jurisdiction (federal, military, or another state or country) who reside in New York State are required to register if:

- (1) the individual is convicted of an offense equivalent to a New York State registerable sex offense; or
- (2) the individual is convicted of a felony requiring registration in the conviction jurisdiction; or
- (3) *the individual is convicted of:*
 - 18 U.S.C.A. 2251 (sexual exploitation of children)
 - 18 U.S.C.A. 2251A (selling or buying of children)
 - 18 U.S.C.A. 2252 (certain activities relating to material involving the sexual exploitation of minors)
 - 18 U.S.C.A. 2252A (certain activities relating to material constituting or containing child pornography)
 - 18 U.S.C.A. 2260 (production of sexually explicit depictions of a minor for importation into the United States)
 - 18 U.S.C.A. 2422(b) (*coercion and enticement*)
 - 18 U.S.C.A. 2423 (transportation of minors) *or*
 - 18 U.S.C.A. 2425 (use of interstate facilities to transmit information about a minor).

SORA Website

The public may obtain information about sex offenders from the New York State Division of Criminal Justice Services' Sex Offender Subdirectory at:

http://www.criminaljustice.ny.gov/SomsSUBDirectory/search_index.jsp

APPENDIX D

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