

# Sex Offender Registration and Monitoring Triennial Review - 2018

Report No. 18-08

December 2018



# OPPAGA

Office of Program Policy Analysis and Government Accountability



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### EXECUTIVE SUMMARY

Beginning in the early nineties, both federal and Florida law have facilitated oversight of sexual offenders and predators living in Florida communities. Several entities have a role in monitoring sex offenders in Florida, including the Florida Department of Law Enforcement (FDLE), Florida Department of Corrections (FDC), Department of Highway Safety and Motor Vehicles (DHSMV), and local law enforcement. The agencies' various activities include monitoring, registering, verifying, and providing information about sex offenders.

As directed by Chapter 2005-28, *Laws of Florida*, OPPAGA studied the effectiveness of Florida's sexual offender registration process and public notification provisions.

FDLE's sex offender registry lists more than 73,000 offenders and predators, of which, just over 28,000 reside in Florida communities. Since 2005, when the Office of Program Policy Analysis and Government Accountability (OPPAGA) was first statutorily required to review the registry, the number of registered sexual predators and sex offenders in Florida communities has grown by 53%. Sheriffs' offices monitor all registered sex offenders and are meeting statutory requirements, adopting various strategies to fulfill them. Additionally, FDC supervises offenders sentenced to community supervision and those who have been conditionally released from prison. Also, some sex offenders are conditionally released into the community from the Sexually Violent Predator Program's Florida Civil Commitment Center.

Some sex offenders are required to participate in specialized treatment as a term of their community supervision. OPPAGA's review found a wide range of treatment costs as well as cost variability by both provider and geographic area. To help ensure reasonable rates and set standards for treatment quality, FDC entered into contractual agreements with treatment providers throughout its four regions to provide sex offender treatment services. However, many sex offender treatment providers do not operate under the parameters of a contract and are not monitored for quality assurance.

Sex offenders in Florida may face barriers to housing including residence restrictions, unwelcoming property managers, lack of affordable housing, and issues with employment and income. Transient offenders continue to present monitoring challenges. While the overall percentage of registered sex offenders living in Florida communities with a transient address is small (6%), some counties have higher than average rates. In addition, barriers to housing have contributed to sex offender enclave communities. Enclaves include apartment complexes, rooming houses, trailer parks, and motels that were established expressly for, or are willing to rent to, sex offenders. There are local variations in emergency shelter access for sex offenders, with most communities designating a specific shelter or area of a shelter for sex offenders. In addition, some communities have ordinances that require sex offenders to self-disclose their registration status at shelters.

In support of this project, OPPAGA conducted fieldwork in Hendry, Lee, Miami-Dade, and Palm Beach counties, including

- meeting with FDC, Community Corrections probation officers, and staff;
- meeting with sheriff's office staff and accompanying officers on address verifications to multiple sex offender residences;
- visiting the Pelican Lake Community, a sex offender enclave near Pahokee in Palm Beach County that is run by Matthew 25 Ministries and houses 125 sex offenders;
- facilitating a focus group attended by 31 individuals required to register as offenders and predators; and
- attending a meeting of the Palm Beach County Re-Entry Taskforce's Sex Offender Subcommittee.

# INTRODUCTION

## Florida law facilitates oversight of sexual offenders and predators living in Florida communities

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, the Florida Legislature has passed laws that meet, and in some cases exceed, federal requirements to register and monitor sex offenders. (See Appendix A for more information on these laws.)

All sex offenders that are required to register have been convicted of certain qualifying felonies set forth in Florida statutes.<sup>1</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. The court designates some sex offenders 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.

Several entities have a role in monitoring sex offenders in Florida. These entities include the Florida Department of Law Enforcement (FDLE), Department of Highway Safety and Motor Vehicles (HSMV), Florida Department of Corrections (FDC), and local law enforcement. The agencies' various activities include registering, verifying, and providing information about sex offenders. (See Exhibit 1.)

FDLE maintains Florida's 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, physical description including any tattoos, and 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, any email or internet identifiers, and a description and tag number of any vehicles registered to individuals who reside with the offender.

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<sup>1</sup> Sex offenders as defined in s. [943.0435](#), F.S.; sex offenders under the custody, control, or supervision of FDC 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)(h)1.d., F.S.

## Exhibit 1

### Florida's Monitoring of Sex Offenders Consists of Four Main Activities

#### Registration

- Sheriffs
- Florida Department of Law Enforcement

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 of information required to be provided pursuant to statute. These offenders also must re-register two or four times a year based on their conviction(s) and status. The offender must provide information such as their physical description, addresses, and vehicle descriptions. The Florida Department of Law Enforcement (FDLE) maintains this information on the sex offender registry.

#### Identification

- Department of Highway Safety and Motor Vehicles

All sex offenders required to register must also 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 the department within 48 hours of any change in address. Per Florida statute, driver licenses and identification cards issued to registered sex offenders display distinctive information on the front to identify their registration status.

#### Address Verification

- Florida Department of Corrections
- County and Local Law Enforcement Agencies

The Florida Department of Corrections (FDC) and local law enforcement entities are responsible for verifying sex offender addresses in a manner that is consistent with federal laws and standards to ensure that sex offenders can be found at the address they register.

#### Community Notification

- Florida Department of Law Enforcement
- Florida Department of Corrections
- County and Local Law Enforcement Agencies

The Florida Department of Law Enforcement (FDLE) is responsible for statewide notification efforts. FDLE informs the public of the location of sex offenders and provides information via the online sex offender registry and a toll-free, nationwide hotline. 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.

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. The Florida College System reported that colleges have taken steps to provide information to volunteers, students, and staff about the presence of sex offender on campus(s). These efforts include establishing specific college policies related to sex offender reporting, designating an office on campus as a point of contact, and posting the rights and responsibilities that pertain to sex offender reporting on the college website. Sheriffs' offices and FDLE report that institutions of higher learning typically work directly with their local law enforcement agencies who provide notification, follow-up on unreported changes in offenders' status, and update registration information as appropriate.

Source: Florida Department of Law Enforcement.

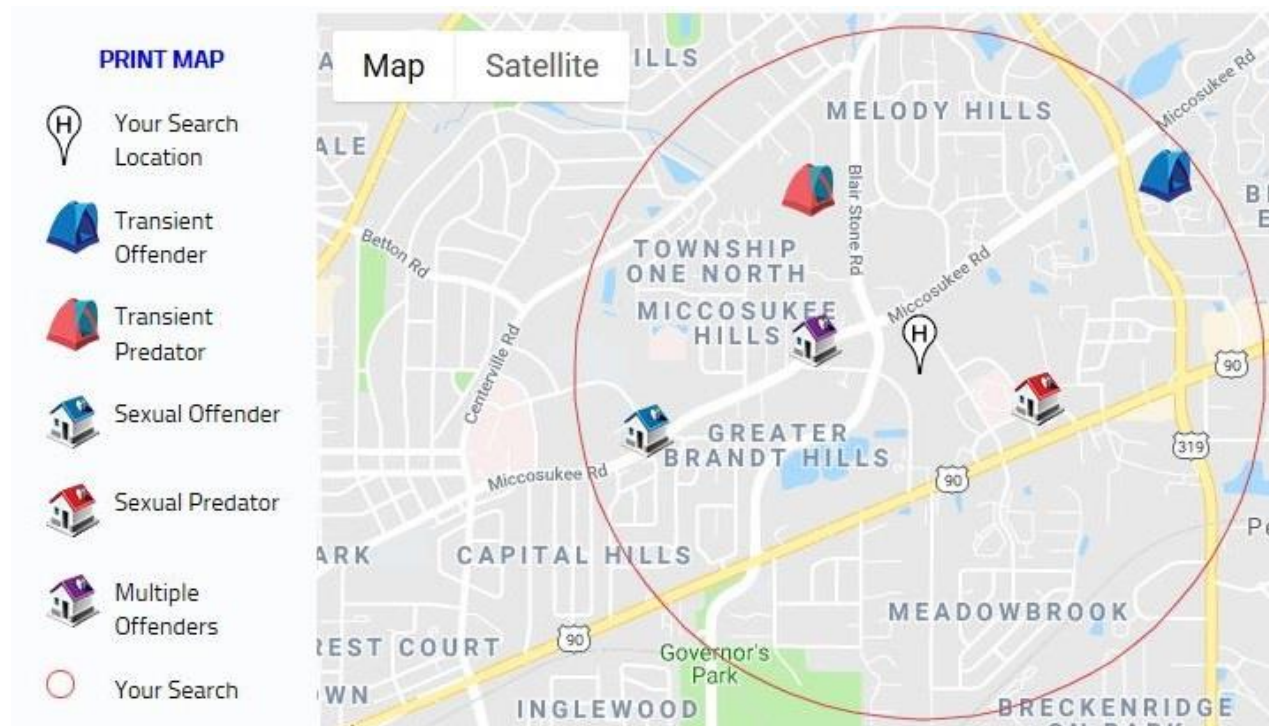
### The Florida Department of Law Enforcement is in the process of improving the sex offender registry

In 2017, the Legislature appropriated the first of a three-year non-recurring appropriation to FDLE to improve the sexual offender and predator registry database. The three-year estimated cost was \$7.1 million. The registry system redesign and development is scheduled for completion in June 2020; however, several key improvements to the registry have already been implemented. During 2015 and 2016, FDLE conducted numerous meetings with law enforcement across the state to identify registry modifications to improve agencies' ability to manage their offender populations and to improve the efficiency of tracking registrants. Many of these recommendations were incorporated into the new registry data system. For example, the registry redesign allows sheriffs' departments the ability to run status reports on address verifications and offender registration violations. The improvements to the registry's public use interface have included the creation of mobile phone and tablet applications. In

addition, improvements to the portrayal of address information on the interactive map graphics, available both online and through the applications, clearly indicate offenders' with transient addresses and addresses with multiple offenders living in one residence. (See Exhibit 2.)

## Exhibit 2

### Recent Improvements to the FDLE Sex Offender Registry Website Include Graphics to Depict Offender Locations and Living Arrangements



Source: Florida Department of Law Enforcement.

## Florida is substantially compliant with federal sex offender 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>2</sup> These minimum standards address elements such as the immediate transfer of information, requirements for website registries, and community notification. Along with 17 other states, Florida is substantially compliant and has substantially implemented the requirements of the act.<sup>3</sup> (See Exhibit 3.)

Jurisdictions that fail to substantially implement SORNA requirements risk losing a portion of their federal Edward Byrne Memorial Justice Assistance Grant (JAG) funds.<sup>4</sup> Criminal justice programs can use these funds for technical assistance, training, public information, and other purposes. In federal Fiscal Year 2016, Florida received approximately \$17.8 million in JAG funds.<sup>5</sup> Substantially compliant states can also receive bonus funds from previous fiscal year funding reductions from noncompliant

<sup>2</sup> Title I of the Adam Walsh Child Protection and Safety Act of 2006 (P. L. 109-248).

<sup>3</sup> In addition, the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida were among 131 tribal jurisdictions in the United States found to be substantially compliant.

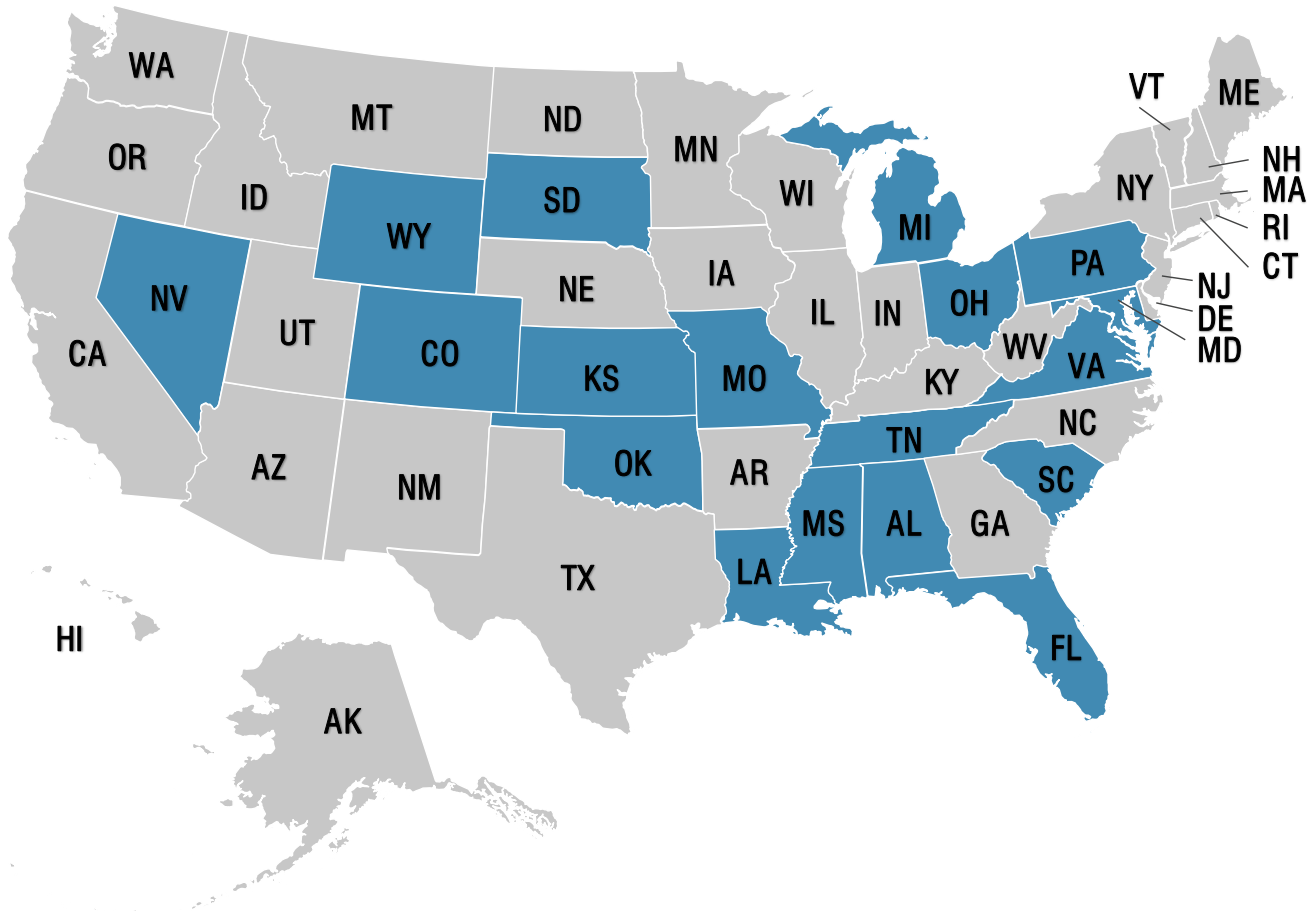
<sup>4</sup> Jurisdictions include the 50 states, 5 principal U.S. territories, and Indian tribes that elect to function as registration jurisdictions under 42 U.S.C. 16927.

<sup>5</sup> The \$17.8 million in JAG funds includes funds awarded to state and local governments. The total allocated to state government was \$11.3 million.

states. In federal Fiscal Year 2016, there was approximately \$1 million available from such reductions; Florida received a bonus award of \$203,389, the largest of any state.<sup>6</sup>

## Exhibit 3

## Florida and 17 Other States Are Substantially Compliant With Federal Sex Offender Registration and Notification Act Requirements<sup>1</sup>



<sup>1</sup> In addition to the 18 states, the 4 territories of American Samoa, Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands were also substantially compliant.

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

<sup>6</sup> The next highest bonus award was to Pennsylvania at \$113,613, followed by Michigan at \$99,109, and Ohio at \$96,166.



# FINDINGS

## More than 28,000 registered sex offenders and sexual predators live in Florida communities

The Florida Department of Law Enforcement's sex offender registry listed more than 73,000 offenders and predators; most offenders did not reside in Florida communities

As of October 2018, there were 73,004 sex offenders and sexual predators on the Florida sex offender registry; 60,143 of these individuals were classified as sex offenders and 12,861 as sexual predators.<sup>7</sup> The typical registered sex offender in Florida was a white, middle-aged male. Approximately 98% of all offenders on the registry were male and 2% were female. Whites made up the largest percentage at 75%, followed by African Americans at 24%, and other races at 1%. When considering sex and race, white males made up the largest percentage of the registry at 73%. Additionally, the average age of offenders on the registry was 50 years of age. Offenders who were ages 65 and older accounted for 14% of the registry, which increased from 12% in 2015. Finally, 79% of offenders on the registry had at least one child victim.

However, most (60% or 43,607) of the offenders on the state registry did not reside in Florida communities. (See Exhibit 4.) Many offenders who were not within a Florida community resided out-of-state (30% or 21,746). The next largest category was confinement (25% or 18,500).<sup>8</sup> Some offenders were deported (4% or 2,845) and a small number were civilly committed (1% or 516).<sup>9</sup> Additionally, about 1% (849) of offenders on the registry had absconded and their whereabouts were unknown. At the time of our review, the remaining offenders on the registry lived in Florida communities (39% or 28,548). (See Appendix B for data on the number of sex offenders by county.)

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<sup>7</sup> The registry also included 985 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.

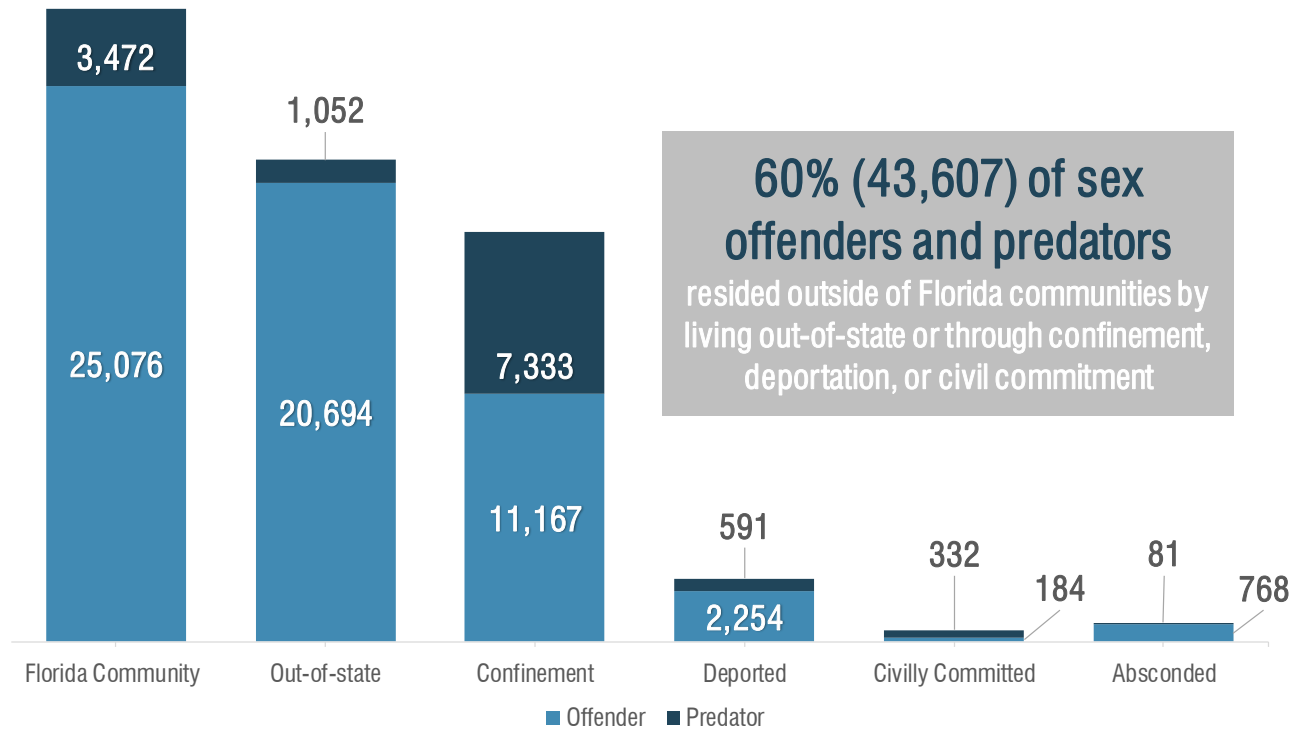
<sup>8</sup> People who are confined are in a state or federal prison facility, county or municipal jail, or in the custody of U.S. Immigration and Customs Enforcement.

<sup>9</sup> People who are civilly committed are confined or detained by the Florida Department of Children and Families under the Involuntary Civil Commitment of Sexually Violent Predators Act.



## Exhibit 4

### As of October 2018, Most Registered Sex Offenders and Predators Lived Outside of Florida Communities



Source: OPPAGA analysis of Florida Department of Law Enforcement data.

### The number of registered sex offenders and sexual predators has increased over the last 14 years

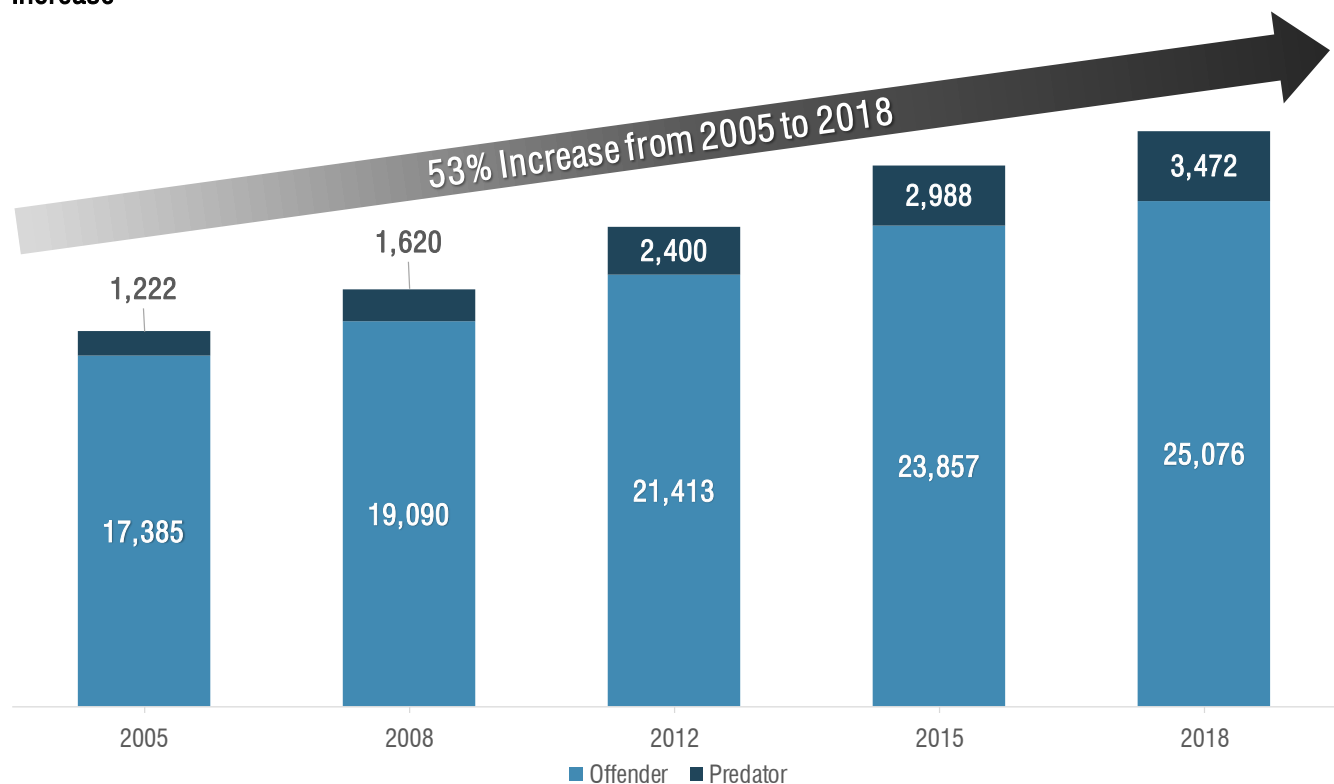
Since 2005, when OPPAGA was first statutorily required to review the registry, the number of registered sexual predators and sex offenders in Florida communities has grown by 53%.<sup>10</sup> Over this same period, the increase in the growth rate of sexual predators has outpaced the rate of growth for offenders, with the number of predators in Florida's communities growing by 184% and the number of offenders growing by 44%.<sup>11</sup> (See Exhibit 5.) Predators are individuals who have been convicted of a sexually violent offense as defined in s. 775.21, *Florida Statutes*, and the court has written an order designating them as predators. In addition, individuals that have been civilly committed under the Involuntary Civil Commitment of Sexually Violent Predators Act are also designated as sexual predators.

<sup>10</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.

<sup>11</sup> FDLE reported that over the last three years, an average of 670 sex offenders and sexual predators were removed from the registry. Reasons for removal include offender death, relief from the requirement to register within another jurisdiction, court action pertaining to the qualifying offense for the registry, such as a case being overturned or retried, or other court decisions that may affect an offender's registration requirement, including Romeo and Juliet relief. Romeo and Juliet relief allows offenders to petition the court for removal of the registration requirement if they meet certain criteria, including the victim being at least 13 years-old, but not more than 17 years old, the offender was not more than 4 years older than the victim, and the sexual activity was consensual.

## Exhibit 5

### The Number of Registered Sex Offenders and Predators Residing in Florida Communities Continues to Increase



Source: OPPAGA analysis of Florida Department of Law Enforcement data.

## Sex offenders living in Florida communities receive varying levels of supervision

### Sheriffs monitor registered sex offenders in Florida communities and have adopted various strategies to meet statutory obligations

All registered sex offenders are monitored by local law enforcement. Sheriffs' offices have statutory requirements for offender registration, address verification, and public notification. Our survey of sheriffs found that they are routinely complying with statutory requirements and have adopted various strategies to fulfill these requirements. However, local practices differ in terms of registration hours and cost as well as response to failures to register and re-register.<sup>12</sup>

- **Failure to register.** Sex offenders who are released from prison or are on probation must register with the sheriff in the county where they live within 48 hours of establishing a residence. Additionally, offenders must re-register in-person two or four times a year based on their conviction(s) and status. Two-thirds of sheriffs' offices responding to our survey reported exercising some discretion in arresting or seeking a warrant for first-time late registration, using strategies such as first attempting to locate offenders to advise them to

<sup>12</sup> We surveyed all 67 sheriffs' offices and received responses from 53; however, some offices did not answer all items on the survey.

register. However, for re-registration violations, more sheriffs report arresting or seeking a warrant.

State attorneys can prosecute sex offenders for failure to register or re-register. During Fiscal Year 2017-18, 1,253 offenders were convicted of offenses related to registration violations. Most were incarcerated, with approximately 45% (568) of the offenders convicted receiving a state prison sentence and 31% (389) a jail sentence.<sup>13</sup>

- **Registration hours and cost.** Most sheriffs provide registration five or more days a week, with a few offices open two or three days a week. Only seven sheriffs' offices reported that they require offenders to pay for registration or re-registration. For an initial registration, the costs ranged from \$19 to \$75 and \$5 to \$25 for re-registration. A few agencies also reported a \$5 or \$10 fee for information updates, such as a change in employment or a new vehicle.<sup>14</sup> Offenders who are unable to pay may be sent an invoice for future payment, allowed to complete an affidavit if indigent, or have the registration debt sent to collections if not paid within 30 days. While charging offenders may help offset the sheriff's expense for conducting registration and re-registration activities, it is unclear if the cost could potentially be a deterrent to timely compliance.
- **Address verification.** Florida law requires that local law enforcement and FDC verify sex offender addresses in a manner consistent with federal laws and standards, which requires, at a minimum, regular face-to-face contact between a law enforcement official and the offender.<sup>15</sup> 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. In addition, although not required by law, most sheriffs' offices conduct at least one in-person address verification at an offender's residence per year.<sup>16</sup> Furthermore, many sheriffs' offices reported conducting several address verifications per year with 89% of offices responding to our survey conducting address verifications for predators three or more times per year and 52% conducting address verifications for other sex offenders three or more times per year.

**Sheriffs' offices use different methods to notify the public, schools, and childcare facilities about sexual predators.** Florida law requires sheriffs' offices to notify the public when a sexual predator moves into their county.<sup>17</sup> Most sheriffs' offices reported notifying the public via their website (58%), followed by distributing posters or flyers (54%). (See Exhibit 6.) Additionally, 21% 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>18</sup>

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<sup>13</sup> Per ss. [943.0435\(9\)\(a\)](#) and [775.21](#), F.S., failure to register is a third degree felony punishable by incarceration.

<sup>14</sup> Sections [775.21\(6\)\(a\)1.b.](#) and [943.0435\(2\)\(a\)2.](#), F.S.

<sup>15</sup> Section [943.0435\(6\)](#), F.S.

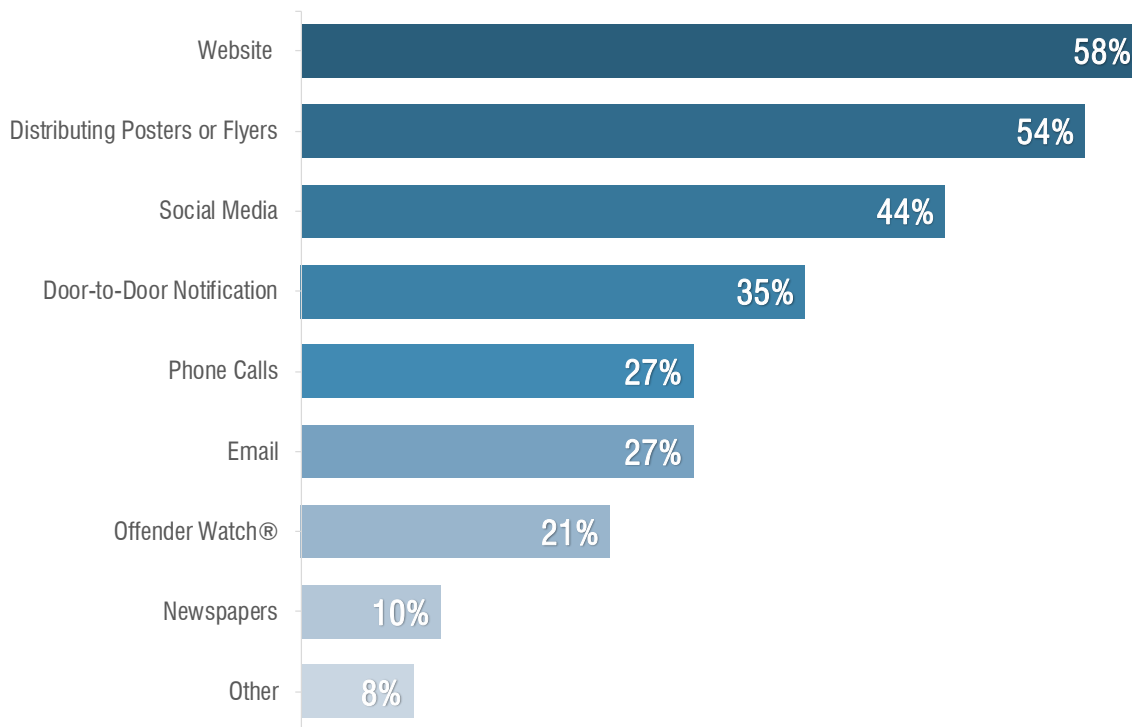
<sup>16</sup> Fifty-two out of 53 responding sheriffs' offices reported conducting an address verification at least once per year for sex offenders and sexual predators. One sheriff's office did not respond to the address verification question in our survey.

<sup>17</sup> Section [775.21\(7\)\(a\)](#), F.S.

<sup>18</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.

## Exhibit 6

### Sheriffs Most Typically Notify the Public About Sexual Predators Through Their Websites<sup>1</sup>



<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 childcare facilities when a predator moves within a one-mile radius. Offices reported that they notify schools and childcare facilities through face-to-face contact with the administration (53%), email (39%), phone calls (31%), or letters (31%).<sup>19</sup>

### Some offenders are supervised in the community, most by the Florida Department of Corrections

Some sex offenders living in Florida communities are also under court-imposed supervision. While on probation, offenders are required to adhere to specified conditions for an established period or they can be punished by receiving a sanction such as incarceration. Offenders can be sentenced to probation by state or federal court in lieu of or after a sentence of incarceration.<sup>20</sup> As of December 2018, the FDC supervised 8,978, sex offenders.

FDC provides different types of community supervision, but most sex offenders are monitored on sex offender probation. (See Exhibit 7.) This intensive form of supervision requires sex offender treatment and close monitoring in the field to ensure compliance with special conditions and sex offender registration requirements. Other forms of community supervision include regular probation,

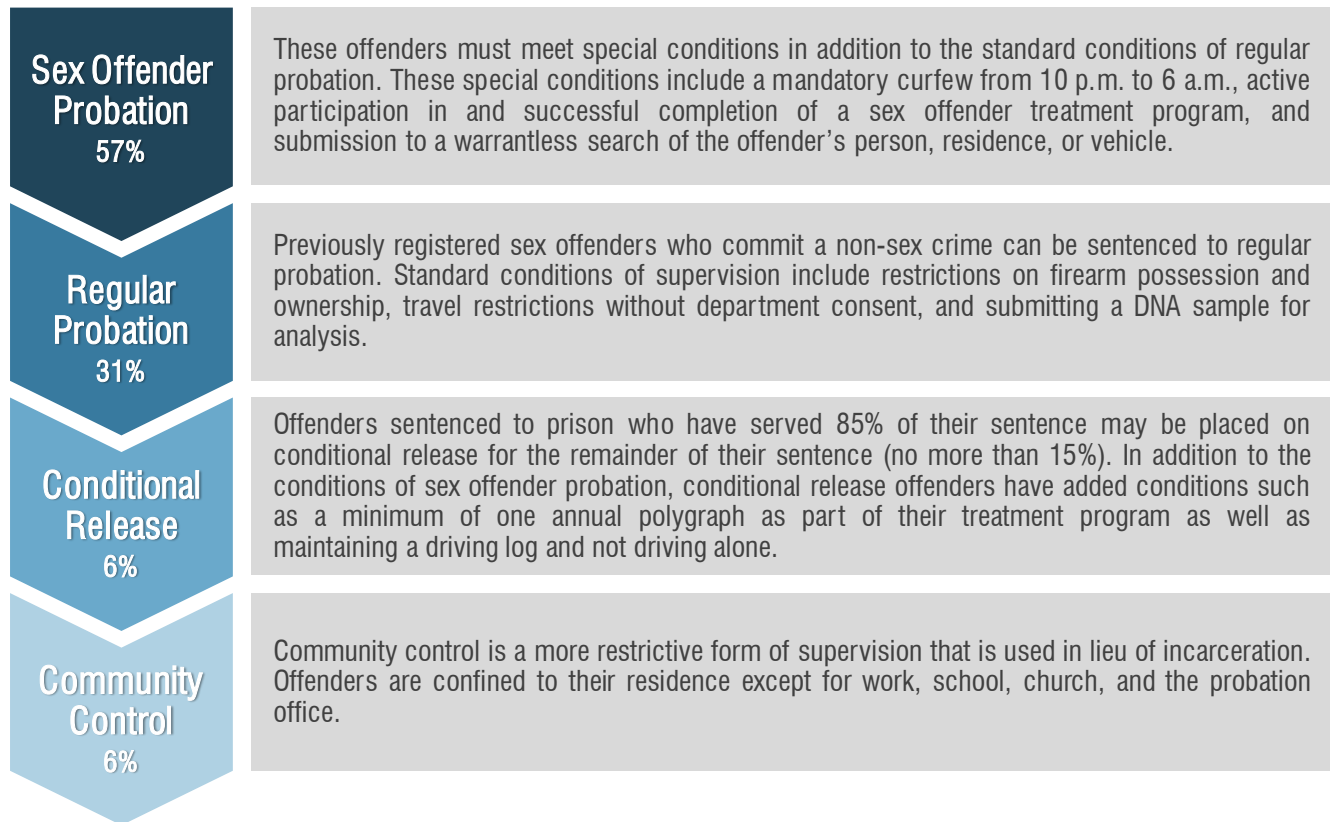
<sup>19</sup> Three sheriffs' offices reported that they have never encountered a sexual predator moving within a one-mile radius of a school or childcare facility and one sheriff's office did not respond to this question and thus these offices are excluded from the results.

<sup>20</sup> Federal sex crimes include those that occur on federal lands or in federal prisons, those that involve interstate or foreign travel, or those that involve child pornography produced or distributed in association with interstate or foreign commerce. As of October 2018, the U.S. Probation and Pretrial Services supervised 449 offenders in Florida communities.

conditional release, and community control. In addition, some supervised offenders are placed on electronic monitoring for enhanced monitoring and supervision.<sup>21</sup>

## Exhibit 7

### The Florida Department of Corrections Supervises Sex Offenders in Different Ways



Source: Florida Department of Corrections.

To help ensure that sex offenders are complying with the terms of their supervision, FDC probation officers are required to make routine contact with offenders. Regardless of supervision type, all sex offenders are placed in the sex offender risk class. This risk class provides the maximum standards for probation officer contact with the exception of community control (house arrest).<sup>22</sup> This entails routine visits to the offender's residence, place of work, or treatment provider. For offenders on sex offender probation, officers also conduct periodic home inspections to look for evidence of violation of probation which may, depending on the offenders' conditions, include the possession of pornography or alcohol or, if their offense was against a minor, evidence of children in the home.<sup>23</sup> The ability to search electronic devices of those on sex offender probation is an important component of these home visits. Officers may check an offender's phone, tablet, or computer for sexual images or inappropriate

<sup>21</sup> For a complete list of special supervision conditions, see Appendix B of *Sex Offender Registration and Monitoring: Statewide Requirements, Local Practices, and Monitoring Procedures*, [Report No. 15-16](#), December 2015.

<sup>22</sup> Probation officers with 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. In some areas, for example rural counties and counties experiencing staff shortages, mixed caseloads are common, where officers may be supervising sex offenders and 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>23</sup> For offenders on regular probation, the probation 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, local police are called to complete the search and make an arrest based on new charges.

text messages during any home, field, or office contact. Probation officers report any instances of non-compliance with the established conditions to the court. 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.

**In addition to community supervision, some offenders and predators may also be required to be under electronic monitoring.** Florida law requires that the court impose electronic monitoring as a condition of probation or community control for certain sex offenders.<sup>24</sup> These offenders include those who violate the terms of their probation and who have committed specified offenses including 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>25</sup> In addition, the court is required to impose lifetime electronic monitoring, following their term of imprisonment, for offenders who committed specified offenses against children.<sup>26</sup> Most recently, the Legislature required mandatory terms of community control with electronic monitoring for sexual predators and offenders who commit a felony violation of the registry laws if the court does not impose a prison sentence.<sup>27</sup>

Electronic monitoring affords FDC and law enforcement the ability 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 or the offender's departure from specified geographic limitations. As of November 2018, 3,435 of the 8,978 sex offenders on FDC community supervision were on active electronic monitoring.

## Sex offenders may also be supervised under stipulated agreements

Some sex offenders are also conditionally released into the community from the Sexually Violent Predator (SVP) Program's Florida Civil Commitment Center (FCCC) under stipulated agreement contracts. These offenders have been found by the court, or detained due to a probable cause finding, to be sexually violent predators. (See Appendix C.) State attorneys sometimes utilize stipulated agreements to negotiate release terms for some offenders detained or committed to the SVP Program. Stipulated agreements are negotiated civil contracts between a state attorney and an offender that allow the offender to be released into the community under specified terms and conditions. Stipulated agreements can be negotiated at different points in the civil commitment process.

- **Pretrial.** The court conducts a civil proceeding in which a civil commitment order is held in abeyance as long as the offender adheres to the terms and conditions stipulated in the contract. If the offender does not adhere, the offender is returned to the FCCC either as a detainee facing a civil commitment trial or as a committed SVP if the offender has waived the right to a trial.
- **Split agreement.** The offender agrees to participate in treatment at the FCCC for a limited amount of time. After which time, a mutually agreed upon independent evaluator will recommend outpatient treatment when the clinician thinks the offender has completed enough inpatient treatment at the center to safely be treated in the community. Once released, the offender must adhere to the terms and conditions stipulated in the contract or be returned to

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<sup>24</sup> Sections [948.30\(3\)](#), [948.012\(4\)](#), and [948.063](#), F.S.

<sup>25</sup> Sections [943.0435\(9\)\(b\)](#), [775.21\(10\)\(c\)](#), and [948.30\(3\)\(a\)](#), F.S.

<sup>26</sup> Sections [948.30](#), F.S., and [948.012](#), F.S., require lifetime electronic monitoring for offenders who committed their crime on or after September 1, 1995 and who are placed under supervision for certain offenses where the victim is 15 years of age or younger, including lewd and lascivious offenses, sexual performance by a child, and selling or buying of minors.

<sup>27</sup> Mandatory minimum term of six months for a first offense, one year for a second offense, and two years for subsequent offenses.

the center, either as a detainee facing a civil commitment trial or as a committed sexually violent predator if the offender has waived the right to a trial.

- **Post commitment.** The offender is committed by the court to the FCCC.<sup>28</sup> After participating in treatment, the offender petitions the court for release under the provision that the offender no longer poses a danger to the public.

State attorneys reported that they negotiate these agreements in an effort to maintain public safety by providing some measure of accountability when it is unlikely that the state will prevail at the commitment trial or annual release hearing. While state attorneys' offices that use them cite their broad prosecutorial discretion and authority to negotiate civil contracts as the legal basis for these agreements, some stakeholders have questioned the legal basis and enforceability of the agreements. However, a recent Florida District Court of Appeals decision upheld the lower court in its decision to commit an offender to FCCC after he failed to meet the terms of his stipulated agreement.<sup>29</sup>

OPPAGA examined stipulated agreements approved by the circuit courts for the conditional release of 225 offenders from 2001 through 2018.<sup>30</sup> We found that these agreements typically provided for the offender's release in exchange for participation in sex offender treatment and adherence to other conditions while living in the community. These conditions can include the offender taking polygraph tests at his own expense, submitting periodic reports to the court, no contact with victims or minors, attending Alcoholics Anonymous, abiding by a curfew, or not possessing pornographic materials. Depending on the terms of the agreement, if the offender fails to comply with the release conditions, he may be held as a detainee at the FCCC while the state begins the process of civil commitment. If the offender has waived his right to a trial, he may be immediately committed as a sexually violent predator. Offenders who violate their agreement by committing a new offense may be sent to jail or prison and then returned to the FCCC. We also determined the current location of the offenders who at one time had been released under a stipulated agreement. At the time of our review, many (39%) of these offenders did not reside in Florida communities. (See Exhibit 8.)

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<sup>28</sup> Offenders committed under the Involuntary Civil Commitment of Sexually Violent Predators Act are designated as predators for purposes of registration and public notification regardless of their status prior to commitment under the Act.

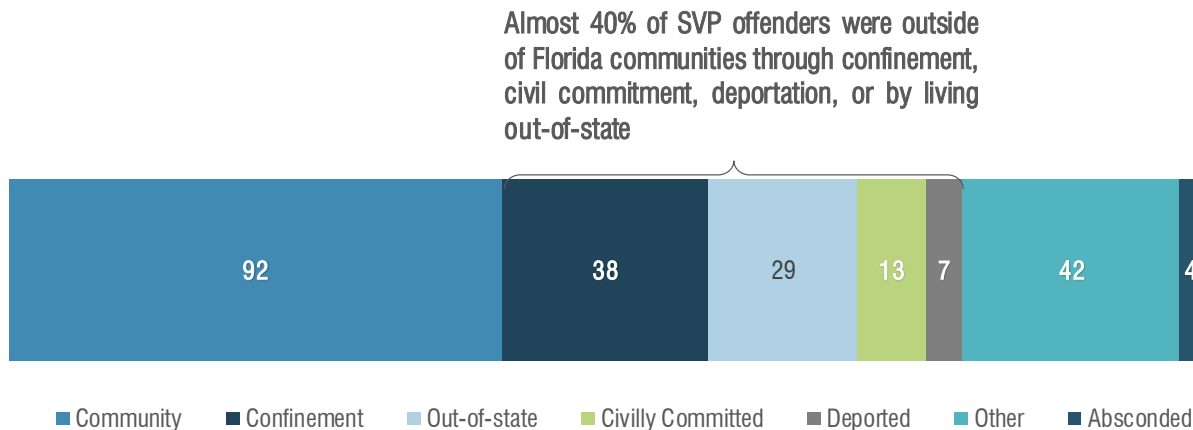
<sup>29</sup> *Gates v. State*, 252 So.3d 1179 (Fla. 2018).

<sup>30</sup> These agreements originated in 18 of Florida's 20 judicial circuits.



## Exhibit 8

### At the Time of Our Review, Many of the 225 Sexually Violent Predators Released Under Stipulated Agreements Did Not Live in Florida Communities<sup>1</sup>



<sup>1</sup> Other represents offenders for whom we could not determine their location. This includes individuals who, while referred and detained at the FCCC, were never civilly committed under the Jimmy Ryce Act and whose offense(s) does not require registration (typically predating Florida's sex offender registry requirements) as well as offenders identified as deceased.

Source: OPPAGA analysis of information from the Florida Department of Law Enforcement, Florida Department of Children and Families, and Florida Department of Corrections.

**The state attorney or public defender is responsible for monitoring agreement terms for conditionally released offenders, though monitoring capacity is limited.** State attorneys' or public defenders' offices are typically responsible for providing supervision to conditionally released offenders to help ensure that they are meeting the terms of their agreements.<sup>31</sup> However, unlike probation officers, state attorneys' and public defenders' offices do not have the resources or expertise to directly enforce conditions. For example, they cannot enter offenders' homes to determine their living conditions or see if they are in violation of terms such as abiding by a curfew or being in possession of pornographic material. Instead, state attorneys' offices rely primarily on reports from an offender's treatment provider to monitor compliance and may run periodic criminal history checks to see if the offender has been arrested. State attorneys' offices we spoke with acknowledged that they are ill equipped to maintain the type of supervision necessary for a predator in the community. However, in place of no conditions for supervision or aftercare treatment mandated by statute, they reported that agreements do provide some level of accountability.

Some offenders are also under community supervision by the FDC when they are released from the FCCC. As of May 2018, FDC was supervising 17 offenders who had been under stipulated agreements in our review period, with 15 known to be living in Florida communities and two with out-of-state addresses. For offenders under stipulated agreement contracts who are also subject to department supervision, the state attorney typically communicates with both the probation officer and the sex offender treatment provider to ensure compliance with the terms and conditions of the contract. Additionally, the sex offender treatment provider and the probation officer utilize polygraph results to ensure compliance. This approach, where the probation officer and treatment provider communicate

<sup>31</sup> The 2<sup>nd</sup> Judicial Circuit reported that the offender's attorney, usually an assistant public defender, is required to monitor the offender and submit documentation to support compliance with the contract terms.

regularly and utilize polygraph results to monitor and intervene when the offender shows signs of noncompliance or reoffending, is widely considered a best practice.

## The Florida Department of Corrections facilitates sex offender therapy; service monitoring limited to contracted providers

### Some sex offenders are required to participate in specialized treatment

Florida law requires certain sex offenders to actively participate in and successfully complete a sex offender treatment program provided by qualified practitioners specifically trained to work with sex offenders.<sup>32,33</sup> Court ordered sex offender treatment is intended to reduce recidivism and improve offenders' reintegration into society. During Fiscal Year 2017-18, 2,126, or 24% of sex offenders under community supervision were required to participate in treatment.

When an offender begins treatment, a clinician develops a treatment plan that enumerates offense-related goals such as accepting responsibility for one's sexual offenses, sexual self-regulation, and relapse prevention as well as self-stated goals such as maintaining employment and developing a support system. Sex offender treatment in Florida typically consists of weekly group sessions with 8 to 15 offenders, which may be supplemented with individual appointments and exercises in therapeutic workbooks. Other treatment protocols could include the use of medications to help control sexual compulsiveness or hormone suppressing drugs to reduce testosterone levels.<sup>34</sup> Over time, clinicians assess offenders' progress toward treatment goals as well as strengths, such as being motivated to make positive changes and being in good health, and their risks or problems, such as substance abuse and lack of transportation. Statute also requires that, as part of a treatment program, offenders must undergo at least an annual polygraph examination.<sup>35</sup> Polygraph exams are intended to aid clinicians in monitoring high-risk behavior, help

Florida's sex offender probation model utilizes the team treatment (i.e., containment) model. Team treatment is a specialized supervision model that combines well trained probation officers, sex-offense-specific treatment, and polygraph assessments. This supervision model emphasizes communication between the probation officer and treatment provider; utilizing polygraph results to inform both supervision and treatment personnel to reduce the offender's risk of reoffending. It is widely considered a best practice and is used in several other states and jurisdictions including Alaska, California, New Jersey, and Pennsylvania.

<sup>32</sup> Section [948.30, F.S.](#), requires offenders to participate in sex offender treatment if they committed their crime on or after October 1, 1995 and are placed under supervision for certain offenses including 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>33</sup> A qualified practitioner is a social worker, mental health counselor, or a marriage and family therapist licensed under [Ch. 491, F.S.](#), who has the coursework, training, qualifications, and experience to evaluate and treat sexual offenders; a psychiatrist licensed under [Ch. 458, F.S.](#), or [Ch. 459, F.S.](#); or a psychologist licensed under [Ch. 490, F.S.](#)

<sup>34</sup> Practitioners may also provide risk assessments for offenders to regain privileges such as minor contact and Internet access. Section [948.30, F.S.](#), provides for the specific components of risk assessments, which include the offender's treatment history and current mental status. Reported costs for risk assessments ranged from \$60 to \$2,500.

<sup>35</sup> Section [948.30\(2\)\(a\), F.S.](#), also requires that the polygraph examination be conducted by a polygrapher who is a member of a national or state polygraph association and who is certified as a post-conviction sex offender polygrapher, where available.

reduce the sex offender's denial mechanisms, and inform treatment decision-making. In some cases, the court may order more frequent polygraph exams. Polygraph examination results are also provided to the offender's probation officer.

Clinicians play an important role in Florida's team treatment model. Clinicians not only provide sex offender treatment but also serve a monitoring function through their observations and interactions with offenders during treatment sessions as well as monthly reporting to FDC probations officers. Monthly reports include information about attendance, payment, participation, and overall progress. Offenders who commit a violation of treatment program rules, including lack of participation, failure to take or pass a polygraph exam, or three unexcused absences from scheduled treatment sessions may be discharged from the treatment program. This can result in a probation violation, which in turn can result in the offender being sent to jail or prison. FDC community supervision staff reported that treatment providers will contact them outside of standard monthly reporting when issues arise with a particular offender, thus providing an additional layer of supervision. Due to the individualized nature of treatment, there is no set length of time to complete sex offender treatment, with clinicians we spoke with reporting that offenders take between one to four years of weekly group therapy to complete a program. However, at least one treatment program retains offenders for longer periods, scaling back frequency, but maintaining some treatment sessions as a means of monitoring.

**Treatment costs vary; affordability can present challenges to offenders.** As required by statute, almost all sex offenders are required to pay for their own treatment and polygraph testing.<sup>36</sup> While some states, such as Alaska and New Jersey, pay for post-incarceration treatment for offenders, more commonly, states require offenders to pay for their own treatment or have limited funding for indigent offenders.<sup>37</sup> In Florida, there is a wide range of costs for treatment services. (See Exhibit 9.) Our review of treatment costs found variability by both provider and geographic area.

## Exhibit 9

### Examples of Sex Offender Treatment Costs

| Treatment Activity  | Reported Cost Range |
|---------------------|---------------------|
| Evaluation          | \$40 - \$450        |
| Group Sessions      | \$20 - \$100        |
| Individual Sessions | \$35 - \$80         |
| Polygraph Testing   | \$150 - \$250       |

Source: Florida Department of Corrections and the Florida Association for the Treatment of Sexual Abusers.

Department central office and probation staff and clinicians all reported that it is common for offenders, particularly those unemployed or underemployed, to have issues paying for treatment and polygraph exams. Treatment programs often work with offenders on pricing, such as a sliding scale for some services, or putting them on a payment plan and allowing offenders to owe them for treatment sessions so they can continue to participate. However, if the provider is unwilling or if the offender fails to adhere to the payment plan, the practitioner can refuse to provide treatment. In these

<sup>36</sup> Section [948.30\(1\)\(c\)](#), F.S., requires active participation in and successful completion of a sex offender treatment program with qualified practitioners specifically trained to treat sex offenders, at the probationer's or community controllee's own expense. However, FDC does pay treatment costs for a few offenders. Low-income offenders who committed their sexual offense(s) before October 1995 are eligible for department-funded treatment on a sliding scale based on the offender's personal income, the Federal Poverty Guideline Income level, and the number of family members in the household. For Fiscal Year 2018-19, the department reported that it paid approximately \$26,000 for sex offender treatment for around 80 offenders.

<sup>37</sup> The Alaska Department of Corrections pays for the first year of outpatient community-based treatment. After that, the offender is expected to pay a portion of the treatment costs.

cases, the probation officer notifies the court that the offender is out of compliance. Our review of monthly progress reports submitted by treatment providers to probation officers showed outstanding payment balances of hundreds of dollars and in two cases in excess of \$1,200. Paying for polygraph exams can be an additional challenge. Offenders are required to submit to annual polygraphs at a cost of \$150 to \$250 in addition to regular treatment.<sup>38</sup> According to FDC staff, when offenders are unable to pay for their polygraphs, probation officers will give them a reasonable period to comply, but at a certain point, will notify the court that the offender is out of compliance.

### **Sex offender therapy may not be available in every county; monitoring is limited to contracted providers, and treatment effectiveness has not been evaluated**

During Fiscal Year 2018-19, FDC entered into contractual agreements with 17 providers throughout its four regions to provide sex offender treatment services. The department provides limited funding for these contracts because most sex offenders are required to pay for their own treatment. These agreements help ensure reasonable rates and set standards for treatment quality, with contracts outlining service requirements and associated costs. For example, contracted providers are required to conduct a 50-minute, face-to-face pre-treatment evaluation of each sex offender within 10 calendar days of referral to determine the level of services needed. The department also requires contracted providers to include specific components in their sex offender treatment programs, including comprehensive relapse prevention, victim empathy modules, and cognitive behavior therapy. In addition, the contracts describe provider responsibilities for communicating with probation officers, ensuring offender participation, developing discharge policies, and complying with contract monitoring.

However, most sex offender treatment providers do not operate under the parameters of a contract. Thus, in an effort to make more practitioners available to offenders, the department established and maintains a treatment resource list. This list consists of clinicians who express interest in providing sex offender treatment. While inclusion on the resource listing does not guarantee referrals for treatment of sex offenders from FDC, probation officers provide offenders with contact information for clinicians on the listing. The clinicians are required to attest that they are a licensed clinical social worker, marriage and family therapist, mental health counselor, or psychologist under Chs. 490 or 491, *Florida Statutes*, are eligible to evaluate and treat sex offenders, and have specialized knowledge and experience. FDC staff checks the clinician's licensure status to make sure it is still in effect and verify the clinician has not had any disciplinary actions. In addition, department staff check-in with resource providers annually to ensure they are still willing to provide sex offender treatment services and that their license is still in good standing. As of November 2018, there were 57 practitioners on the sex offender resource provider list.

**Some areas of the state have more limited access to sex offender treatment providers.** Not all counties have FDC treatment providers. Currently, the department's contractors provide treatment in 41 counties and non-contracted clinicians provide treatment in 31 counties; 10 counties do not have FDC treatment providers. (See Exhibit 10.) Per Florida statute, offenders who do not have a specialized sex offender treatment provider within 50 miles of their home are to required to seek other appropriate therapy.<sup>39</sup> Additionally, judges can specify that an offender seek treatment from a certain practitioner, in which case, the offender must comply with the court order regardless of the distance.

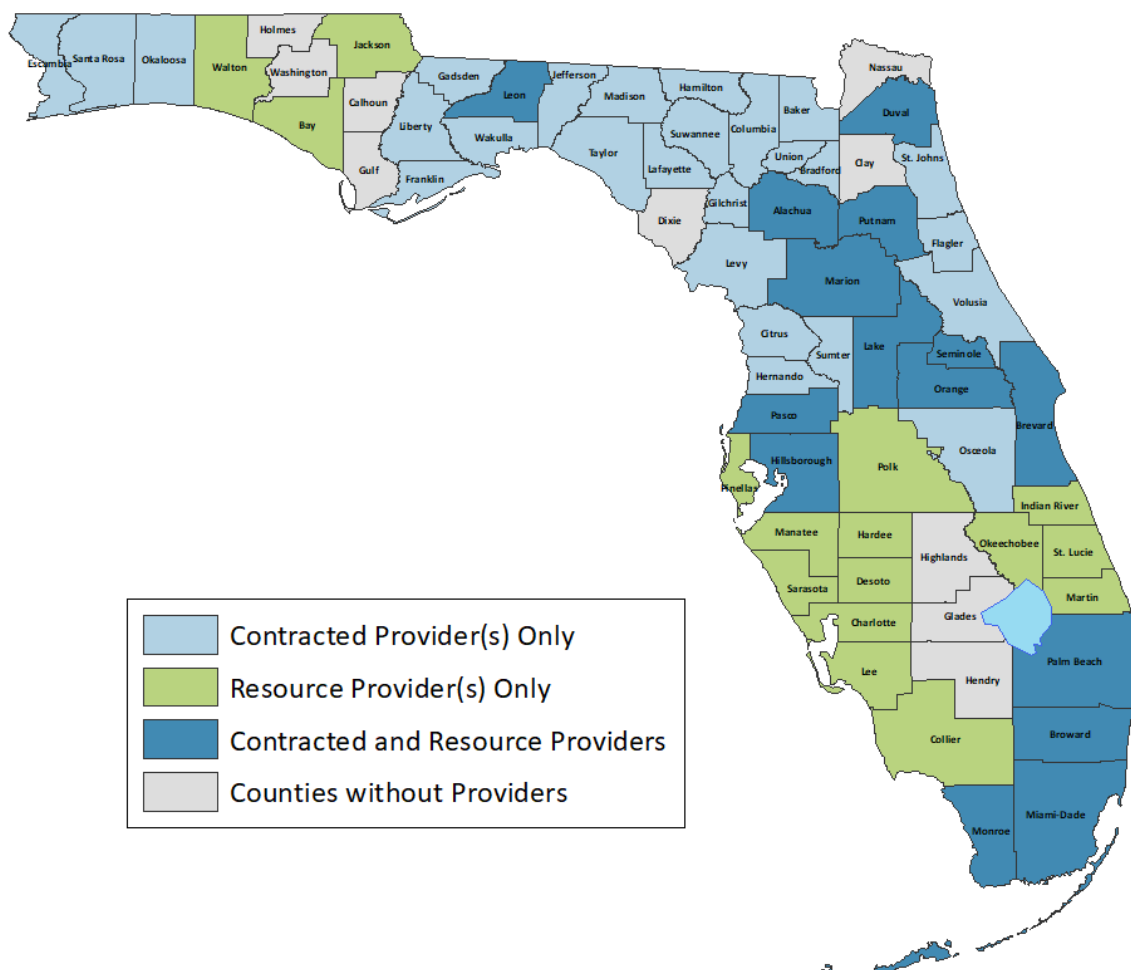
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<sup>38</sup> An offender may also be required to undergo an initial sexual history polygraph exam, with an estimated cost of \$200 to \$250.

<sup>39</sup> Section [948.30\(1\)\(c\)](#), *F.S.*

## Exhibit 10

### Availability of Sex Offender Treatment Providers Varies Across the State



Source: OPPAGA analysis of Florida Department of Corrections information.

**Quality assurance monitoring is limited to providers under contract with the department.** FDC regional office staff monitors contracted providers to ensure department standards are followed by conducting annual site visits to ensure adherence to contract provisions and quarterly site visits to ensure quality treatment. For example, among other requirements, contracted providers are obligated to provide group counseling sessions for a minimum of 45 minutes to between 5 and 15 offenders. This time cannot include administrative functions such as collecting fees and the sign-in process.

However, non-contracted resource providers are not obligated to adhere to these standards. As a result, offenders receiving treatment from resource providers could be receiving less treatment time and in larger groups. In addition, resource providers are not obligated to adhere to any cost parameters and can set any price for their services.

**Florida-based research is needed to determine treatment effectiveness.** While Florida has had a statutory requirement for sex offender treatment in place for 23 years, little is known about the effectiveness of treatment practices to reduce sex offense recidivism.<sup>40</sup> To date, a comprehensive study

<sup>40</sup> In 1995, in an effort to reduce the commission of violent and repeat sex offenses, the Legislature required outpatient sex offender treatment for supervised sexual predators and sex offenders convicted of specified offenses.

has not been conducted in the state. Additionally, treatment providers reported that they do not have affordable access to recidivism data to ascertain long-term outcomes of offenders once they leave treatment. Given the lack of research and access to data, it is difficult for providers to evaluate the effectiveness and continue to improve the treatment they provide.

According to the Florida Association for the Treatment of Sexual Abusers (FATSA) members, Florida is unique and looking at its processes and outcome data would provide a feedback loop to help providers learn, improve patient results, and help keep communities safe. To determine the effectiveness of current treatment practices and help establish best practice standards, the Legislature could consider authorizing a study to evaluate the effectiveness of current treatment practices to reduce recidivism and ensure public safety.

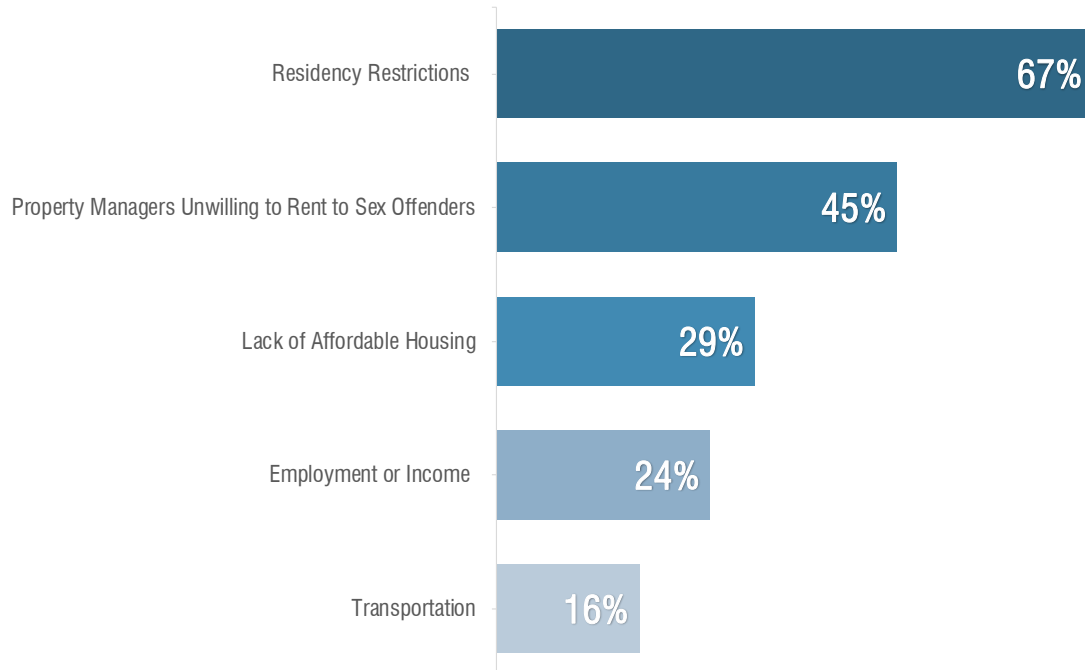
## **Sex offenders may face housing barriers, contributing to offender instability and monitoring difficulties**

### **Sex offenders can face barriers to housing; local residence restrictions cited as a common obstacle**

Many studies have established that sex offenders who maintain stable employment, housing, and family relationships have significantly lower recidivism rates. Sex offenders in Florida face multiple barriers to housing including residence restrictions, unwelcoming property managers, a lack of affordable housing, and issues with employment and income. These factors may contribute to the growth of sex offender enclave communities and increases in offender transiency. Most of the sheriff's offices responding to our survey reported that there are housing barriers for sex offenders within their counties. The highest percentage of these respondents reported that residence restrictions were barriers, followed by property managers who are unwilling to rent to sex offenders, a lack of affordable housing, employment or income issues, and transportation. (See Exhibit 11.)

## Exhibit 11

### Sheriffs Cited Local Residence Restrictions as the Most Common Housing Barrier for Sex Offenders<sup>1</sup>



<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.

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, childcare facility, park, or playground.<sup>41</sup> However, local government can impose municipal or county residence restrictions that further prohibit where some or all sexual offenders can live. For example, in some communities, certain offenders who committed 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. Some ordinances include additional locations such as public libraries, churches, zoos, and public beaches. 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.<sup>42</sup> Several counties have four or more ordinances. As of November 2018, there were 166 local residence restrictions in 48 Florida counties, including 29 county and 137 municipal ordinances. (See Exhibit 12.) Lastly, 14 communities, including seven counties and six municipalities, have enacted no loitering or child safety zone ordinances that enumerate places where children congregate and sex offenders are not allowed to be present.

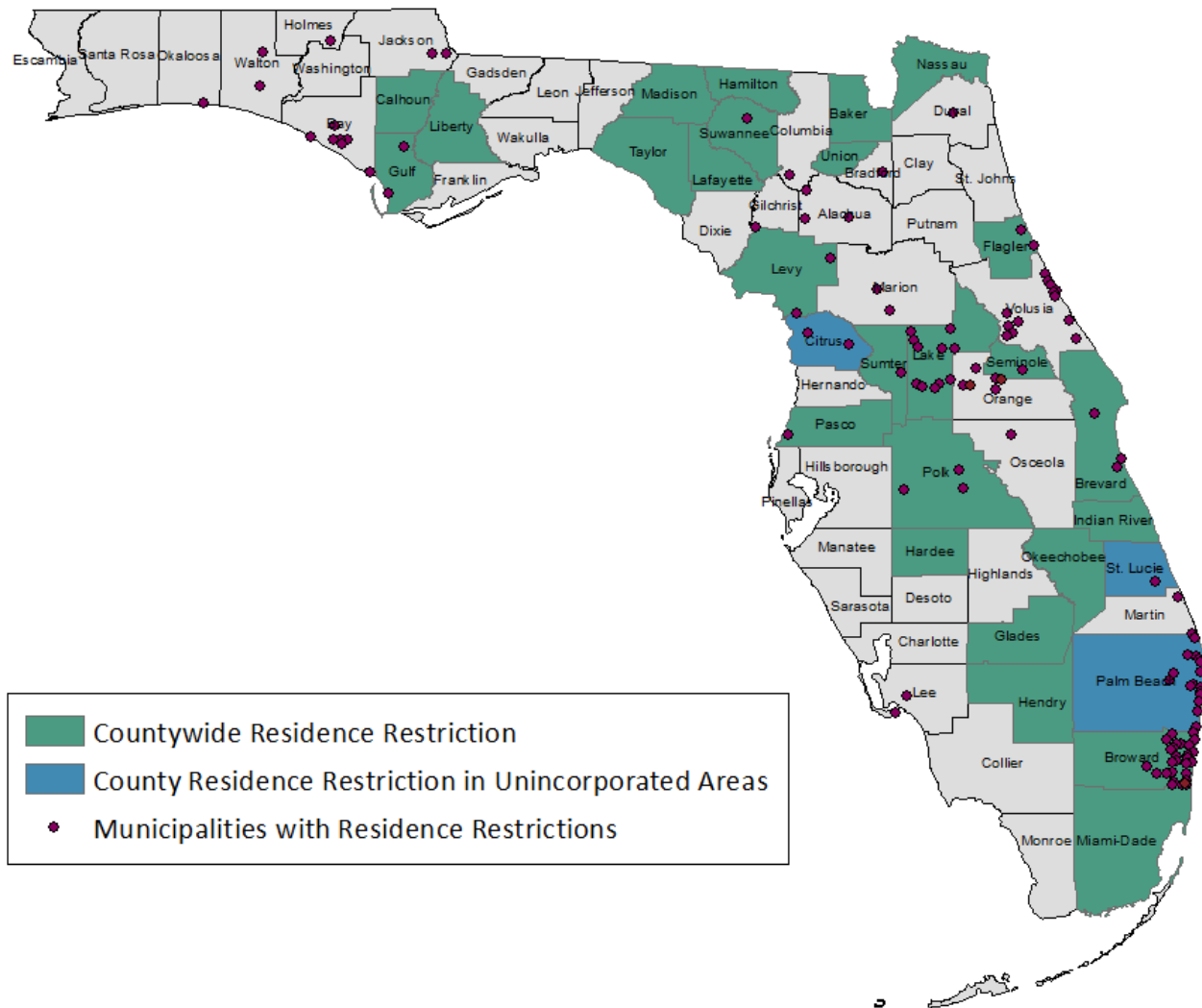
<sup>41</sup> Section [775.215\(2\)\(a\)](#), F.S.

<sup>42</sup> FDC developed the Sex Offender Registration Restrictions System to help determine if offenders under its supervision can legally live at a certain address. The system allows probation officers 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. The officer enters the address into the system and it prints a map with the address, highlighting the areas where the offender cannot live. If the address is near the border, the officer will go into the field and physically measure the distance to determine if the address is appropriate.



## Exhibit 12

### Some Florida Counties Have Enacted Local Residency Restrictions for Sex Offenders



Source: OPPAGA analysis of Florida Department of Corrections information.

While local residence restrictions have been widely implemented in Florida communities, federal research and Florida stakeholders reported that they may have unintended results. According to the U.S. Department of Justice's Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking Office (SMART) research has demonstrated that residence restrictions do not decrease and are not a deterrent for sexual recidivism.<sup>43</sup> In addition, some research has shown no significant decreases in sex crime rates following the implementation of residence restrictions. However, residence restrictions do affect offenders who have to move or have limited housing options, particularly in urban areas. This combination can lead to an increase in homelessness, loss of family

<sup>43</sup> The Adam Walsh Child Protection and Safety Act of 2006 authorized the establishment of the office. The office is responsible for assisting with implementation of the Sex Offender Registration and Notification Act and for assisting criminal justice professionals across the entire spectrum of sex offender management activities needed to ensure public safety.

support, and financial hardship, which are all known to be destabilizing factors. Offenders who lack stability are more likely to reoffend.

As required by statute, OPPAGA sought input from the Florida Association for the Treatment of Sexual Abusers for this review.<sup>44,45</sup> FATSA does not support local residence restrictions. Its formal response stated that the state requirement of a 1,000 foot residence restriction serves the purpose of creating buffer zones, without unreasonably eliminating housing options and encouraging transience.<sup>46</sup> However, local ordinances that create larger buffer zones result in more expansive areas being off limits to sex offenders seeking housing. This condition is particularly acute in urban areas where development is denser and these child-focused places can be in closer proximity to each other, creating overlapping buffers. Lastly, FATSA reported that there is no evidence suggesting that Florida's 1,000-foot residence restriction is insufficient to accomplish the sex offender management goals of the state and local governments.

For example, a 2,500 foot residence restriction, the most commonly implemented by local governments, creates a nearly half mile buffer (0.47 miles) around schools, parks, playgrounds, and other places where children congregate, resulting in a minimum 0.7 square mile sex offender exclusion zone.

## Transient offenders continue to present monitoring challenges

While the overall percentage of registered sex offenders living in Florida communities with a transient address is small (6%), some counties have higher than average rates. (See Exhibit 13.) For example, 10 counties have a higher rate than the state average of 8.29 transient offenders per 100,000 people. The counties with the highest rates are Duval with 17.64 transient offenders per 100,000 people, Broward with 17.34, and Miami-Dade with 16.14.

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<sup>44</sup> Section [943.04353](#), F.S.

<sup>45</sup> As required by statute, the Florida Council Against Sexual Violence was also contacted for this review but did not provide comment.

<sup>46</sup> This applies to sexual offenders and predators whose victim(s) was less than 16 years of age.

**Exhibit 13****Ten Counties Have a Higher Rate of Transient Offenders Than the State Average**

| County       | Number of Transient Offenders | Rate of Transients Offenders Per 100,000 People |
|--------------|-------------------------------|-------------------------------------------------|
| Bay          | 1                             | 0.56                                            |
| Martin       | 1                             | 0.65                                            |
| Highlands    | 1                             | 0.98                                            |
| Walton       | 1                             | 1.51                                            |
| Okaloosa     | 3                             | 1.52                                            |
| St. Lucie    | 5                             | 1.65                                            |
| St. Johns    | 4                             | 1.68                                            |
| Charlotte    | 3                             | 1.70                                            |
| Pasco        | 11                            | 2.14                                            |
| Gadsden      | 1                             | 2.22                                            |
| Santa Rosa   | 4                             | 2.35                                            |
| Collier      | 9                             | 2.45                                            |
| Okeechobee   | 1                             | 2.58                                            |
| Indian River | 4                             | 2.63                                            |
| Citrus       | 4                             | 2.75                                            |
| Lee          | 20                            | 2.80                                            |
| Polk         | 19                            | 2.84                                            |
| Desoto       | 1                             | 3.00                                            |
| Osceola      | 12                            | 3.41                                            |
| Lake         | 12                            | 3.51                                            |
| Nassau       | 3                             | 3.63                                            |
| Flagler      | 4                             | 3.72                                            |
| Sarasota     | 18                            | 4.31                                            |
| Hillsborough | 62                            | 4.40                                            |
| Escambia     | 15                            | 4.75                                            |
| Leon         | 14                            | 4.81                                            |
| Taylor       | 1                             | 4.98                                            |
| Hendry       | 2                             | 5.05                                            |
| Manatee      | 25                            | 6.62                                            |
| Palm Beach   | 118                           | 8.25                                            |
| Brevard      | 49                            | 8.40                                            |
| Union        | 1                             | 9.29                                            |
| Monroe       | 7                             | 9.47                                            |
| Orange       | 132                           | 9.80                                            |
| Pinellas     | 107                           | 11.04                                           |
| Volusia      | 72                            | 13.61                                           |
| Alachua      | 36                            | 13.74                                           |
| Miami-Dade   | 447                           | 16.14                                           |
| Broward      | 329                           | 17.34                                           |
| Duval        | 168                           | 17.64                                           |
| <b>Total</b> | <b>1,727</b>                  | <b>8.29</b>                                     |

Source: OPPAGA analysis of Florida Department of Law Enforcement registry data and University of Florida Bureau of Economic and Business Research population estimates as of April 1, 2018.

As shown in Exhibit 13, Miami-Dade had the highest number of transient offenders. We spoke to the Miami-Dade County Homeless Trust, which reported working to find housing for transient sex offenders living in homeless encampments. Trust staff reported that untreated mental health issues and a lack of employability contribute to sex offender homelessness. Additionally, some offenders have financial commitments to family residences where they are unable to reside due to residence restrictions, but for various reasons chose not to move their families.<sup>47</sup> Staff reported that a predominant reason for continued sex offender transience is an unwillingness on the part of property managers to rent to sex offenders.<sup>48</sup>

**Transient offenders are required to check-in every 30 days, but monitoring these offenders is still problematic.** Per Florida law, transient offenders are required to check-in at sheriffs' offices every 30 days as long as they lack a fixed address.<sup>49</sup> Prior to 2014, transient sexual predators and some offenders were only required to register every three months and sex offenders every six months.<sup>50</sup> The 30-day check in requirement provides that in addition to the three or six month registration, offenders must go to the sheriff's office every 30 days in person to verify information such as transient location.<sup>51</sup> This 30-day transient reporting requirement is different from a typical registration because an offender is not required to verify all information but must provide the addresses and locations of transient residence.<sup>52</sup> For example, a transient offender could report that the offender resides in the woods behind a specific retail store or an intersection of two roads. 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. In October of 2017, to streamline and standardize the data entry process, FDLE added a transient check-in module to the sex offender registry system for local law enforcement.

While transient offenders have more accountability under the 30-day transient reporting requirement, sheriffs' offices reported that transient offenders are still difficult to monitor. The mobility of these offenders makes it difficult to locate them; as a result, they can consume a disproportionate amount of officer time compared to non-transient offenders. For example, some offices reported that it is difficult to find a transient offender's campsite in a wooded area and it can take several attempts to find and verify a transient offender's location. While some sex offenders may be transient because they have difficulty finding a legal residence, stakeholders, including sheriff's offices, reported that sex offenders might claim to be transient even though they have a permanent or temporary address they cannot register due to state or local residence restrictions.

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<sup>47</sup> For example, in Miami-Dade, FDC reported that in August of 2018, there were nine sex offenders under its supervision who owned residences in the Miami area where they lived prior to being sentenced, but now cannot reside or sleep there due to residence restrictions.

<sup>48</sup> FDC staff reported that a lack of affordable housing in areas that comply with sex offender residency restrictions is also a problem in Miami-Dade County.

<sup>49</sup> Sections [943.0435\(4\)\(b\)2.](#) and [775.21\(6\)\(g\)2.b.](#), *F.S.*

<sup>50</sup> Sections [943.0435\(14\)\(b\).](#), *F.S.*

<sup>51</sup> Sections [943.0435\(4\)\(b\)2.](#) and [775.21\(6\)\(g\)2.b.](#), *F.S.*

<sup>52</sup> According to s. [775.21\(2\)\(o\)](#), *F.S.*, a transient residence means a county where a person lives, remains, or is located for a period of three 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 the person sleeps or seeks shelter and a location that has no specific street address.

## Some offenders find housing in enclave communities

**Barriers to housing have contributed to intentional and ad-hoc sex offender enclave communities.** Intentional enclaves include for-profit and faith-based communities designed to assist sex offenders upon release from prison. The number of intentional enclave communities and housing providers appears to be growing. However, their numbers are small and they only exist in a handful of counties.<sup>53</sup> Notably, of the 10 counties with the highest rates of sex offender transience, 7 do not have housing specific to this population.

Intentional enclaves often provide at least initial transportation to secure identification and register with the sheriff as well as ongoing, onsite sex offender treatment. Ad-hoc enclaves do not provide these support services, but are willing to rent to sex offenders, and as a result, have become enclaves over time. Both intentional and ad-hoc enclaves include apartment complexes, rooming houses, trailer parks, and motels that are willing to rent to sex offenders, and as a result, have become enclaves over time. FDC staff reported that the advantages of enclaves are that offenders tend to hold each other accountable and multiple offenders can be monitored at one time. In responding to our survey, many sheriff's offices shared FDC's opinion that enclaves make for expedient address verification and monitoring checks and that offenders who live in close proximity are aware of each other's behavior, improving accountability. Additionally, one sheriff's office reported that enclave residents remind each other of their registration requirements while another reported that they provide law enforcement a source of intelligence regarding other offenders.

However, some sheriffs did express concern about the potential of offenders encouraging, conspiring, or covering for each other's deviant behavior, resulting in re-offenses. FDC staff and some sheriffs also stated that public perception and complaints are a barrier to establishing sex offender enclave communities. In addition, both FDC probation staff and some sheriffs reported that established enclaves are preferable to transient offenders because offenders who live there have a stable location. Enclave communities have been vetted as willing to rent to offenders and meeting residence restrictions. Because enclaves are largely a response to housing barriers experienced by sex offenders, many offenders residing in enclaves may otherwise be transient.

**Communities could consider methods to increase available housing options for sex offenders.** Many affordable housing options are not available to sex offenders. For example, federal housing law prohibits lifetime registered sex offenders from admission to Department of Housing and Urban Development's subsidized housing. In addition, sexual offenders are not protected under the Federal Fair Housing Act, which makes it easier for property owners and real estate developers to deny housing to them. Some communities have attempted to increase housing opportunities for offenders reentering the community by creating greater access to existing housing or by increasing the amount of housing available either by new construction or converting existing units. Using collaborative partnerships between stakeholders, such as housing officials, property owners, service providers, and law enforcement, communities could tailor strategies to meet their unique needs and to promote public safety and improve law enforcement's ability to monitor them. For example, considerations could be made specific for a sex offender population, such as choosing locations that comply with state and local residency restrictions and allowing for onsite services such as sex offender treatment and employment support.

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<sup>53</sup> A November 2018 listing of sex offender housing opportunities provided by Matthew 25 Ministries included 19 providers in 11 cities.

# There are local variations in emergency shelter access for sex offenders

Federal guidelines do not stipulate shelter procedures for sex offenders during times of emergency, leaving these decisions to state and local jurisdictions. Some states have enacted laws that place requirements on offenders, shelter staff, and other personnel during times of emergency. Louisiana and Mississippi both require registered sex offenders to notify shelter staff and law enforcement about their status and provide identifying information. The states' laws specify that this information include full name, date of birth, social security number, and last address of registration prior to the declaration of emergency. In addition, shelters in these states are required to make reasonable efforts to notify local law enforcement about the presence of the sex offender in the emergency shelter. The Louisiana law requires its Department of Corrections to provide information about emergency protocols to every sex offender under its supervision.

Florida does not have a state law providing direction to sex offenders or communities on emergency shelter procedures and local communities have varying processes. There have been recent changes to how shelter is provided to offenders during emergencies. Prior to 2017, the FDC directed sex offenders under its supervision to go through a series of steps to find shelter during times of emergency with the last step being to take shelter in an administrative area of a prison. However, during Hurricane Irma, correctional staff faced challenges managing large groups of sex offenders, which included offenders who were not under their supervision. As a result, FDC now requires probation officers to work with offenders to have a plan in place for finding emergency shelter, such as evacuating to a relative's home in another part of the state. In addition, the department is working with local communities to determine emergency shelter arrangements for sex offenders other than state correctional facilities. These arrangements vary across the state. Our review found that they include designating a specific shelter or an area of a shelter for sex offenders. The jail or another area of the sheriff's office is the most common location for a designated shelter. In a few communities, sex offenders may evacuate to any public emergency shelter and are not limited to a specific shelter or area of a shelter.

Some local communities in Florida also provide direction to sex offenders during times of emergency through ordinances. Similar to the laws in Louisiana and Mississippi, many of these ordinances require that sex offenders self-disclose their registration status. For example, the City of Jacksonville and Seminole County require that registered sex offenders declare their status immediately upon entering a shelter. Some ordinances also provide guidance on which shelters are accessible to sex offenders. The Lee County ordinance requires that offenders report to a pre-designated shelter identified by the sheriff's office. In addition, several ordinances impose a penalty, such as a fine or a jail sentence, if offenders do not follow them. For example, the City of Crystal River assesses penalties, including but not being limited to a fine of up to \$500, a 60-day or less jail term, or both.

## AGENCY RESPONSE

In accordance with the provisions of s. 11.51(2), *Florida Statutes*, a draft of OPPAGA's report was submitted to the Florida Department of Corrections and the Florida Department of Law Enforcement for review. Please see Appendix D for Florida Department of Law Enforcement's response.

# APPENDIX A

## Legislative Changes to Sex Offender Laws Since 2005

Exhibit A-1 shows changes to Florida's sex offender law since the passage of the Jessica Lunsford Act in 2005. The Legislature has passed three sex offender laws since OPPAGA's 2015 report.

### Exhibit A-1

#### The Florida Legislature Has Enacted Several Sex Offender Related Laws Since 2005

|      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2005 | 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. (Chapter 2005-28, <i>Laws of Florida</i> )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 2007 | Required sexual predators, juvenile sex offenders adjudicated 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 license and identification cards issued to registered sex offenders to display distinctive information on the front to identify them as sexual offenders or predators. (Chapters 2007-209, 2007-207, and 2007-143, <i>Laws of Florida</i> )                                                                                                                                                                                                                                                       |
| 2014 | Increased 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. 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. (Chapter 2014-5, <i>Laws of Florida</i> )                                                                                                                                                 |
| 2016 | Included lewd or lascivious battery upon an elderly or disabled person as an offense that requires sexual offenders to register quarterly and for life. (Chapter 2016-104, <i>Laws of Florida</i> )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2017 | In recognition that sexual offenders and predators may use social networking sites to gain information about victims and make contact with them, amended statutory definition of internet identify to specify that it includes any designation, moniker, screen name, username, or other name used for self-identification to send or receive social Internet communication. The law further required sex offenders to register each Internet identifier and its corresponding website homepage or application software name within 48 hours after use. (Chapter 2017-170, <i>Laws of Florida</i> )                                                                                                                                                  |
| 2018 | Modified the statutory definitions of residence as it applies to registered sex offenders and predators reporting this information. Modification included a decreasing from 5 days to 3 days the time period in which a person must abide, lodge, or reside at a place in order to meet any of the definitions for reporting purposes. Also imposed mandatory terms of community control with electronic monitoring for sexual offenders and predators who commit a felony violation of the sex offender registry laws, if the court does not impose a prison sentence. (Mandatory minimum of six months for first offense, one year for second offense, and two years for third or subsequent offense.) (Chapter 2018-105, <i>Laws of Florida</i> ) |

Source: OPPAGA analysis of Florida laws and statutes.



# APPENDIX B

## Number of Sexual Offenders Per County

Exhibit B-1 shows the number of sexual offenders and predators per county. It also contains the rate of all sexual offenders, including predators, for each county.

**Exhibit B-1**

| County       | Offenders | Predators | Total | Rate (Per 100,000) |
|--------------|-----------|-----------|-------|--------------------|
| Alachua      | 398       | 54        | 452   | 172.46             |
| Baker        | 51        | 4         | 55    | 217.59             |
| Bay          | 361       | 25        | 386   | 214.36             |
| Bradford     | 82        | 20        | 102   | 416.34             |
| Brevard      | 738       | 84        | 822   | 140.91             |
| Broward      | 1,097     | 127       | 1,224 | 64.52              |
| Calhoun      | 37        | 3         | 40    | 297.07             |
| Charlotte    | 219       | 15        | 234   | 132.39             |
| Citrus       | 269       | 33        | 302   | 207.45             |
| Clay         | 294       | 88        | 382   | 180.16             |
| Collier      | 231       | 31        | 262   | 71.33              |
| Columbia     | 231       | 52        | 283   | 430.68             |
| De Soto      | 74        | 12        | 86    | 258.37             |
| Dixie        | 75        | 12        | 87    | 587.12             |
| Duval        | 1,781     | 327       | 2,108 | 221.37             |
| Escambia     | 802       | 95        | 897   | 283.89             |
| Flagler      | 108       | 3         | 111   | 103.25             |
| Franklin     | 31        | 8         | 39    | 366.16             |
| Gadsden      | 203       | 35        | 238   | 529.51             |
| Gilchrist    | 37        | 6         | 43    | 257.42             |
| Glades       | 20        | 4         | 24    | 199.12             |
| Gulf         | 27        | 5         | 32    | 233.90             |
| Hamilton     | 26        | 8         | 34    | 279.56             |
| Hardee       | 54        | 5         | 59    | 228.95             |
| Hendry       | 20        | 2         | 22    | 55.58              |
| Hernando     | 364       | 32        | 396   | 213.94             |
| Highlands    | 168       | 20        | 188   | 183.52             |
| Hillsborough | 1,558     | 265       | 1,823 | 129.47             |
| Holmes       | 57        | 6         | 63    | 337.22             |
| Indian River | 191       | 9         | 200   | 131.73             |
| Jackson      | 142       | 17        | 159   | 368.72             |
| Jefferson    | 31        | 12        | 43    | 315.64             |
| Lafayette    | 10        | 3         | 13    | 183.25             |
| Lake         | 437       | 48        | 485   | 141.85             |
| Lee          | 727       | 82        | 809   | 113.37             |

| County          | Offenders | Predators | Total  | Rate (Per 100,000) |
|-----------------|-----------|-----------|--------|--------------------|
| Leon            | 506       | 92        | 598    | 205.41             |
| Levy            | 150       | 21        | 171    | 416.52             |
| Liberty         | 17        | 4         | 21     | 294.16             |
| Madison         | 45        | 9         | 54     | 303.17             |
| Manatee         | 397       | 64        | 461    | 122.08             |
| Marion          | 772       | 96        | 868    | 249.12             |
| Martin          | 141       | 12        | 153    | 99.68              |
| Miami-Dade      | 1,492     | 271       | 1,763  | 63.66              |
| Monroe          | 110       | 6         | 116    | 156.88             |
| Nassau          | 120       | 14        | 134    | 162.08             |
| Okaloosa        | 286       | 31        | 317    | 161.10             |
| Okeechobee      | 102       | 10        | 112    | 289.03             |
| Orange          | 1,923     | 376       | 2,299  | 170.77             |
| Osceola         | 432       | 49        | 481    | 136.59             |
| Palm Beach      | 875       | 132       | 1,007  | 70.39              |
| Pasco           | 752       | 85        | 837    | 162.74             |
| Pinellas        | 1,515     | 182       | 1,697  | 175.04             |
| Polk            | 1,037     | 100       | 1,137  | 169.73             |
| Putnam          | 265       | 44        | 309    | 426.21             |
| St. Johns       | 207       | 21        | 228    | 95.56              |
| St. Lucie       | 390       | 38        | 428    | 141.58             |
| Santa Rosa      | 329       | 22        | 351    | 206.37             |
| Sarasota        | 390       | 35        | 425    | 101.81             |
| Seminole        | 293       | 28        | 321    | 69.27              |
| Sumter          | 152       | 10        | 162    | 138.87             |
| Suwannee        | 72        | 10        | 82     | 191.51             |
| Taylor          | 56        | 9         | 65     | 323.90             |
| Union           | 50        | 0         | 50     | 464.38             |
| Volusia         | 882       | 104       | 986    | 186.33             |
| Wakulla         | 84        | 6         | 90     | 305.14             |
| Walton          | 135       | 21        | 156    | 235.99             |
| Washington      | 67        | 9         | 76     | 331.67             |
| Unknown County  | 81        | 9         | 90     |                    |
| Total Offenders | 25,076    | 3,472     | 28,548 | 137.77             |

Source: OPPAGA analysis of Florida Department of Law Enforcement data.

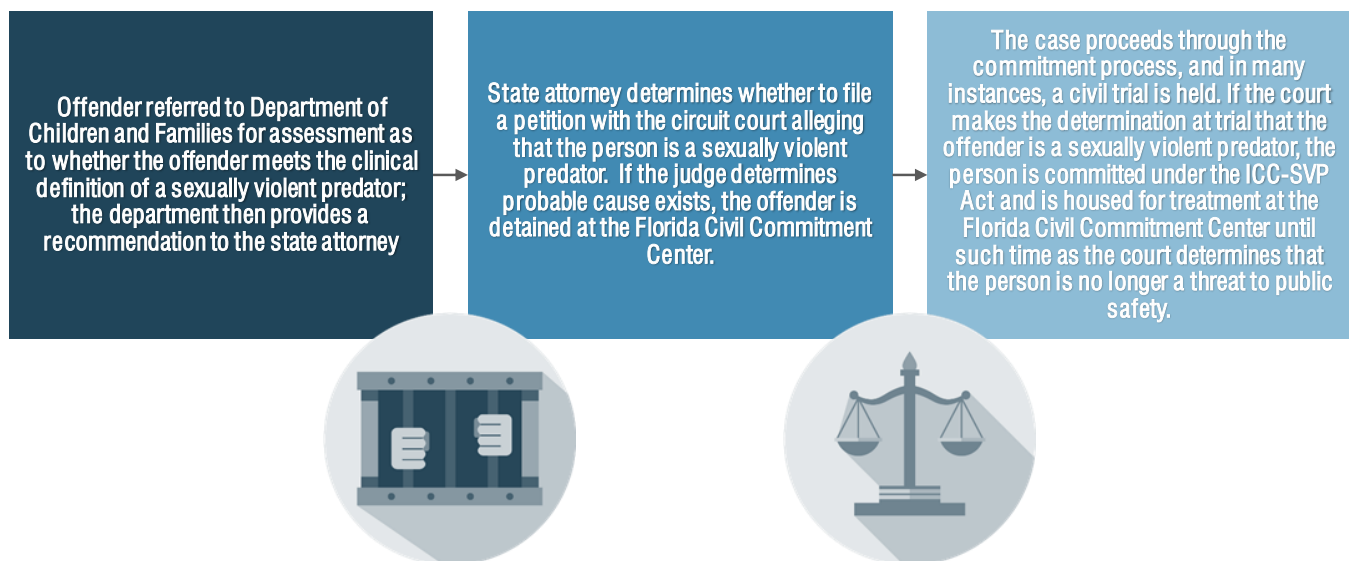
# APPENDIX C

## Sexually Violent Predator Commitment Process

The 1998 Legislature enacted the Involuntary Civil Commitment of Sexually Violent Predators Act (ICC-SVP) to create a civil commitment process for sexually violent predators (SVPs) after those offenders have served their criminal sentence or term of confinement for specified sex offenses.<sup>54</sup> (See Exhibit C-1.) As defined by statute, sexually violent predators are persons who have been convicted of a sexually violent offense; have a mental abnormality or personality disorder that makes them likely to engage in future acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment; and have been committed under the act.<sup>55</sup>

### Exhibit C-1

#### Sexually Violent Predator Civil Commitment Process



Source: OPPAGA analysis of *Florida Statutes*.

Offenders detained or committed under the ICC-SVP are housed for treatment at the Florida Civil Commitment Center (FCCC).<sup>56</sup> As of October 2018, there were 554 offenders at FCCC. This represents a decrease of over 19% since 2012 when the population was 681.<sup>57</sup> The treatment program consists of four levels of sex offender-specific cognitive behavior treatment, which takes approximately six years to complete. However, statute provides that individuals committed under the Act be confined until the court determines that they are no longer a threat to public safety.<sup>58</sup> Committed predators receive an annual examination of their mental condition and the court may hold a hearing to determine whether there is probable cause to believe that the person's condition has so changed that it is safe for

<sup>54</sup> Sections [394.910 - 394.932](#), *F.S.*

<sup>55</sup> Section [394.912\(10\)](#), *F.S.*

<sup>56</sup> For Fiscal Year 2017-18, the Legislature appropriated the Department of Children and Families Sexual Violent Predator Program \$34.8 million, of which \$32.1 million was used for operations, treatment services, and security for the FCCC and \$2.7 million for the offender screening, assessment, and recommendation process. The FCCC is a secure, accredited 720-bed facility located in Arcadia, Florida. The Department of Children and Families contracts with Correct Care Recovery Solutions for the operation of the program.

<sup>57</sup> Possible factors for this decline cited by Department of Children and Families program staff include longer prison sentences for sex offenders, which delays their entry into the program, and judges releasing predators from the center prior to completing treatment.

<sup>58</sup> Section [394.918](#), *F.S.*

he or she to be released. If the court believes there is probable cause, a trial is held at which the state attorney bears the burden of proving that the person's mental condition remains such that, if released, he or she is likely to engage in acts of sexual violence.

The treatment program at FCCC does not include outpatient treatment or re-entry services because the Department of Children and Families does not have statutory authority to implement a community-based treatment phase.<sup>59</sup> As a result, those offenders not under state or federal probation do not have any formalized post-release supervision or treatment requirements following their release from FCCC.<sup>60</sup>

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<sup>59</sup> In *The Delays in Screening Sexually Violent Predators Increase Costs; Treatment Facility Security Enhanced*, [Report No. 08-10](#), February 2008, OPPAGA found that Florida's sexually violent predator program could be strengthened by implementing a community-based treatment component for those who are leaving the facility as a means to re-enter society and reduce the risk of reoffending. OPPAGA also recommended that to improve the treatment program and enhance public safety, the Department of Children and Families should provide the Legislature with suggested statutory language to create a community-based treatment component and an estimate of associated costs. These provisions should specify which entity would provide monitoring, treatment, and supervision of individuals released from civil commitment and criteria for the length of such treatment and supervision.

<sup>60</sup> Beginning in 2014, when an individual who is sentenced to probation is transferred to the custody of the Department of Children and Families pursuant to the ICC-SVP Act, his or her period of supervision is tolled, or held, until he or she is no longer in the custody of the department and are in the community.

# AGENCY RESPONSE

## FDLE

Florida Department of  
Law Enforcement

Richard L. Swearingen  
Commissioner

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Pam Bondi, *Attorney General*  
Jimmy Patronis, *Chief Financial Officer*  
Adam Putnam, *Commissioner of Agriculture*

December 27, 2018


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 Triennial Review -2018*. Please see enclosed notes and clarifications regarding this draft report.

Florida's sexual offender/predator registry is a valuable public safety tool. We look forward to continuing the strong local, state and federal partnerships that help ensure this information is timely, accurate and comprehensive for Florida's citizens and criminal justice professionals. Thank you for the time and attention your staff provided in the development of this report.

Sincerely,



Richard L. Swearingen  
Commissioner

RLS/mc

Enclosure

## Notes for Consideration

1. *Page 3, end of first full paragraph - "All sex offenders that are required to register have been convicted of certain qualifying felonies set forth in Florida statutes."*

**Note:** There are some out of state offenders who were convicted of misdemeanors as classified by that state which do NOT equate to a Florida felony offense. These individuals are required to register in Florida solely on the basis of their requirement to register in another state or jurisdiction.

2. *Page 10, last paragraph-*

**Clarification:** Florida sheriff's offices utilize a variety of different supporting and data management systems and protocols to assist them in effectively performing their responsibilities including those relating to registered sexual offenders and predators. Many particularly relate to and integrate with their tracking and monitoring of a broader category of criminal activity and community monitoring within their jurisdictions. These additional tools sometimes include "off the shelf" software, contracted or outsourced mailing services, criminal records management software, mapping applications and various other supports and investigative systems. All are internally developed or sourced from a variety of commercial providers.

However, none of these systems support or fulfill Florida statutory requirements regarding registering and reporting registration information to the state registry. This is only possible and completed exclusively via the state Sexual Offender Predator System (SOPS) that incorporates immediate integration of registration information and updates from every Florida sheriff's office, the Florida Department of Corrections, the Florida Department of Juvenile Justice and the Florida Department of Highway Safety and Motor Vehicles. SOPS in turn immediately updates the registry public website, notifies all local criminal justice partners, updates the Florida Criminal Justice Network Intranet, updates state and national registration systems utilized by both criminal justice professionals and citizens, triggers international notifications required by federal law and relays updates and messages to all state and local partners regarding registrant activity.

3. *Page 25, second paragraph, third sentence - "Prior to 2014, transient sexual predators were only required to register every three months and sex offenders every six months."*

**Note:** Some sexual offenders were/are required to register every three months. This is based upon the specific offense(s) qualifying the individual for registration which are specified within Section 943.0435(14)(b), FS, and is in accordance with the minimum requirements of the federal Walsh Act.

4. *Page 27, regarding local variations in emergency shelter access for sex offender -*

**Note:** Additional considerations impacting the issue of registrants and emergency shelters which have been reported to the registry include dependent family members: minors, elderly parents, disabled and infirm family, or registrants, who require full time caregivers, etc. Challenges have been reported in the provision of emergency shelter and accommodation of these circumstances. For instance, if registrants are all to report to a specific shelter do their dependent, minor or infirm family members also seek shelter in this location housing multiple sex offenders? Do the dependent family members seek shelter in other locations, without the registrant and, if so, who is then responsible for their care, safety and supervision?

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# OPPAGA

Office of Program Policy Analysis and Government Accountability

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