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Report No. 15-16

# Sex Offender Registration and Monitoring: Statewide Requirements, Local Practices, and Monitoring Procedures

## *at a glance*

Since OPPAGA's first statutorily required review of sex offender registration in 2005, the number of registered sex offenders in Florida communities has grown by 44% to more than 26,000 offenders. Sheriffs' offices monitor all registered sex offenders and are meeting their statutory requirements for offender registration, address verification, and public notification.

Additionally, the Florida Department of Corrections (FDC) supervises offenders sentenced to community supervision and those who have been conditionally released from prison. Sex offenders under FDC supervision are supervised at the highest risk level which entails frequent one-on-one contact between a probation officer and offender. Some supervised offenders are placed on electronic monitoring for enhanced monitoring and supervision.

The Florida Department of Law Enforcement (FDLE) maintains Florida's sex offender registry. In addition to other information, sex offenders are required to report if they are enrolled or employed at an institution of higher learning and this information is included on FDLE's registry. Our review found this information to be out-of-date for some offenders. Offenders also must attempt to obtain valid state identification cards; however, some are unable to obtain the cards either because they lack the needed documentation or money to pay required fees. Sheriffs' offices have implemented the 30-day transient reporting requirement and report that the more frequent reporting improves accountability. However, the reporting requirement is not tracked consistently throughout the state. Transient offenders continue to be difficult for law enforcement to monitor.

## Scope

As directed by Chapter 2005-28, *Laws of Florida*, OPPAGA studied the effectiveness of Florida's sexual offender registration, address verification, public notification provisions, and monitoring of sex offenders.<sup>1, 2, 3</sup>

## Background

Beginning in 1994, the federal government passed multiple laws to establish guidelines and requirements for states to track sex offenders and inform the public of their presence. Over time, Florida's sex offender laws have evolved to meet, and in some cases exceed, federal requirements.

The 2005 Florida Legislature passed the Jessica Lunsford Act, requiring sex offenders to re-register twice a year in person with the sheriff of the county in which they reside.<sup>4</sup> In 2007, the Legislature further required sexual predators, juvenile sex offenders adjudicated

<sup>1</sup> Chapter [2005-28](#), *Laws of Florida*.

<sup>2</sup> Sex offender is used in this report as an inclusive term to denote convicted felons who are sex offenders or predators having committed certain crimes.

<sup>3</sup> As directed by law, we previously published *Florida's State, County, Local Authorities Are Implementing Jessica Lunsford Act*, OPPAGA [Report No. 06-03](#), January 2006; *Sex Offender Registration and Public Notification Improved; Some Aspects of the Process Could Be Streamlined*, OPPAGA [Report No. 08-60](#), October 2008; and *Registered Sex Offenders in Florida Communities Increased to Over 23,000; Transient Offenders Present Challenges*, OPPAGA [Report No. 12-12](#), December 2012.

<sup>4</sup> Chapter [2005-28](#), *Laws of Florida*, is known as the Jessica Lunsford Act.

delinquent, and sex offenders convicted of certain crimes to re-register four times a year, required offenders report email addresses and instant message names, and required driver licenses and identification cards issued to registered sex offenders to display distinctive information on the front to identify them as sexual offenders or predators.<sup>5</sup> In 2014, the Legislature made changes to the law increasing the information an offender must report, including information on vehicles an offender owns and vehicles owned by any person residing with the offender, expanding and clarifying the requirement to report internet identifiers (prior to their use), and tattoos or other identifying marks. The law also specified registration requirements for offenders with transient addresses, requiring them to inform the sheriff within 48 hours after establishing a transient residence and every 30 days thereafter if they maintain a transient residence.<sup>6</sup>

All sex offenders that are required to register have been convicted of certain qualifying felonies set forth in Florida statutes or have registration requirements in other states.<sup>7</sup> The sex offender registration laws do not apply to acts like public urination or streaking, which are typically punished as disorderly conduct or some other misdemeanor offense, and thus are not qualifying offenses for registration. Some sex offenders are designated by the court as sexual predators because they are deemed to present an extreme threat to public safety as demonstrated through repeated sex offenses, the use of physical violence, or preying on child victims.

The Florida Department of Law Enforcement (FDLE) maintains a sex offender registry, a statewide system for collecting and disseminating sex offender information to both the public and law enforcement agencies.

Information available to the public includes the offender's address, photo, a physical description including any tattoos, a description and tag number for all vehicles registered to the offender, as well as the date and type of sex offense. Additional information available to law enforcement includes work address, home or cellular telephone number, and a description and tag number of any vehicles registered to individuals who reside with the offender, as well as any email or internet identifiers.

Florida's monitoring of sex offenders consists of four main activities.

- **Registration requirements.** Certain sex offenders who are released from prison or placed on supervision must register in-person with the sheriff in the county where they live within 48 hours of establishing a residence or experiencing any change in information required to be provided pursuant to statute.<sup>8</sup> These offenders also must re-register two or four times a year based on their conviction(s) and status.
- **Identification requirements.** All sex offenders required to register also must attempt to obtain a driver license or identification card from the Department of Highway Safety and Motor Vehicles (DHSMV) within 48 hours of registration and notify that agency within 48 hours of any change of address.<sup>9, 10</sup>
- **Address verification.** The Florida Department of Corrections (FDC) and local law enforcement agencies are responsible for verifying sex offender addresses in a manner that is consistent with federal laws

<sup>5</sup> Chapters [2007-209](#), [2007-207](#), and [2007-143](#), *Laws of Florida*.

<sup>6</sup> Chapter [2014-5](#), *Laws of Florida*.

<sup>7</sup> Sex offenders as defined in s. [943.0435](#), *F.S.*; sex offenders under the custody, control, or supervision of the Department of Corrections as defined in s. [944.607](#), *F.S.*; sexual predators as defined in s. [775.21](#), *F.S.*; and juvenile sex offenders adjudicated delinquent as described in s. [943.0435](#)(1)(a)d, *F.S.*

<sup>8</sup> Offenders can update some information online, including email addresses and internet identifiers using login and password information they receive from the sheriff when they register.

<sup>9</sup> Section [943.0435](#), *F.S.*

<sup>10</sup> Local tax collectors perform driver's license related functions previously conducted by DHSMV, including processing sex offender identification requests, for 64 of Florida's 67 counties. The three counties with DHSMV offices are Broward, Miami-Dade, and Volusia. When combined, these three counties reflect approximately 40% of all transactions and will remain the responsibility of DHSMV because their tax collectors are appointed, not elected officials.

and standards. The department is responsible for conducting address verifications for offenders under its supervision. Local law enforcement is responsible for verifying the addresses of all other sex offenders and additionally may verify addresses for supervised offenders should they choose to do so.

- **Community notification.** FDLE is responsible for statewide public notification efforts. FDLE informs the public of the location of sex offenders and provides information via the sex offender registry online and via a toll-free, nationwide hotline.<sup>11</sup> During Fiscal Year 2014-15, FDLE handled approximately 16,500 incoming calls to the hotline, had over 5.6 million sex offender-related searches on its website, and sent over 2.6 million email notifications regarding the addresses of sex offenders.

Some sex offenders are supervised in the community by FDC.<sup>12</sup> Most of these offenders are subject to high levels of supervision by specialized probation officers. Some sex offenders also are subject to statutorily defined conditions of supervision, including a mandatory curfew and submitting to a warrantless search of their person, residence, or vehicle. Further, some sex offenders are subject to electronic monitoring that provides 24-hour location surveillance.

Local law enforcement agencies are also required to notify the public of the presence of sexual predators living in their communities. Within 48 hours, law enforcement agencies must notify licensed child care centers and schools within a one-mile radius of the predator's residence.

In addition, local law enforcement agencies, or FDC, if an offender is on community supervision, are also required to notify institutions of higher learning when a sex offender enrolls, is employed, or volunteers at

that institution of higher learning, including technical schools, community colleges, and state universities.

Florida is 1 of 17 states substantially compliant with federal requirements. The federal Sex Offender Registration and Notification Act (SORNA) provides a comprehensive set of minimum standards for sex offender registration and notification in the United States.<sup>13</sup> These minimum standards address elements such as the immediate transfer of information, requirements for website registries, and community notification. Both the State of Florida and the Seminole Tribe of Florida are substantially compliant and have substantially implemented the requirements of the act.<sup>14</sup>

Jurisdictions who fail to substantially implement SORNA requirements risk losing a portion of their federal Edward Byrne Memorial Justice Assistance Grant (JAG) funds.<sup>15</sup> These funds can be expended by criminal justice programs such as law enforcement programs, prosecution and court programs, and crime victim and witness programs for technical assistance, training, public information, and other purposes. In federal Fiscal Year 2014, Florida received approximately \$18.5 million in JAG funds.<sup>16</sup> Additionally, substantially compliant states can receive bonus funds from previous fiscal year funding reductions from states that are noncompliant with SORNA. In federal Fiscal Year 2014, there was approximately \$1.1 million available from the reduction from non-

<sup>13</sup> Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248).

<sup>14</sup> In addition to Florida, Alabama, Colorado, Delaware, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nevada, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, and Wyoming, as well as three territories and 95 tribal jurisdictions, were found to be substantially compliant.

<sup>15</sup> Jurisdictions include the 50 states, five principal U.S. territories, and Indian tribes that elect to function as registration jurisdictions under 42 U.S.C. 16927.

<sup>16</sup> The \$18.5 million in JAG funds includes state government and local government funding awards. The total allocated to state governments was \$11,756,815.

<sup>11</sup> Chapter 97-299, *Laws of Florida*.

<sup>12</sup> The Department of Juvenile Justice (DJJ) also supervises a small number (23) of juvenile sex offenders in the community. There are a total of 65 juvenile sex offenders under DJJ supervision when including juveniles in residential facilities.

compliant states. Florida received a bonus award of \$229,588, the largest of any state.<sup>17</sup>

## Findings

### ***Over 26,000 registered sex offenders and sexual predators live in Florida communities***

Over half of the offenders on Florida's sex offender registry are either confined or living outside of the state. Since OPPAGA's first statutorily required review of sex offender registration practices in 2005, the number of registered sex offenders and sexual predators in Florida communities has grown by 44% to a total of 26,845 in 2015. The increase in sexual predators has been greater than the growth rate in the number of sex offenders.

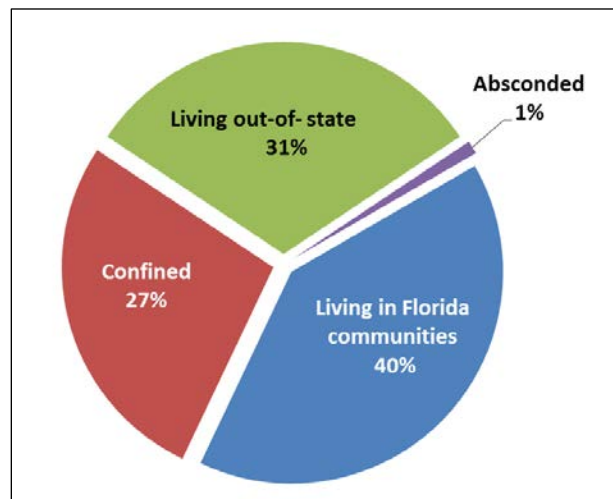
The number of registered sex offenders and sexual predators has steadily increased over the last 11 years. As of September 2015, there were 66,523 sex offenders and sexual predators on the Florida sex offender registry.<sup>18</sup> However, over half (58%) of the offenders on the state registry do not reside in Florida communities. (See Exhibit 1.) Some, (27%) are confined or incarcerated. Thirty-one percent (20,704) are offenders residing outside the state.<sup>19</sup> Roughly 1% (764) of offenders on the registry have absconded and their whereabouts are unknown. Less than half, (40% or over 26,800) of the total number of sex offenders on the registry are known to currently live in Florida communities.

<sup>17</sup> The next highest bonus award was awarded to Pennsylvania at \$126,577, followed by Michigan at \$111,839, and Ohio at \$108,330.

<sup>18</sup> The registry also includes 1,419 deceased persons not included in the above numbers. Deceased offenders' names are left on the registry for one year from the documented date of death so that victims, community members, and criminal justice partners will have notice of a registrant's death.

<sup>19</sup> Of the 20,704 offenders on Florida's registry residing out-of-state, 16,121 were convicted in Florida. Conversely, there are 4,829 registered sex offenders residing within Florida's communities who are on the registry for an out-of-state conviction. Therefore, for every registered sex offender with an out-of-state conviction living in Florida, there are over three offenders with Florida sex offense convictions residing out-of-state.

### **Exhibit 1 Most Sex Offenders on Florida's Registry Do Not Reside in Florida's Communities<sup>1</sup>**



<sup>1</sup> Percentages do not total 100% due to rounding.

Source: OPPAGA analysis of Florida Department of Law Enforcement Florida Sex Offender Registry.

Since 2005, when OPPAGA was first required to review sex offender registration, the number of registered sexual predators and sex offenders in Florida communities has grown by 44%.<sup>20</sup> Over this same time period, the increase in the growth rate of sexual predators has outpaced the rate of growth for offenders, with the number of predators in Florida's communities growing by 145% to 2,988 in 2015; three times higher than the growth rate of sex offenders. (See Exhibit 2.) For more detailed information on the total number of offenders and predators on Florida's sex offender registry, including those incarcerated or living in other states, see Appendix A.

<sup>20</sup> OPPAGA's first statutorily required review of Florida's sex offender registration practices and procedures was *Florida's State, County, Local Authorities Are Implementing Jessica Lunsford Act*, OPPAGA [Report No. 06-03](#), January 2006.



**Exhibit 2****The Number of Registered Sex Offenders and Predators Residing in Florida Communities Continues to Increase**

Type of Offender	Number of Registered Sex Offenders by Year			
	2005	2008	2012	2015
Offender	17,385	19,090	21,413	23,857
Predator	1,222	1,620	2,400	2,988
<b>Total</b>	<b>18,607</b>	<b>20,710</b>	<b>23,813</b>	<b>26,845</b>

Source: OPPAGA analysis of Florida Department of Law Enforcement Florida Sex Offender Registry.

***Sheriffs have adopted various strategies to meet their statutory obligations for registering and monitoring sex offenders***

Sheriffs' offices have statutory requirements for offender registration, address verification, and public notification. Our survey of sheriffs found that they are fulfilling these requirements with some variations in local practices.<sup>21</sup>

Local practices for sexual offender registration vary in terms of policies, accessibility, and cost. Certain sex offenders in Florida have registration and re-registration requirements. These offenders must visit the sheriff's office in their county of residence to fulfill registration and re-registration requirements. In our survey of sheriffs' offices, officials reported that they are routinely complying with statutorily required registration and public notification activities. However, local practices differ in terms of responding to failures to register and re-register, hours of registering accessibility, and cost.

- ***Failure to register.*** Sex offenders who are released from prison or placed on supervision must register with the sheriff in the county where they live within 48 hours of establishing a residence.<sup>22</sup> Sheriffs'

offices use different strategies to handle offenders who fail to complete this initial registration. Almost 80% of the sheriffs' offices exercise some discretion in arresting or applying for a warrant for first-time late registration, whereas 21% always arrest late registrants or immediately seek a warrant for a failure to register offense. The agencies who exercise discretion use various strategies to bring the sex offender into compliance. For example, offices reported initiating an investigation to determine if probable cause exists or attempting to locate and advising the offender to register.

Additionally, certain offenders must re-register two or four times a year based on their conviction(s) and status. Offenders must re-register in person during the months designated by Florida statute<sup>23, 24</sup> Sheriffs' offices reported that handling offenders who fail to re-register is similar to actions for failure to initially register. However, some offices have different actions for the first failure to re-register as opposed to subsequent failures. For example, six agencies reported that for the first re-registration failure, law enforcement makes contact with the offender to help bring them into compliance; however, for the second or subsequent failure, the offender is arrested.

State attorneys can prosecute sex offenders for failure to register or re-register offenses. During Fiscal Year 2014-15, 878 offenders were convicted of offenses related to registration violations. Most were incarcerated, with approximately 57% (499) of the offenders convicted receiving a state prison sentence and 22% (195) a jail sentence.

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an offender may be sentenced to imprisonment in a county jail.

<sup>23</sup> Sections [943.0435\(14\)\(a\)](#) and [775.21\(8\)\(a\)](#), F.S.

<sup>24</sup> Sex offenders who need to re-register are assigned a month to re-register and they must visit the sheriff's office anytime during that assigned month to re-register.

<sup>21</sup> We received survey responses from all 67 sheriffs' offices; however, some offices did not answer all items on the survey.

<sup>22</sup> Per ss. [943.0435\(14\)\(a\)](#) and [775.08](#), F.S., failure to register is a third degree felony punishable by imprisonment in a state prison. However, if sentenced to less than one year and a day,

- **Registration hours and cost.** Most sheriffs' offices are open for sex offender registration five days per week. However, this varies from one day to seven days per week depending on the county. Some offices reported that they make an exception if an offender needs to be registered on a day that the office is typically closed. Approximately 24% of sheriffs' offices reported that they offer weekend or evening registration hours. Six sheriffs' offices reported that they require offenders to pay for registration or re-registration and the other 61 do not require payments. For an initial registration, the costs ranged from \$30 to \$75 and for re-registration, the costs ranged from \$10 to \$25. Some agencies also reported a \$10 fee for simple information updates, such as a change in enrollment, employment, or volunteer status at an institution of higher learning.<sup>25, 26</sup> Offenders who are unable to pay may be sent an invoice for future payment or allowed to complete an affidavit of indigence, but they still complete the registration. While charging offenders may help offset the sheriff's expense for conducting registration and re-registration activities; it is unclear if the cost could act as a deterrent to timely compliance.

Most sheriffs' offices conduct more than one address verification per year. Florida law requires that local law enforcement and FDC verify sex offender addresses in a manner consistent with federal laws and standards.<sup>27</sup> The Adam Walsh Child Protection and Safety Act of 2006 requires, at a minimum, regular face-to-face contact between a law enforcement official and the offender. Florida's registration and re-registration activities fulfill this requirement as sex offenders must re-register

in person two or four times a year based on their conviction(s) and status.

Although not required by law, most sheriffs' offices conduct at least one in-person address verification at an offender's residence per year.<sup>28</sup> Furthermore, many sheriffs' offices are conducting several address verifications per year with 88% of offices conducting address verifications for predators three or more times per year and 47% conducting address verifications for other sex offenders three or more times per year.

Sheriffs' offices use different methods to notify the public, schools, and child care facilities about sexual predators. Sheriffs' offices must notify the public when a sexual predator moves into their county.<sup>29</sup> As shown in Exhibit 3, most sheriffs' offices reported notifying the public via their website (74%), followed by distributing posters or flyers (59%). Additionally, 24% of offices use OffenderWatch®, which is a private licensed software product and service. Sheriffs' offices contract with OffenderWatch® to provide for an automated registration, verification, and notification system specific to their jurisdiction to help manage sex offenders in their community.<sup>30</sup>

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<sup>28</sup> All of the sheriffs' offices that responded to the question about the frequency of address verifications conduct one or more per year, but seven offices did not respond to this question and thus, we cannot report that all offices conduct at least one address verification per year.

<sup>29</sup> Section [775.21\(7\)\(a\)](#), *F.S.*

<sup>30</sup> For example, OffenderWatch® allows the sheriff's office to divide sex offenders' residences into zones within the county so they can be grouped together. This allows a sheriff's deputy to more efficiently conduct address verifications because the deputy can check addresses of sexual offenders residing within the same zone.

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<sup>25</sup> Sex offenders who enroll, are employed, or volunteer at an institution of higher education in Florida must notify authorities within 48 hours.

<sup>26</sup> Sections [775.21\(6\)\(a\)1.b](#) and [943.0435\(2\)\(b\)2](#), *F.S.*

<sup>27</sup> Section [943.0435\(6\)](#), *F.S.*

### Exhibit 3

#### Sheriffs Most Typically Notify the Public About Sexual Predators Through Their Websites

Notification Method	Percentage <sup>1</sup>
Sheriff's Office Website	74%
Distributing Posters or Flyers	59%
Social Media	48%
Door-to-Door Notification	40%
Phone Calls	26%
OffenderWatch®	24%
Email	22%
Newspapers	17%

<sup>1</sup> Percentages total greater than 100% as each agency may use multiple types of public notification methods.

Source: OPPAGA analysis of Sheriffs' survey data.

Sheriffs' offices must also notify schools and child care facilities when a predator moves within a one-mile radius. Offices reported that they notify schools and child care facilities through face-to-face contact with the administration (38%), email (28%), phone calls (25%), or letters (17%). Furthermore, 23% of sheriffs' offices reported that they notify schools and child care facilities outside of the one-mile radius. Three agencies reported notifying schools and child care facilities within at least a two-mile radius so that more facilities are notified; six agencies reported notifying all schools and child care facilities in the county so that all schools are notified of predators in the county.

#### *The Department of Corrections monitors sex offenders via supervision and electronic monitoring*

The Florida Department of Corrections (FDC) is responsible for supervising sex offenders who are placed on community supervision. Sex offenders are supervised at the highest risk level, which entails frequent one-on-one contact between the probation officer and the offender. Additionally, some supervised offenders are placed on electronic monitoring for enhanced monitoring and supervision. For a complete list of special supervision conditions, see Appendix B.

FDC procedures are detailed and specific with regard to sex offender monitoring. Probation officers are required to conduct frequent in-person address verifications for all sex offenders under departmental supervision. As of September 2015, the department had 6,211 sex offenders on active community supervision. This number represents almost one quarter of all sex offenders in Florida's communities.

Sex offenders may be supervised in one of four categories.

- **Regular Probation.** Previously registered sex offenders who commit a non-sex crime can be sentenced to regular probation. Standard conditions of supervision include restrictions on firearm possession and ownership, travel restrictions without department consent, and submitting a DNA sample for analysis. As of September 2015, 25% of registered sex offenders supervised by FDC were on regular probation.
- **Sex Offender Probation.** Over half of sex offenders who are sentenced to probation are placed on sex offender probation. These offenders must meet special conditions in addition to the standard conditions of regular probation. These special conditions include a mandatory curfew from 10 p.m. to 6 a.m., active participation in and successful completion of a sex offender treatment program, and submission to a warrantless search of the offender's person, residence, or vehicle. As of September 2015, 63% of registered sex offenders supervised by FDC were on sex offender probation.
- **Community Control (house arrest).** Community control is a more restrictive form of supervision that is used in lieu of incarceration. Offenders are confined to their residence except for work, school, church, and the probation office. As of September 2015, 6% of registered sex offenders supervised by FDC were assigned to community control.

- **Conditional Release.** Offenders sentenced to prison who have served 85% of their sentence of incarceration may be placed on conditional release for the remaining time left on their sentence (no more than 15%).<sup>31</sup> In addition to the standard and special conditions of sex offender probation, conditional release offenders have additional conditions such as participation in a minimum of one annual polygraph examination as part of their treatment program, as well as maintaining a driving log and not driving alone. The Florida Commission on Offender Review has the power to revoke an offender's conditional release if conditions are not met and return them to prison. As of September 2015, 7% of registered sex offenders supervised by FDC were on conditional release supervision.

Probation officers are required to make routine home contacts with all sex offenders on supervision; the ability to search electronic devices is an important tool. Regardless of supervision type, all sex offenders are placed in the sex offender risk class. This risk class provides the maximum standards for the amount of probation officer contact with the exception of community control (house arrest). This entails routine visits to the offender's residence, place of work, or treatment provider.<sup>32</sup> Probation officers who handle sex offender probation caseloads are specialists with a minimum of five years of experience. Given the frequency of contacts required for supervised sex offenders, the maximum caseload ratio for officers supervising this population is set at 40:1.<sup>33, 34</sup>

<sup>31</sup> Conditional release requires mandatory post-prison supervision for inmates who are sentenced for certain violent crimes and who have served a prior felony commitment at a state or federal correctional institution, or who are sentenced as a habitual offender, violent habitual offender, violent career criminal, or court designated sexual predator. Unlike parole, conditional release is not discretionary.

<sup>32</sup> FDC standards for contact with offenders are confidential as a means of ensuring offender compliance. Therefore, specific timeframes for field contacts are not included.

<sup>33</sup> In some areas, for example rural counties and counties

In response to state and local residence restrictions for sex offenders, FDC has developed the Sex Offender Residential Restrictions System (SORR). This mapping software is utilized by probation officers to determine if an offender can legally live at a certain address. SORR allows the probation officer to check the address against state and local restrictions as well as the offender's rules of supervision. For example, if there is a local ordinance that an offender cannot live within 2,500 feet of a park or school, then the officer changes the buffer from 1,000 feet to 2,500 feet. (For additional detail, see Appendix C.) The officer enters the address into the system and it prints a map with the address, highlighting the areas where the offender cannot live.<sup>35</sup>

For offenders on sex offender probation, officers also conduct periodic home inspections to look for evidence of a violation of probation which may include the possession of pornography or alcohol or, if their offense was against a minor, evidence of children in the home. For those on regular probation, the officer conducts visual inspections and, if reasonable suspicion exists, a search is conducted. If the officer finds something that would warrant a new criminal charge, such as illegal drugs or child pornography, the search is paused and local police are called to complete the search and make an arrest based on new charges.

The ability to search electronic devices such as cellular phones, tablets, and computers during contacts is an important component of these home visits. Technology can be used by sex offenders to view or transmit sexual images, as well as stalk or contact victims or potential victims. For those on sex offender probation,

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experiencing staff shortages, mixed caseloads are common, where officers may be supervising sex offenders, other high-risk offenders, as well as lower-risk offenders. This can result in officers having more than 40 cases overall, but no more than 40 sex offender probation cases.

<sup>34</sup> Sections [947.1405\(8\)](#) and [948.12](#), F.S.

<sup>35</sup> If the address is near the border line, the officer will go into the field and physically measure the distance to determine if the address is appropriate.



officers may check an offender's phone, tablet, or computer for sexual images or inappropriate text messages during any home, field, or office contact. If a sex offender on regular probation is suspected of using an electronic device for a sex crime, the officer contacts law enforcement to report the suspected crime.<sup>36</sup>

Information regarding these visits and searches conducted by FDC are entered into the department's Offender Based Information System (OBIS). Currently, several sheriff offices have obtained access to OBIS through a memorandum of understanding with the department, and can thus review the department's most recent address verification activity for offenders under community supervision. The department currently has plans to make OBIS information available to all law enforcement officers through the Florida Criminal Justice Network (CJNET), a closed network managed by FDLE to enhance the sharing of information among criminal justice agencies.

Florida statute requires active and timely electronic monitoring for offenders convicted of certain sexual offenses. Florida law requires that the court impose electronic monitoring as a condition of probation or community control for sex offenders who have committed specified offenses.<sup>37, 38</sup> Florida law also requires that an offender 18 years of age or older who sexually molests a child less than 12 years of age be placed on electronic monitoring for the remainder of their natural life following their term of imprisonment.<sup>39, 40</sup> Further, in

cases where a supervised sex offender violates the terms of his or her supervision but was not originally sentenced to electronic monitoring, Florida law requires the court modify the probation or community control to include electronic monitoring.<sup>41</sup> Lastly, Florida law stipulates that electronic monitoring may be imposed for a supervised offender when deemed necessary by FDC and ordered by the court at the department's recommendation. Of the 6,211 sex offenders on active community supervision by FDC, approximately 50% are on electronic monitoring.<sup>42</sup>

As of September 2015, 3,088 registered sex offenders were on active electronic monitoring. The average length of time on monitoring for registered sex offenders on probation or community control was 9 years, with 1% serving less than 2 years and 24% serving more than 10 years. One percent (28) of sex offenders on electronic monitoring will be monitored for their lifetime.<sup>43</sup> The average electronic monitoring time for registered offenders on conditional release was five years. Offenders on conditional release have served at least 85% of their sentence in incarceration; thus, their time on conditional release cannot be longer than 15% of their sentence. Because of this, the average length of time of electronic monitoring for registered offenders on conditional release is shorter than electronic monitoring ordered as a condition of probation.<sup>44</sup>

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California, Georgia, Kansas, Louisiana, Michigan, Missouri, North Carolina, Oregon, Rhode Island, and Wisconsin.

<sup>41</sup> Section [948.063](#), *F.S.*

<sup>42</sup> As of September 2015, FDC had 4,274 total offenders on GPS monitoring, of which 3,088 (72%) were registered sex offenders.

<sup>43</sup> Effective September 1, 2005, individuals convicted of a life felony for lewd and lascivious molestation against a victim less than 12 years of age must be sentenced to at least 25 years imprisonment followed by lifetime community supervision to include electronic monitoring. As this requirement has only been in effect ten years, few sex offenders subject to this provision have been released from prison.

<sup>44</sup> It is possible that an offender would receive a split sentence of incarceration and community supervision resulting in an offender having a probationary period of Global Positioning System (GPS) monitoring following a conditional release period of GPS monitoring.

<sup>36</sup> Although probation officers have the authority to search when reasonable suspicion exists, the offender may be under investigation by law enforcement. According to department staff, FDC does not want to interfere with an active investigation and law enforcement has resources and staff trained and dedicated to conduct this type of search.

<sup>37</sup> Offenses include sexual battery, lewd and lascivious offenses committed upon or in the presence of persons less than 16 years of age, sexual performance by a child, and selling or buying of minors.

<sup>38</sup> Section [948.30\(3\)](#), *F.S.*

<sup>39</sup> Section [948.012\(4\)](#), *F.S.*

<sup>40</sup> Florida is 1 of 11 states that impose lifetime electronic monitoring for certain sex offenders. Other states are

FDC contracts for electronic monitoring services. FDC is required to use an electronic monitoring system to actively monitor and identify an offender's location and provide timely reports or records of the offender's presence near or within a crime scene or in a prohibited area (exclusion zone) or the offender's departure from specified geographic limitations (inclusion zone).<sup>45</sup> The department contracts with 3M Electronic Monitoring for this system, which relies on Global Positioning System (GPS) technology to track an offender's position.<sup>46</sup> The 3M electronic monitoring system provides two pieces of equipment to each offender—a smart XT tracking/communication device and an affixed ankle bracelet.<sup>47</sup> (See Appendix D for additional detail.) The XT device has a phone number associated with it that allows for two-way communication with the offender.<sup>48</sup> The ankle bracelet has tamper-resistant features, including a motion sensor and a fiber optic filament that forms a circuit when attached to the offender's ankle allowing the probation officer to know if the strap is broken. Together, the two pieces actively track offenders in three ways—satellites, cellular phone towers, and motion detection all in near real time.<sup>49, 50</sup>

The 3M electronic monitoring system is web-based and allows FDC probation officers to monitor an offender's current location and movement at any time. Using security features, the officer can access this information from his or her office computer or from the field on portable devices such as tablets and smart phones. The officer can review recent offender movements on the monitoring system's GPS map to verify that the offender has complied with probation requirements such as going to work, attending treatment sessions, or complying with curfew. The officer is notified immediately if an offender's movement violates the terms of supervision by entering an exclusion zone such as a victim's residence or place of employment or by leaving his or her inclusion zone (county of residence or home if on community control). Additionally, when an offender is approved to travel out of the county, the officer can set a time window. During this time window, the system continues to track the offender's movement.

The 3M monitoring system provides a near real time graphic of an offender's location and movement. (See Appendix D.) The system registers different speeds and can determine if the offender is walking, riding a bike, or traveling in a car depending on the speed of movement. Additionally, probation officers can use electronic monitoring to check if an offender is home prior to making a home contact or drop in unannounced on an offender at their current location such as a the laundromat or home of a family member. Officers can plan their route when conducting field visits based on real time location information for offenders under their supervision. This helps to maximize both officer time and face-to-face interaction with offenders. Additionally, the XT device provides anytime, two-way communication, via phone call or text, between the probation officer and the offender.

<sup>45</sup> Section [948.11 \(6\)](#), *F.S.*

<sup>46</sup> The Fiscal Year 2015-16 budget allocation for 3M electronic monitoring equipment and services for all types of offenders is \$9.1 million. The contract with 3M was recently renewed and the current 3 year contract is in effect until June 30, 2018.

<sup>47</sup> FDC may charge up to the per diem cost to the offender; currently \$5.25. A judge may modify the offender's obligation to a lesser amount. However, FDC typically recoups only 10%-15% of the cost of electronic monitoring because all other offender costs (court costs, fines, restitution) are paid first.

<sup>48</sup> The offender is not given the number and it cannot be used for personal communication.

<sup>49</sup> Near real time refers to the delay introduced, for electronic communication and automated data processing, between the occurrence of an event and the delivery of the processed data, and implies that there are no significant delays.

<sup>50</sup> The current 3M system technology, which the department began transitioning to in October 2012, can track an offender's position utilizing the cellular phone towers of four carriers—AT&T, Sprint, T-Mobile and Verizon. Probation officers can switch out sim-cards in the device in order to connect to a carrier with a stronger signal for a particular area. If an offender lives in an area without cellular phone service, he or she is issued a base unit to plug into his or her land telephone line.

Electronic monitoring alarms notify 3M and the department of potential offender violations. When the offender's electronic monitoring device identifies any of the several potential violation types, the system sets off an alarm. There are several types of alarm notifications for which the response varies. In most instances, an offender is given the opportunity to respond to an alarm by modifying his or her behavior or correcting a technical problem before it results in a violation of probation. The 3M electronic monitoring center staff provides an initial response to pre-determined offender alarm notifications such as a home curfew violation, when the tracking device is unable to establish a wireless connection, or when the bracelet battery is getting low. The monitoring center will contact the offender via text or phone call to the XT device in an effort to resolve and document actions taken prior to delivering an alarm notification to FDC.<sup>51</sup>

Monitoring center staff will first call the offender's assigned probation officer for an alarm notification. Some alarms, because of their seriousness, bypass the monitoring center and go directly to the assigned probation officer or on-call officer who must respond. These alarms include when an ankle strap is broken, the device is tampered with, or an offender enters an exclusion zone or leaves his or her inclusion zone.

Most alarms are resolved by the 3M monitoring center. The contract goal is for the vendor-operated monitoring center to handle 70% of alarms. For September 2015, 72% of alarms were resolved by the monitoring center. The system's web-based platform allows 3M staff to enter case note information when resolving an alarm and the information can later be viewed by the probation officer.

FDC has developed procedures to avoid gaps in electronic monitoring for offenders entering or exiting Florida's communities. Beginning in March of 2014, for those sex offenders sentenced to electronic monitoring, the department began fitting them with electronic monitoring ankle bracelets prior to release from prison. This allows the receiving probation office to begin tracking the offender's movements from the moment of release. Similarly, when an offender is released from a local jail, residential facility, or hospital, FDC will place a hold on his or her release until an officer can go to the jail and fit the offender with the monitoring device. This initiative was first implemented in FDC Region I in the panhandle and has since been adopted statewide.

FDC continues to monitor offenders who relocate to another state until they are placed on electronic monitoring in their new state of residence. When an offender on electronic monitoring is accepted for supervision in another state, the offender remains on active electronic monitoring until the receiving state activates the offender on its electronic monitoring system. FDC continues to monitor the tracking points and will address any alarm notifications until the probation office in the receiving state confirms it has received the offender and removes the ankle bracelet.

Lastly, FDC may require electronic monitoring for supervised sex offenders who relocate to Florida even if they were not sentenced to electronic monitoring in the state where the offense occurred. Prior to accepting an offender for supervision in Florida, department staff reviews the offender's criminal history. If the sex offender's convictions meet Florida statutory criteria for electronic monitoring, the department will impose electronic monitoring for the duration of the offender's term of supervision, regardless of whether he or she was sentenced to electronic monitoring in the offense state.

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<sup>51</sup> The 3M system has two monitoring centers—one in Jacksonville and one in Odessa (Pasco County) which operate 24-hours a day, seven days a week.

Electronic monitoring information is also used for other public safety purposes. In addition to monitoring offenders for compliance with their conditions of probation, electronic monitoring provides locational information that is utilized by both FDC and local law enforcement to help ensure public safety. Local law enforcement personnel are able to have read only access to the system and can review location points for a given offender or an address. Applications include issuing an alert if an offender goes near a victim's home and allowing local law enforcement to determine the presence of offender(s) at public events, such as community festivals or parades.

Electronic monitoring is also utilized by the department and local law enforcement for crime scene correlation. By correlating the location points for offenders on electronic monitoring for a geographic area in which a crime occurred, law enforcement can identify subjects at or near the crime scene as well as eliminate known offenders who were not in the area, allowing law enforcement to focus efforts elsewhere.

***Registry information on sex offender enrollment at institutions of higher education is not consistently updated***

Federal and state laws require offenders to report to law enforcement officials when they are enrolled or employed at an institution of higher education. This information is posted to the Florida Department of Law Enforcement (FDLE) sex offender registry. Our review of a sample of offenders found this information to be out-of-date for some offenders. Additionally, some higher education institutions do not always receive timely notification from law enforcement agencies about an offender's enrollment, employment or volunteerism on campus.

Federal and state laws require offenders to report employment or attendance at an institution of higher education. The Federal Campus Sex Crimes Prevention Act, passed in 2000, requires any person who is obligated to

register in a state's sex offender registry to contact the appropriate state officials and provide notice of each higher education institution in the state at which the offender is enrolled, employed, or volunteers. In 2002, the Florida Legislature added this requirement to Florida statutes.<sup>52</sup>

FDLE sex offender registry includes information on the presence of sex offenders at institutions of higher education. The public can access this information when searching by offender, neighborhood, or via the university search tool. Sex offenders who enroll, are employed, or volunteer at an institution of higher education in Florida must notify authorities within 48 hours.<sup>53</sup> Offenders must provide the name, address, and county of each institution, including each campus attended. Any change in status, such as commencement or termination, must be reported in person at the sheriff's office or the FDC within 48 hours. Failure to report this information is a third degree felony.

After receiving notification from the offender, local law enforcement agencies, or FDC, are required to promptly notify each institution of the offender's presence and any subsequent change in enrollment, employment, or volunteer status.<sup>54</sup> Sheriff's offices reported notifying institutions via phone call, face-to-face contact with administration or campus security, email, or mailed letter.

FDLE launched the university search tool as part of the sex offender registry in October 2013. This tool allows users to obtain a listing of offenders registered as enrolled, employed, or volunteering at an institution of higher education. Prior to its implementation and since that time, the FDLE Enforcement Unit, has worked with local law enforcement agencies and the U.S. Marshals Service to identify offenders who are out of compliance, who come into the state without registering, or

<sup>52</sup> Chapter [2002-58](#), *Laws of Florida*.

<sup>53</sup> Sections [775.21\(6\)\(a\)1.b](#) and [943.0435\(2\)\(b\)2](#), *F.S.*

<sup>54</sup> Sections [775.21\(6\)\(a\)1.b](#) and [943.0435\(2\)\(b\)2](#), *F.S.*



commit any other kind of violation of registration requirements. The FDLE Enforcement Unit has conducted comparison initiatives to verify that offenders who are enrolled at institutions of higher education have reported this information to local law enforcement or FDC. FDLE staff compared sex offender registry data to institutional enrollment data. To date, six institutions have participated with FDLE on eight comparison efforts. These resulted in the arrest of two offenders for failure to report their enrollment.

Registry information for institutions of higher education was outdated in our sample for some offenders. Utilizing the sex offender registry university search tool, we reviewed the records of registered sex offenders reported to be enrolled, employed, or volunteering at a sample of four state colleges. Out of 45 offender records, we found 14 instances in which offenders continued to be listed on the sex offender registry as enrolled or volunteering at an institution after their status was terminated. For example, one offender was listed as enrolled, but had absconded to another state in 2004. Six offenders were serving prison sentences and had been confined for as long as 18 months. Five offenders were no longer enrolled or had registered, but never attended. In one case, the offender last enrolled for classes in the summer of 2011. Lastly, two offenders were listed as volunteers in 2004, but the college had no current record of them as volunteers.

Florida statute provides that any institution in the Florida College System may consider the past actions of any person applying for admission or enrollment and may deny admission or enrollment to an applicant because of misconduct if determined to be in the best interest of the institution.<sup>55</sup> Accordingly, some institutions deny admission or enrollment to students who are officially designated as sexual offenders. Offenders must first follow an appeals process prior to submitting an application for admission.

It is important that institutions are notified of an offender's plan to enroll prior to attending class. This provides campus police and administration time to inform themselves of the offender's offense history prior to his or her interacting with the student community. However, our review of four state colleges also found that, while commencement of enrollment appears to be consistently reported to colleges by local law enforcement agencies or FDC and posted to the registry, it is not always timely. Some institutions of higher education reported receiving information from local law enforcement about an offender's presence on campus after the offender was already admitted and attending classes. One institution reported staff had found currently enrolled sex offenders on the FDLE registry for whom the college never received notification.

In an effort to help ensure timely reporting, the department has suggested a statutory change to the Legislature allowing sex offenders to report additional information online. Currently, offenders may report email addresses and internet identifiers online. The change would allow offenders to also report enrollment, employment, volunteering, or termination of these statuses at an institution of higher education.

***State and local agencies continue to provide letters to sex offenders who are unable to obtain identification cards; the number of letters issued has decreased***

Florida law requires sex offenders who are required to register to attempt to obtain valid state identification cards and keep their address information current. We found that approximately 20% of sex offenders are unable to obtain identification cards either because they lack the needed documentation or money to pay required fees, but the number of letters issued has decreased since our previous report.

Almost 20% of sex offenders are unable to obtain identification cards; the number of letters issued has decreased by 24% since 2012. Sex offenders legally required to register

<sup>55</sup> Section [1001.64\(8\)\(a\)](#), F.S.

are also required to attempt to obtain a Florida license or identification card and keep their address information current.<sup>56</sup> Because some sex offenders lack adequate documentation or funds to obtain the required license or identification cards, the Department of Highway Safety and Motor Vehicles (DHSMV) field offices and Tax Collectors' offices issue letters in lieu of a license or identification card. The letter states that the offender attempted to comply with Florida statutes, but the offender could not provide the required documentation or payment necessary in order to receive a driver's license or identification card. While issuance of this letter does not fulfill the offender's statutory requirement, local law enforcement agencies typically accept the letter as an indication that the offender has attempted to comply.<sup>57</sup> Previously, DHSMV issued one letter for both sexual offenders and sexual predators. Beginning in January 2016, DHSMV is producing one letter specific to sexual offenders and a separate letter specific to sexual predators; the draft versions of both letters are provided in Appendix E.

In Fiscal Year 2014-15, there were 2,870 sexual offenders who received a letter and a total of 3,956 letters issued; this means that there were many cases where sex offenders obtained more than one letter. This might have occurred for several reasons including a change of residence, loss of the letter, or local practices that require the offender to obtain more than one letter per year. Additionally, the number of letters issued since our previous report decreased by 24%, from 5,194 letters to 3,956 letters, while the number of identification transactions remained relatively constant.<sup>58, 59</sup>

<sup>56</sup> The federal Real ID Act requires all applicants produce proof of identification, such as a valid passport or original birth certificate, as well as a social security card and two documents that show their address, in order to obtain identification.

<sup>57</sup> The sex offenders' inability to obtain the required license or identification cards does not prevent the registry and other relevant databases from being updated with offender information.

<sup>58</sup> Identification transactions are the total number of transactions for driver licenses, identification cards, and letters.

### ***More frequent transient offender in-person reporting requirement improves accountability; transient offenders are still difficult to monitor***

The 30-day transient reporting requirement requires homeless sexual offenders and predators to report every 30 days to their sheriff's office. In our survey, most sheriffs' offices with transient offenders in their county reported that this new requirement increases accountability of transient offenders; however, transient offenders are still difficult to monitor.<sup>60</sup>

Local law enforcement has implemented the 30-day transient reporting requirement but is not tracking the reporting in a consistent way throughout the state. Prior to 2014, transient sexual predators were only required to register every three months and sex offenders every six months. Chapter 2014-5, *Laws of Florida*, added a requirement that transient offenders visit the sheriff's office every 30 days in person to verify some information such as transient location in addition to the three or six month registration.<sup>61</sup> This 30-day transient reporting requirement is different than a typical registration because an offender is not required to verify all information but must provide the addresses and locations of transient residence.<sup>62</sup>

<sup>59</sup> The total number of identification transactions and letters issued from our previous report were reported from August 1, 2011 through July 31, 2012; whereas, the total number of identification transactions and letters issued were currently reported for Fiscal Year 2014-15 from July 1, 2014 through June 30, 2015.

<sup>60</sup> In our survey, 61% (41) of sheriffs' offices reported that there are transient offenders in their county, 34% (23) reported that there are no transient offenders, and 5% (3) did not respond to the question; thus, only the sub-sample of 41 offices that responded affirmatively are included in the analysis of transient offenders. Additionally, while 41 sheriffs' offices reported that there are transient offenders within their county, approximately 50% of all transient offenders in Florida reside in Miami-Dade and Broward counties.

<sup>61</sup> Sections [943.0435\(4\)\(b\)2](#) and [775.21\(6\)\(g\)2.b.](#), *F.S.*

<sup>62</sup> According to s. [775.21\(2\)\(m\)](#), *F.S.* a transient residence means a county where a person lives, remains, or is located for a period of five or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where

According to Florida statute, transient offenders who fail to report in person to the sheriff's office every 30 days can be charged with a third degree felony.<sup>63</sup> As of October 2015, nine sheriffs' offices reported charging about 68 transient offenders for failing to report under the 30-day transient reporting requirement.

Florida statute allows for the sheriff to coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for the 30-day transient reporting requirement.<sup>64</sup> In our survey, two agencies reported that they established new reporting sites to accommodate the new requirement but did not coordinate with other entities to do so. No sheriff's offices reported that they had to expand reporting hours at existing sites to accommodate the more frequent reporting by transient offenders.

Finally, Florida statute requires each sheriff's office to establish procedures for reporting transient residence information and providing notice to transient offenders to report every 30 days.<sup>65</sup> Sheriffs' offices have been experiencing logistical problems in reporting and tracking the 30-day transient reporting requirement because FDLE's system that is used to track typical registration and re-registration activities does not have a separate data field to record this information. As a result, sheriffs' offices are tracking the information in different ways. For example, some sheriffs' offices are using the registration option in FDLE's system and adding a note to specify that it is the 30-day transient reporting requirement as opposed to a re-registration. Other sheriffs' offices are treating the 30-day transient reporting requirement as an information update and therefore it does not register in the system as a re-registration. This results in an inconsistent

tracking of the 30-day transient reporting requirement throughout the state, which may make it difficult to determine the effectiveness of the 30-day transient reporting requirement.

The 30-day transient reporting requirement improved accountability for transient offenders, but monitoring these offenders is still problematic. In our survey of sheriffs' offices with transient offenders in their county, approximately 70% of sheriffs' offices reported that the 30-day transient reporting requirement increased accountability for transient offenders by requiring them to come into the office on a monthly basis. Survey respondents also reported that the 30-day transient reporting requirement is useful because it gives law enforcement visual contact with transient offenders, allowing them to ask transient offenders questions and obtain proper documentation about where transient offenders are in the county to improve tracking of this specific population.

While transient offenders are more accountable under the 30-day transient reporting requirement, sheriffs' offices reported that transient offenders are difficult to monitor because their mobility makes it difficult for law enforcement to locate them and they consume a disproportionate amount of officer time compared to non-transient offenders. In addition, some stakeholders reported that sex offenders may claim to be transient even though they have a permanent or temporary address or they may be transient because they have difficulty finding a legal residence due to enhanced residency restrictions.

Florida statute prohibits certain offenders convicted of a crime against a victim less than 16 years of age from living within 1,000 feet of any school, child care facility, park, or playground.<sup>66</sup> However, local government can impose municipal or county ordinances that further prohibit where some or all sexual offenders can live. For example, in some communities, certain offenders who committed

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the person sleeps or seeks shelter and a location that has no specific street address.

<sup>63</sup> Sections [943.0435\(2\)\(d\)](#) and [775.21\(6\)\(g\)4.](#), *F.S.*

<sup>64</sup> Sections [943.0435\(2\)](#) and [775.21\(6\)\(g\)2.b.](#), *F.S.*

<sup>65</sup> Sections [943.0435\(2\)](#) and [775.21\(6\)\(g\)2.b.](#), *F.S.*

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<sup>66</sup> Section [775.215\(2\)\(a\)](#), *F.S.*

a crime against a minor less than 16 years of age cannot live within 2,000 feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate. Furthermore, some counties have multiple ordinances in different municipalities and each may have different residency restrictions. For example, a sheriff's office in one county may monitor sex offenders who have a 1,500 feet restriction in one city and a 2,500 feet restriction in another city. As of September 2015, there were 189 such ordinances in 47 Florida counties.

As required by statute, OPPAGA sought input from the Florida Association for the Treatment of Sexual Abusers (FATSA) for this review.<sup>67, 68</sup> FATSA noted that local residency restrictions increased transiency among registered offenders, particularly within south Florida. They assert that this residential instability both impairs the ability of law enforcement to monitor registered sex offenders and increases their risk of recidivism. According to FATSA, there is a lack of empirical evidence to support that local ordinances increase public safety and they do not think that local ordinances should exceed the state law of 1,000-foot buffer zones.

To better monitor transient offenders, some sheriffs' offices have policies that are more stringent than the 30-day reporting requirement. Approximately 24% of sheriffs' offices we surveyed impose additional requirements on transient offenders. Five offices reported that they require transient offenders to report weekly, either by phone or

in person, and one office reported that that a deputy must conduct an in-person check of the transient's location once per month to confirm that the transient person is staying there.<sup>69</sup>

## Policy Options

FDLE is seeking input from sheriffs' offices on needed changes to the sex offender registry. To ensure that the 30-day transient reporting requirement is consistently tracked statewide, FDLE should consider modifying the system to include a specific data element to track the 30-day transient reporting requirement when it makes other changes to the registry.

To ensure information regarding sex offender affiliation at institutions of higher education is accurate and up-to-date, FDLE should consider monitoring the accuracy of the registry information for offenders and predators in confinement. In addition, FDLE should work with public colleges and universities to develop best practices for comparing their student, employee, and volunteer information to the sex offender registry.

## Agency Response

In accordance with the provisions of s. 11.51(2), *Florida Statutes*, a draft of our report was submitted to the Commissioner of the Florida Department of Law Enforcement and the Secretary of the Florida Department of Corrections. The Florida Department of Law Enforcement's written response has been reproduced in Appendix F.

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<sup>67</sup> Section [943.04353](#), *F.S.*

<sup>68</sup> As required by statute, the Florida Council Against Sexual Violence was also contacted for this review, but did not provide comment.

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<sup>69</sup> One of the five only requires certain transient sexual predators to report weekly.



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OPPAGA supports the Florida Legislature by providing data, evaluative research, and objective analyses that assist legislative budget and policy deliberations. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021), by FAX (850/487-9213), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

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## Appendix A

# The Florida Department of Law Enforcement's Registry Lists Over 66,000 Sex Offenders

As shown in Exhibit A-1, FDLE's registry listed 66,523 offenders as of September 2015. However, only 40% of sex offenders and sexual predators on the registry are in Florida communities. The majority (59%) of offenders on the registry are either confined or do not reside in Florida.

### Exhibit A-1

#### Approximately 40% of Registered Sex Offenders and Sexual Predators Live in Florida Communities

Status		Sex Offenders	Sexual Predators	All
Living in Florida communities	Sentence Served - Required to Register	18,652	1,583	20,235
	Community Supervision	5,205	1,405	6,610
	Department of Corrections	4,811	1,400	
	Department of Juvenile Justice	23	0	
	Federal	371	5	
	<b>Total</b>	<b>23,857</b>	<b>2,988</b>	<b>26,845 (40.3%)</b>
Not Living in Florida communities	Confined	11,446	6,764	18,210
	Incarcerated	11,215	6,418	
	Civilly committed	231	346	
	Non-Florida Residents	19,379	1,325	20,704
	<b>Total</b>	<b>30,825</b>	<b>8,089</b>	<b>38,914 (58.5%)</b>
Absconded <sup>1</sup>	Absconded offenders	692	72	764
	<b>Total</b>	<b>692</b>	<b>72</b>	<b>764 (1.1%)</b>
<b>Total Persons on Registry as of September 2015</b>		<b>55,374</b>	<b>11,149</b>	<b>66,523<sup>2</sup></b>

<sup>1</sup> Absconded offenders may or may not be in Florida communities as their whereabouts are unknown.

<sup>2</sup> The registry also includes 1,419 deceased persons: 1,260 sex offenders and 159 sexual predators, whose names are left on the registry for one year from the documented date of death so that victims, community members, and criminal justice partners will have notice of a registrant's death.

Source: OPPAGA analysis of Florida Department of Law Enforcement Florida Sex Offender Registry.

## Appendix B

# Special Supervision Conditions for Sex Offenders

As shown in Exhibit B-1, sex offenders under probation, community control, and conditional release have special conditions of supervision based on the date(s) and type(s) of crimes.

### Exhibit B-1

### The Florida Legislature Has Created Additional Special Supervision Conditions for Sex Offenders Over Time<sup>1,2,3,4,5</sup>

<b>Date:</b> Effective for persons whose crimes were committed on or after October 1, 1995 and were placed on probation or community control for specified offenses.
<b>Crimes:</b> Sex offense provided in Ch. 794, ss. 800.04, 827.071, 847.0135(5), or 847.0145, <i>F.S.</i>
Curfew from 10 p.m. to 6 a.m. Another eight-hour period may be designated if the offender's employment precludes the specified time, and the alternative is recommended by the FDC. If imposing a curfew would endanger the victim, alternative sanctions may be considered.
If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, child care facility, park, playground, or other place where children regularly congregate, as prescribed by the court for offenders on probation or community control. For those under conditional release, there is also a prohibition on living within 1,000 feet of a designated public school bus stop.
Active participation in and successful completion of a sex offender treatment program with qualified practitioners specifically trained to treat sex offenders, at the offender's own expense.
No contact with the victim unless approved by the victim, a qualified practitioner in the sexual offender treatment program, and the sentencing court.
If the victim was under the age of 18, no contact with a child under the age of 18 except as provided by s. 948.30(1)(e), <i>F.S.</i> for probationers or community controlees or s. 947.1405(7)(a)5., <i>F.S.</i> for offenders on conditional release.
If the victim was under age 18, a prohibition on working for pay or as a volunteer at places where children regularly congregate such as schools, child care facilities, parks, and playgrounds. For offenders on probation or community control, pet stores, libraries, zoos, theme parks, and malls are also written into statute.
Unless otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program, a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern. For offenders on probation or community control, accessing material is also written into statute.
A requirement that the offender under probation or community control must submit a DNA sample and an offender under conditional release must submit two specimens of blood to the FDLE to be registered with the DNA data bank.
A requirement that the offender make restitution to the victim for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.
Submission to a warrantless search by the community control or probation officer of the offender's person, residence, or vehicle.
<b>In addition to the above provisions,</b>
<b>Date:</b> Effective for persons whose crimes committed on or after October 1, 1997 and were placed on probation or community control for specified offenses.
<b>Crimes:</b> Sex offense provided in Ch. 794, ss. 800.04, 827.071, 847.0135(5), or 847.0145, <i>F.S.</i>
As part of a treatment program, participation at least annually in polygraph examinations, paid for by the offender, to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms.
Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.
A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.
If there was sexual contact, a submission to, at the offender's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.
For probation or community control, electronic monitoring when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the FDC. For conditional release, electronic monitoring of any form when ordered by the commission.

<p><b>In addition to the above provisions,</b>  <b>Date:</b> Effective for persons whose crimes were committed on or after July 1, 2005 and were placed on probation or community control for specified offenses.  <b>Crimes:</b> Sex offense provided in Ch. 794, ss. 800.04, 827.071, 847.0135(5), or 847.0145, <i>F.S.</i></p> <p>A prohibition on accessing the Internet or other computer services until a qualified practitioner in the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services.</p>
<p><b>In addition to the above provisions,</b>  <b>Date:</b> Effective for persons whose crimes were committed on or after September 1, 2005 and were placed on probation or community control for specified offenses or other provisions.  <b>Crimes:</b> Sex offense provided in Ch. 794, ss. 800.04(4), (5), or (6), 827.071, or 847.0145, <i>F.S.</i>, and the unlawful activity involved a victim 15 years of age or younger and the offender is 18 years of age or older; or are designated as a sexual predator pursuant to s. 775.21, <i>F.S.</i>; or, for offenders on probation or community control, crimes also include previous convictions of a violation of Ch. 794, ss. 800.04(4), (5), or (6), 827.071 or 847.0145, <i>F.S.</i> and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older.</p> <p>Sentenced to mandatory electronic monitoring as described in Appendix D</p>
<p><b>In addition to the above provisions,</b>  <b>Date:</b> Effective for persons who are subject to supervision for specified crimes committed on or after May 26, 2010 with additional provisions.  <b>Crimes:</b> Convicted at any time of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses listed in s. 943.0435(1)(a)1.a.(I), <i>F.S.</i>, or a similar offense in another jurisdiction, against a victim who was under the age of 18 at the time of the offense; if the offender has not received a pardon for any felony or similar law of another jurisdiction, if a conviction of a felony or similar law of another jurisdiction necessary for the operation of this subsection has not been set aside in any post-conviction proceeding, or if the offender has not been removed from the requirement to register as a sexual offender or sexual predator pursuant to s. 943.04354, <i>F.S.</i></p> <p>A prohibition on visiting schools, child care facilities, parks, and playgrounds, without prior approval from the offender's supervising officer. Additional prohibited locations may also be designated to protect a victim. This does not prohibit the offender from visiting these locations for the sole purpose of attending a religious service as defined in s.775.0861, <i>F.S.</i> or picking up or dropping off the offender's children or grandchildren at a child care facility or school.</p> <p>A prohibition on distributing candy or other items to children on Halloween; wearing a Santa Claus costume, or other costume to appeal to children, on or preceding Christmas; wearing an Easter Bunny costume, or other costume to appeal to children, on or preceding Easter; entertaining at children's parties; or wearing a clown costume; without prior approval from the court or commission.</p>
<p><b>In addition to the above provisions,</b>  <b>Date:</b> Effective for persons whose crimes committed on or after October 1, 2014, and were placed on probation or community control for specified offenses.  <b>Crimes:</b> Violation of Chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, <i>F.S.</i></p> <p>A prohibition on the offender from viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material unless otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program. Visual or auditory material includes, but is not limited to, telephone, electronic media, computer programs, and computer services.</p>

<sup>1</sup> Sections [948.30](#), [947.1405](#), *F.S.*

<sup>2</sup> If an offender violates probation or community control, and the conditions in ss. [948.063\(1\) or \(2\)](#), *F.S.* are met, whether probation or community control is revoked or not revoked, the offender shall be placed on electronic monitoring in accordance with s. [948.063](#), *F.S.*

<sup>3</sup> Per s. [775.082\(3\)4.a.](#), *F.S.*, except as provided in sub-subparagraph b., for a life felony committed on or after September 1, 2005, which is a violation of s. [800.04\(5\)\(b\)](#), *F.S.*, punishment by a term of imprisonment for life or a split sentence that is a term of at least 25 years' imprisonment and not exceeding life imprisonment, followed by probation or community control for the remainder of the person's natural life, as provided in s. [948.012\(4\)](#), *F.S.*

<sup>4</sup> Per s. [948.012\(4\)](#), *F.S.*, effective for offenses committed on or after September 1, 2005, the court must impose a split sentence pursuant to subsection (1) for any person who is convicted of a life felony for lewd and lascivious molestation pursuant to s. [800.04\(5\)\(b\)](#) *F.S.* if the court imposes a term of years in accordance with s. [775.082\(3\)\(a\)4.a.\(II\)](#), *F.S.* rather than life imprisonment. The probation or community control portion of the split sentence imposed by the court for a defendant must extend for the duration of the defendant's natural life and include a condition that he or she be electronically monitored.

<sup>5</sup> Per s. [948.012\(5\)](#), *F.S.*, effective for offenses committed on or after October 1, 2014, if the court imposes a term of years in accordance with s. [775.082](#), *F.S.* which is less than the maximum sentence for the offense, the court must impose a split sentence pursuant to subsection (1) for any person who is convicted of a violation of: s. [782.04\(1\)\(a\)2.c](#); ss. [787.01\(3\)\(a\)2. or 3](#) ; ss. [787.02\(3\)\(a\)2. or 3](#); s. [794.011](#), excluding ss. [794.011\(10\)](#), [800.04](#), [825.1025](#), or [847.0135\(5\)\(b\)](#) *F.S.* The probation or community control portion of the split sentence imposed by the court must extend for at least two years. However, if the term of years imposed by the court extends to within two years of the maximum sentence for the offense, the probation or community control portion of the split sentence must extend for the remainder of the maximum sentence.

Source: OPPAGA analysis of *Florida Statutes*.



## Appendix C

# Sex Offender Residential Restrictions System (SORR)

As shown in Exhibit C-1, the SORR interface displays buffers around bus stops, schools, daycares, parks, and playgrounds. This allows probation officers to check an offender's proposed address prior to move in to ensure the offender can legally live at the residence. The system allows the probation officer to set the extent of the buffer depending on local residence restriction ordinances.

### Exhibit C-1

#### SORR Interface Displays Buffer Areas Where Sex Offenders Cannot Legally Live



Source: Florida Department of Corrections screenshot (street names are redacted).

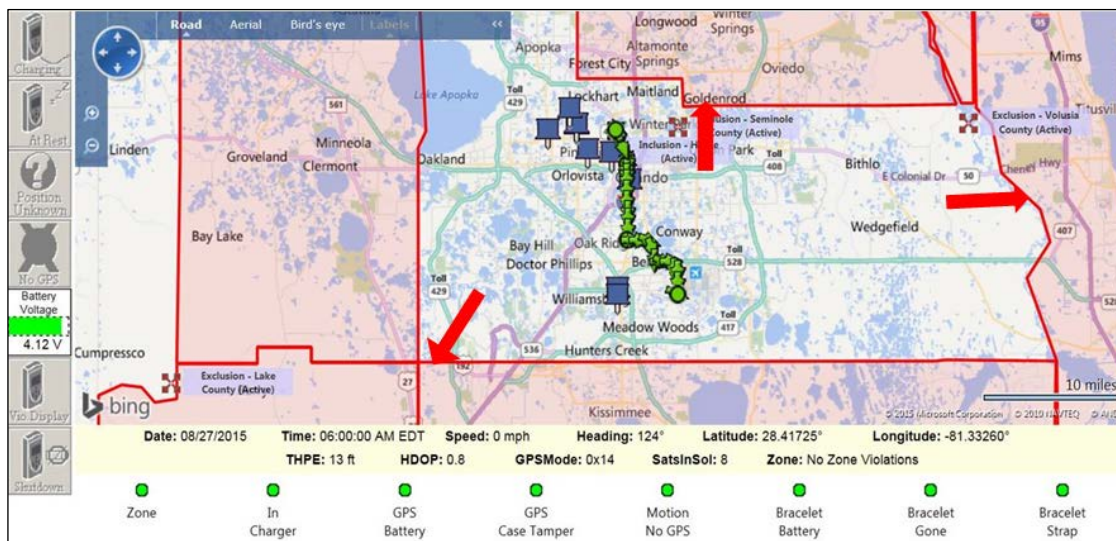
## Appendix D

# Florida Department of Corrections Electronic Monitoring

The 3M electronic monitoring interface, shown in Exhibit D-1, displays offender movement (arrows) and locations where the offender spent time in a location (circles). Blue push-pin symbols reflect the location of schools and daycares. The interface also displays exclusion zones (pink areas outlined in red). In this example, the offender is not allowed to leave his or her county of residence without permission. All surrounding counties are identified as exclusion zones. Exhibit D-2 shows the communication device and the ankle bracelet.

### Exhibit D-1

#### GPS Monitors Offender Movement in Relation to Exclusion Zones



Source: Florida Department of Corrections GPS system screenshot.

### Exhibit D-2

#### Devices Used to Monitor Sex Offenders Through GPS




Source: Training materials from 3M.

## Appendix E

# Sex Offender and Sexual Predator Letters

### Exhibit E-1

### Sex Offenders and Sexual Predators Who Cannot Obtain a Driver License or Identification Card Are Provided Letters



**A SAFER  
FLORIDA**  
HIGHWAY SAFETY AND MOTOR VEHICLES

**Terry L. Rhodes**  
Executive Director

2800 Apalachee Parkway  
Tallahassee, Florida 32399-0900  
www.flhsmv.gov

Date \_\_\_\_\_

Customer Name \_\_\_\_\_  
Customer Address \_\_\_\_\_  
Customer City, State, Zip \_\_\_\_\_

Attention: Customer Name \_\_\_\_\_  
DL/ID Number: Customer's Driver License Number \_\_\_\_\_

This letter is being issued to show that you reported to (the system will automatically apply the address of the field office) to obtain/update your Florida driver's license or identification card as required in s. 943.0435(3) Florida Statutes.


At the time of reporting, a Florida driver's license or identification card could not be issued because you could not produce the required documentation or payment to secure or update a Florida driver's license or identification card. The following items were not produced to continue with the issuance.

☐ Identification Documents  
☐ Residency Documents  
☐ Required Payment of Fees

Please be aware that the issuance of this letter DOES NOT fulfill the requirements to obtain or update a Florida driver's license or identification card as required in s. 943.0435(3) F.S. Failure to comply with this requirement is a felony in the 3<sup>rd</sup> degree punishable as provided in sections 775.082, 775.083 or 775.084 F.S.

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**A SAFER  
FLORIDA**  
HIGHWAY SAFETY AND MOTOR VEHICLES

**Terry L. Rhodes**  
Executive Director

2800 Apalachee Parkway  
Tallahassee, Florida 32399-0900  
www.flhsmv.gov

Date \_\_\_\_\_

Customer Name \_\_\_\_\_  
Customer Address \_\_\_\_\_  
Customer City, State, Zip \_\_\_\_\_

Attention: Customer Name \_\_\_\_\_  
DL/ID Number: Customer's Driver License Number \_\_\_\_\_

This letter is being issued to show that you reported to (the system will automatically apply the address of the field office) to obtain/update your Florida driver's license or identification card as required in s. 775.21(6) Florida Statutes.

At the time of reporting, a Florida driver's license or identification card could not be issued because you could not produce the required documentation or payment to secure or update a Florida driver's license or identification card. The following items were not produced to continue with the issuance.

☐ Identification Documents  
☐ Residency Documents  
☐ Required Payment of Fees

Please be aware that the issuance of this letter DOES NOT fulfill the requirements to obtain or update a Florida driver's license or identification card as required in s. 775.21(6) F.S. Failure to comply with this requirement is a felony in the 3<sup>rd</sup> degree punishable as provided in sections 775.082, 775.083 or 775.084 F.S.

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Source: Florida Department of Highway Safety and Motor Vehicles.

## Appendix F

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Florida Department of  
Law Enforcement

Richard L. Swearingen  
Commissioner

**Office of Executive Director**  
Post Office Box 1489  
Tallahassee, Florida 32302-1489  
(850) 410-7001  
www.fdle.state.fl.us

Rick Scott, Governor  
Pam Bondi, Attorney General  
Jeff Atwater, Chief Financial Officer  
Adam Putnam, Commissioner of Agriculture

December 29, 2015

Mr. R. Philip Twogood  
Coordinator  
Office of Program Policy Analysis and Government Accountability  
111 West Madison Street, Room 312  
Tallahassee, FL 32399-1475

Dear Mr. Twogood:

Thank you for the opportunity to review, comment, and suggest clarifications to your preliminary report *Sex Offender Registration and Monitoring: Statewide Requirements, Local Practices and Monitoring Procedures*. Please see enclosed comments and clarifications regarding this report.

FDLE works closely with Florida universities and institutions of higher education to ensure reported information is accurate and updated timely and will continue working with Florida's sheriffs to include their input on 30-day transient registrant check-ins and how the state registry system might assist with this local responsibility.

Florida's sexual offender registry is a valuable public safety tool. We look forward to continued state, local and federal partnership efforts to ensure this information is accurate and comprehensive for Florida's citizens. Thank you for the time and attention your staff provided in the development of this report.

Sincerely,

Richard L. Swearingen  
Commissioner

RLS/mc

Enclosure



**Suggestions to Clarify Report**

1. p. 13, column 1, end of first full paragraph – “Lastly, two offenders were listed as volunteers in 2004, but the college had no current record of them as volunteers.”

**Note:** Offenders volunteering or employed on a campus may not be volunteering or employed with the school itself, but with organizations or businesses that are located on that campus; therefore, the school would not necessarily have record of this type of information.

2. p. 14, first line – “Sex offenders legally required to register are also required to attempt to obtain a Florida license or identification card and keep their address information current.”

**Suggested edit:** “Sex offenders legally required to register are also required to obtain a Florida license or identification card and keep their address information current.”

3. p. 15, column 1, 3rd paragraph – “...FDLE’s system that is used to track typical registration and re-registration activities does not have a separate data field to record this information.”

**Note:** As the statute requires “Each sheriff’s office shall establish procedures for reporting transient residence information and provide notice to transient registrants to report transient residence information as required in this subparagraph.” As each of the state’s 67 sheriffs’ offices has developed their own protocols for instituting the 30 day transient check-in, FDLE’s system does not *uniquely* record transient check-in information, though free-text fields are available for this purpose and use if desired. However, as noted in the report, FDLE continues to work with Florida sheriffs’ offices to determine how the state registry system might assist with this local responsibility.

4. p. 16, Policy Options, 1st paragraph – “FDLE should consider modifying the system to include...”

**Suggested edit:** “As a result of the input from Florida sheriffs’ offices, FDLE is currently evaluating modifications to the system to include...”