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NATIONAL SEX OFFENDER REGISTRATION AND NOTIFICATION ACT (SORNA) IMPLEMENTATION INVENTORY

PRELIMINARY RESULTS

July 2016

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ABOUT THIS REPORT

This report presents the results of an analysis examining levels of state adherence to federal requirements set forth pursuant to the Sex Offender Registration and Notification Act (SORNA), also known as Title I of the Adam Walsh Child Protection and Safety Act of 2006 (AWA). The analysis was conducted as part of a broader project designed to assess the evolution of the nation's sex offender registration and notification systems in the years since SORNA's passage, with a specific focus on SORNA's impact on the sharing of sex offender information across jurisdictions, across levels of government, and with the general public.

The project is being carried out by an independent research team under a cooperative agreement with the U.S. Department of Justice, through the National Institute of Justice (NIJ) and the Office of Sex Offender Sentencing, Monitoring, Apprehension, Registration, and Tracking (SMART).

The data included in this report are based on SMART Office reviews of 41 states. It is anticipated that the report will be updated with information from additional states during the latter part of 2016.

The investigators extend thanks to Scott Walfield and Michelle Cubellis for their work organizing, analyzing, and presenting the data presented in this report.

For further information about this report or other aspects of the project, please contact Principal Investigator Andrew Harris (Andrew_harris@uml.edu).

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BACKGROUND AND PURPOSE

Since the 1990s, sex offender registration and notification (SORN) systems have assumed an increasingly prominent place on both federal and state crime control agendas. At the federal level, the U.S. Congress has passed a sequence of laws designed to improve the ability of law enforcement and the general public to monitor sex offenders in the community and to enhance the quality, accessibility, and cross-jurisdictional sharing of registry data. The 1994 Jacob Wetterling Crimes Against Children Act and its subsequent amendments, including the 1996 Megan's Law, played a major role in promoting the expansion of state-based SORN systems, and laid the foundation for a coordinated national registry network.

The 2006 passage of the Sex Offender Registration and Notification Act (SORNA), Title I of the Adam Walsh Child Protection and Safety Act (AWA), opened a new chapter in the evolution of the nation's SORN systems. Among its many provisions designed to enhance inter-governmental and inter-jurisdictional coordination and sharing of sex offender information, the law expanded the scope of federal requirements related to the content and management of SORN systems managed by the states, territories, and tribal jurisdictions across the United States.

Along with these requirements, the AWA provided for establishing an office within the U.S. Department of Justice, the Office of Sex Offender Sentencing, Apprehension, Registration, and Tracking (SMART), and charged this office with promulgating SORNA guidelines and certifying state-level implementation of these guidelines. The SMART Office released its National Guidelines for Sex Offender Registration in 2008, and an addendum to these Guidelines in 2011. As of June 2016, an additional amendment to these Guidelines, focused on the application of SORNA to juveniles, is under development following a period of public review and comment.

In conducting its reviews of state-level SORNA implementation, the SMART Office evaluates the extent to which a given state's laws and policies are consistent with each of 14 SORNA standards. To achieve "substantial implementation" status, a state must be found to have policies that either: 1) fully meet; or 2) do not substantially disserve the purpose of each standard. Those states that fall short of these criteria for one or more standards do not receive "substantial implementation" status. As of March 2016, 17 states have been determined by the Department of Justice to have met the threshold for "substantial implementation" of SORNA, and 33 had not met this threshold.

Given the multi-faceted nature of SORNA and its standards, viewing SORNA implementation in a dichotomous fashion (i.e. 17 "SORNA" states vs. 33 "non-SORNA" states) is inherently limited. Not only does such an approach obscure potentially significant variation among those states that have received "substantial implementation" status, but it also fails to account for the fact that many "non-SORNA" states may be in compliance with a majority of standards, despite falling short of the "substantial implementation" threshold. In this general context, this analysis and report is designed to present the status of state-level implementation of SORNA in a multi-dimensional manner.

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DATA SOURCES AND METHODOLOGY

Data for this analysis were drawn from a series of detailed "compliance letters" issued by the SMART Office to designated state officials, pursuant to SMART review of each state's adherence to SORNA guidelines. Each compliance letter included an assessment of the consistency between the state's laws and policies and each of the 14 SORNA standards, along with the SMART determination as to whether, and to what extent, the standard has been met. In cases where a state did not meet a given SORNA standard, or was determined to have adopted provisions that "do not substantially disserve" the intent of the standard/substandard, additional information was provided in the letter narrative.

In support of this analysis, the SMART Office furnished compliance letters for 41 total states, including the 17 states that had received "substantial implementation" (SI) designation, and 24 states that had not been found to have substantially implemented SORNA (NSI). The 9 states excluded from this analysis were those for which SMART Office review is still ongoing – these may be included in subsequent updates to this report. States included in the analysis, as well as those that were not included, are summarized in the table below.

Included in analysis (Substantial implementation)	Included in analysis (No substantial implementation)	Not included in analysis
Alabama	Alaska	Illinois
Colorado	Arkansas	Indiana
Delaware	Arizona	Minnesota
Florida	California	New Jersey
Kansas	Connecticut	North Carolina
Louisiana	Georgia	Texas
Maryland	Hawaii	Vermont
Michigan	Idaho	West Virginia
Mississippi	Iowa	Wisconsin
Missouri	Kentucky	
Nevada	Maine	
Ohio	Massachusetts	
Pennsylvania	Montana	
South Carolina	Nebraska	
South Dakota	New Hampshire	
Tennessee	New Mexico	
Wyoming	New York	
	North Dakota	
	Oklahoma	
	Oregon	
	Rhode Island	
	Utah	
	Virginia	
	Washington	

Coding took place in three waves: March 2015, April 2015, and December 2015 to February 2016. Each compliance letter was assigned to two trained research assistants, who independently coded

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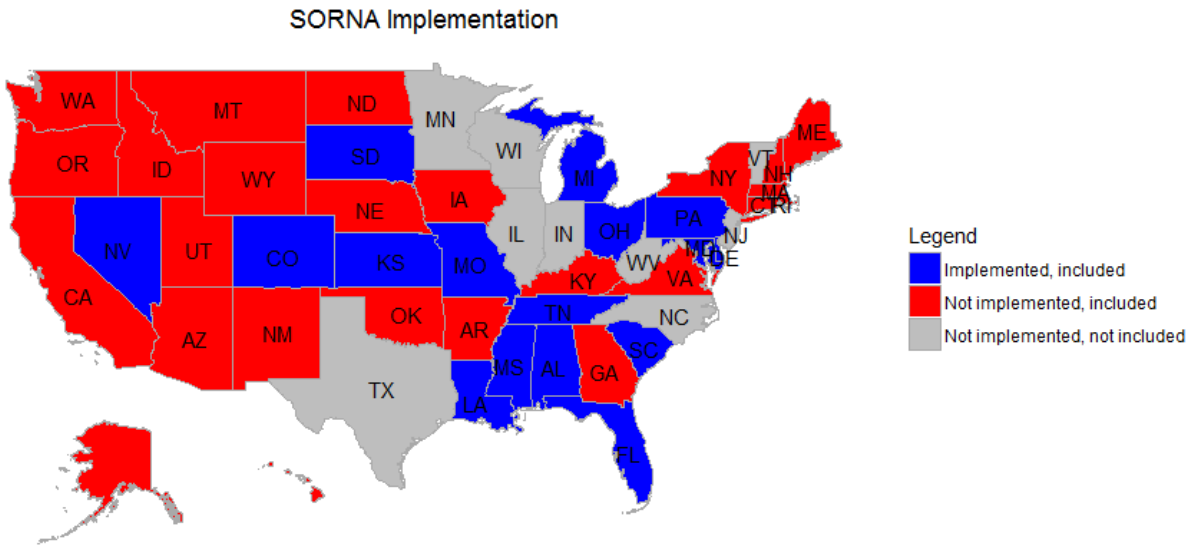
the state's level of overall compliance with each main SORNA standard, as well as the state's level of compliance with sub-elements of specific SORNA standards that were multi-faceted in nature.

Criteria were rated on a 3-point scale, using the following categories:

- Meets SORNA requirements
- Does not substantially disserve SORNA requirements (referred to throughout this document as "DNSD")
- Does not meet SORNA requirements

Following independent coding of each compliance letter, the two coders compared their initial ratings. There was a high level of inter-rater agreement between coders (>95%). Cases involving discrepancies between raters were reconciled through discussion and consensus ratings.



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IMPLEMENTATION OF SORNA STANDARDS

Consistent with the SORNA implementation guidelines, the SMART Office evaluates state-level implementation on the basis 14 primary sections of the guidelines:

I. Immediate Transfer of Information
II. Offenses that must be Included in the Registry
III. Tiering of Offenses
IV. Required Register Information
V. Where Registration is Required
VI. Initial Registration: Generally
VII. Initial Registraiton: Retroactive Classes of Offenders
VIII. Keeping the Registration Current
IX. Verification/Appearance Requirements
X. Registry Website Requirements
XI. Community Notification
XII. Failure to Register as a Sex Offender: State Penalty
XIII. When a Sex offender Fails to Appear for Registration
XIV. When a Jurisdiction has Information that a Sex Offender may have Absconded

Beyond the 14 standard areas, SORNA guidelines also require states to share information on registered sex offenders with area tribal jurisdictions. This standard applies only in cases where: 1) one or more federally recognized tribes are housed within the state; and 2) one or more of those tribal jurisdictions operate their own independent sex offender registry, rather than falling under the state's registry system. Although states were not formally assessed on this area, their progress and the quality of their interaction with tribes is documented.

For each set of standards, the SMART Office reviews state laws, policies, and practices and on the basis of this review assigns one of three possible designations:

Meets SORNA requirements. Denotes that the state has adopted laws, policies, and practices that are fully consistent with the SORNA legislation and federal guidelines.

Does not substantially disserve SORNA requirements (DNSD). Denotes that the state has adopted laws, policies, and practices that deviate in some manner from SORNA legislation and federal guidelines (and may require further development), but that meet the general spirit of the Act. This designation is deemed by the SMART Office to be sufficient for that state to have fulfilled the requirements of that standard for purposes of a "substantial implementation" designation.

Does not meet SORNA requirements. Denotes that the state's laws, policies, and practices have determined to be substantively inconsistent with the SORNA legislation and federal guidelines, and that they do not meet the general spirit of the Act. Any state with a "does not meet" designation for one or more of the standards is ineligible to receive a "substantial implementation" designation.

The tables on the following pages present a high-level snapshot of state-level implementation of the 14 SORNA standards:

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- Table 1 presents the overall percent of states falling into each of the three implementation categories for each standard.
- Table 2 presents, for each state included in the analysis, the number of standards (out of 14) that each state meets, does not substantially disserve, or does not meet, based on SMART Office review. The table also includes a fourth column indicating the number of standards for which that state was not evaluated.
- Table 3 presents, in colored grid format, levels of each state's implementation for each of the 14 standards.

Following these overview tables, the report addresses each standard in turn, offering a general description of the standard's requirements, presentation of data for the standard distinguishing substantially implemented (SI) and not substantially implemented (NSI) states, and perspectives on key points of deviation from SORNA standards.

In reviewing and interpreting the table data, certain caveats should be noted. First, while the data presented in Tables 2 & 3 offer a high-level snapshot of the magnitude and areas of deficiency among NSI states, they do not speak to the extent of those deficiencies. That is, a "Does Not Meet" designation for a given standard may encompass a spectrum of possible deviations from SORNA requirements, ranging from those that are moderate and technical in nature to those involving overt and significant divergence between state policy and SORNA requirements.

Second, the 14 sections vary in complexity, with some sections encompassing multiple aspects of a jurisdictions' system. Thus, a jurisdiction that meets or does not substantially disserve most of the sections of SORNA's requirements is not necessarily closer to SORNA implementation than a jurisdiction that does not meet requirements in multiple sections.

Third, a designation of "does not substantially disserve" (DNSD) is deemed by the SMART Office to be sufficient for that state to have fulfilled the requirements of that standard for purposes of an SI designation. Accordingly, when considering the level of state-level failure to comply with SORNA requirements, readers should pay particular attention to the figures in the "does not meet" column. Based on this criterion, it is apparent that SORNA non-compliance is concentrated among a limited group of standards, notably those involving offenses to be included on the registry (44% of states failing to meet the standard); verification requirements (41%); and registry website requirements (42%). Additionally, for a majority of the standards (8 of the 14), 90% or more states in the sample have either met the standard or adopted provisions that do not substantially disserve SORNA purposes.

At the same time, the "DNSD" columns throughout the report do offer some important perspective on the nature of state-level SORNA implementation and the viability of each standard and its statutory foundations. High values in this column (for example, in Section VII involving retroactive application, where 76% of states fall into this category) indicate significant deviation from the standard as established, and may be a signal to policymakers to revisit that particular element of SORNA law and policy.

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OVERVIEW TABLES

TABLE 1: LEVELS OF STATE-LEVEL SORNA IMPLEMENTATION BY SECTION

Section	N	Meets %	Does Not Disserve %	Does Not Meet %
Section I: Immediate Transfer of Information	41	73	17	10
Section II: Offenses That Must be Included in the Registry	40	17	38	45
Section III: Tiering of Offenses	41	17	61	22
Section IV: Required Registration Information	40	15	70	15
Section V: Where Registration is Required	41	88	10	2
Section VI: Initial Registration: Generally	40	65	27	8
Section VII: Initial Registration: Retroactive Classes of Offenders	40	20	78	2
Section VIII: Keeping the Registration Current	40	25	50	25
Section IX: Verification/ Appearance Requirements	41	22	37	41
Section X: Registry Website Requirements	41	27	31	42
Section XI: Community Notification	40	40	43	17
Section XII: Failure to Register as a Sex Offender: State Penalty	41	76	22	2
Section XIII: When a Sex Offender Fails to Appear for Registration	40	90	2	8
Section XIV: When a Jurisdiction has Information that a Sex Offender may have Absconded	41	61	29	10

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TABLE 2: STATE-BY-STATE IMPLEMENTATION SUMMARY (NUMBER OF STANDARDS)

State	SMART Review Completed	Meets	Does Not Substantially Disserve	Does Not Meet
Substantially Implemented				
Alabama	July 2014	10	4	0
Colorado	Nov 2013	5	9	0
Delaware	March 2010	10	4	0
Florida	Dec 2009	7	7	0
Kansas	July 2011	14	0	0
Louisiana	April 2011	9	5	0
Maryland	July 2011	11	3	0
Michigan	May 2011	11	3	0
Mississippi	July 2011	11	3	0
Missouri	Dec 2011	11	3	0
Nevada	Feb 2011	8	6	0
Ohio	Sept 2009	8	6	0
Pennsylvania	Sept 2012	10	4	0
South Carolina	July 2011	12	2	0
South Dakota	April 2010	5	9	0
Tennessee	Sept 2011	5	9	0
Wyoming	April 2011	7	7	0
Not Substantially Implemented				
Alaska	Nov 2015	4	5	5
Arizona	Nov 2015	8	2	4
Arkansas	Nov 2013	7	3	4
California	Jan 2016	3	4	7
Connecticut	Oct 2015	5	5	4
Georgia	Oct 2015	4	6	4
Hawaii	July 2012	5	6	3
Idaho	Jan 2012	3	10	1
Iowa	Dec 2013	5	8	1
Kentucky	Oct 2011	2	2	10
Maine	Aug 2012	5	6	3
Massachusetts	July 2010	4	5	5
Montana	April 2013	7	4	3
Nebraska	May 2010	9	3	2
New Hampshire	July 2011	2	9	3
New Mexico	Oct 2013	4	8	2
New York	May 2015	1	2	11
North Dakota†	Nov 2011	3	1	3
Oklahoma	Oct 2011	7	5	2
Oregon	July 2011	3	5	6
Rhode Island	Jan 2016	1	3	10
Utah	March 2014	3	8	3
Virginia	Aug 2011	5	8	1
Washington	Aug 2011	5	5	4

Note. †North Dakota was not assessed on seven sections.

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TABLE 3: STATE-LEVEL IMPLEMENTATION BY STANDARD SECTION

State	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII	XIV
Substantially Implemented														
Alabama	3	2	3	3	3	3	2	3	3	2	2	3	3	3
Colorado	3	2	3	2	3	2	2	2	2	2	2	3	3	2
Delaware	3	3	2	3	3	3	2	3	2	3	2	3	3	3
Florida	2	2	2	2	3	3	2	2	3	3	2	3	3	3
Kansas	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Louisiana	3	2	2	2	3	3	2	2	3	3	3	3	3	3
Maryland	3	2	2	3	3	3	3	3	2	3	3	3	3	3
Michigan	3	2	2	3	3	3	3	3	3	2	3	3	3	3
Mississippi	3	3	3	2	3	3	3	3	2	3	3	2	3	3
Missouri	3	3	2	2	3	3	3	3	2	3	3	3	3	3
Nevada	3	2	2	2	3	3	2	2	3	2	3	3	3	3
Ohio	3	2	2	2	3	3	2	2	2	3	3	3	3	3
Pennsylvania	3	2	2	2	3	3	2	3	3	3	3	3	3	3
South Carolina	3	3	3	2	3	3	3	2	3	3	3	3	3	3
South Dakota	2	3	2	2	2	3	2	2	2	2	2	3	3	3
Tennessee	3	2	2	2	3	3	2	2	2	2	2	3	3	2
Wyoming	3	2	2	2	3	3	2	3	2	2	3	3	3	2
Not Substantially Implemented														
Alaska	2	1	2	2	3	3	2	1	1	2	1	1	3	3
Arizona	3	1	2	2	3	3	3	1	1	1	3	3	3	3
Arkansas	3	1	2	2	1	3	3	2	1	1	3	3	3	3
California	1	1	3	2	2	2	3	1	1	1	1	2	3	1
Connecticut	3	1	1	2	3	2	2	1	1	2	3	3	3	2
Georgia	3	1	2	2	3	3	2	1	1	1	2	3	2	2
Hawaii	3	1	2	2	3	3	2	2	1	2	2	3	3	1
Idaho	2	2	2	2	3	2	2	2	2	1	2	2	3	3
Iowa	2	3	2	2	3	2	2	2	1	2	2	3	3	3
Kentucky	1	1	1	1	3	2	2	1	1	1	1	3	1	1
Maine	3	1	1	2	3	3	1	2	2	2	2	3	3	2
Massachusetts	3	1	2	2	3	2	2	1	1	1	1	2	3	3
Montana	3	2	3	1	3	3	2	2	1	1	3	3	3	2

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State	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII	XIV
Nebraska	3	1	1	3	3	3	2	2	3	3	2	3	3	3
New Hampshire	2	1	2	1	3	2	2	2	2	1	2	2	3	2
New Mexico	3	1	2	2	2	2	2	2	2	1	2	3	3	3
New York	1	1	1	1	1	1	2	1	1	1	1	3	1	2
North Dakota	2	0	1	0	3	0	0	0	1	1	0	3	0	3
Oklahoma	3	1	2	2	3	3	2	2	2	1	3	3	3	3
Oregon	3	2	1	2	3	1	2	1	1	1	1	2	3	2
Rhode Island	1	1	1	1	2	2	2	1	1	1	1	3	1	1
Utah	3	1	2	2	3	2	2	2	1	1	2	2	3	2
Virginia	3	1	2	2	3	3	2	3	2	2	2	2	3	2
Washington	3	2	1	1	3	3	2	2	1	1	2	2	3	3

Key for Table Values

3	State meets SORNA requirements
2	State does not substantially disserve SORNA requirements
1	State does not meet SORNA requirements.
0	State not evaluated due to missing information

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SECTION I. IMMEDIATE TRANSFER OF INFORMATION

SORNA standards require that the jurisdiction in which an offender initially registers or updates information must immediately send this information (within three days) to other jurisdictions in which the offender needs to register, including tribal jurisdictions and states where the offender works or attends school. Additionally, registry or update information about the offender must immediately be sent to NCIC/NSOR and updated on the jurisdiction's online public sex offender registry.

	Meets	Does not substantially disserve	Does not meet
All states (N= 41)			
Number of states	30	7	4
Percent	73	17	10
Substantially implemented (N=17)			
Number of states	15	2	-
Percent	88	12	-
Not substantially implemented (N=24)			
Number of states	15	5	4
Percent	62	21	17

Of the states included in this analysis, 30 (73%) were found to have met or exceeded the Section I SORNA standards, 7 (17%) were found to have provisions that did not substantially disserve the standard, and 4 (10% of all states and 17% of NSI states) were determined to have failed to meet the standards.

Among the 7 states with DNSD designations, the most common deviations involved a failure to update offender information within the three day period required by SORNA. For example, New Hampshire, Iowa, Idaho, and South Dakota all update offender information within five days of receiving changes. In only one state, Florida, did the state not send all required information about an offender to other jurisdictions.

For the 4 states determined to not meet this standard, lack of implementation was commonly due to inadequate timeframes for updating information and/or the failure of states to send updated information to out-of-state jurisdictions or tribal jurisdictions. For example, Rhode Island fails to provide updated information to tribal jurisdictions, while New York does not provide notification about registration updates to out-of-state law enforcement agencies. In one instance (California), failure to meet the standard was linked to state privacy laws that prohibit the transfer of information on registered offenders to tribal jurisdictions.

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SECTION II. OFFENSES THAT MUST BE INCLUDED IN THE REGISTRY

SORNA standards require that jurisdictions include various types of sex offenders on their registries, including those convicted of attempts and conspiracies to commit sex offenses; federal sex offenses; certain foreign sex offenses (including those occurring in Canada, the United Kingdom, Australia, and New Zealand); military sexual offenses; and certain juvenile adjudications for sexual offenses.

	Meets	Does not substantially disserve	Does not meet
All states (N= 40)			
Number of states	7	15	18
Percent	17	38	45
Substantially implemented (N=17)			
Number of states	6	11	-
Percent	35	65	-
Not substantially implemented (N=23)			
Number of states	1	4	18
Percent	4	18	78

Of the states included in this analysis, 7 (17%) were found to have met or exceeded these standards, 15 (38%) were found to have provisions that did not substantially disserve the standards, and 18 (45% of all states and 78% of NSI states) were determined to have failed to meet SORNA standards. North Dakota was not rated due to a lack of sufficient information furnished to the SMART Office.

Of those states with DNSD designations, the most common deviations involved omission of certain types of offenses requiring registration. Oregon, for example, was found to not include conspiracy to commit sex offenses or foreign sex offenses in their registration scheme. Four states, Washington, Ohio, Florida, and Louisiana have requirements in place making it possible for offenders to be convicted in another state, but not required to register in the state unless offenses are substantially similar to those in their state. The requirement to register juvenile sex offenders was not met by three states, Alabama, Michigan, and Tennessee. For example, in Michigan, the Holmes Youthful Trainee Act allows for the waiver of registration requirements for youth between 17 and 20. Maryland allows for the provision of "probation before judgment," allowing defendants to be discharged without conviction and be excused from registration requirements.

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With 45% of states deemed to have failed to meet this standard (78% of NSI states), the issue of included offenses emerged as one of the most significant barriers to states achieving substantial implementation status. For the 18 states that were designated as not meeting this standard, the vast majority were cited for their failure to include certain juveniles on sex offender registries per SORNA standards. Several states were also cited for omission of certain offenses requiring registration, including sex offenses committed outside of the U.S., those committed on tribal lands, and conspiracy to commit sex offenses. One state - Rhode Island - was cited for its failure to require registration for any offenses requiring registration under military law.

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SECTION III. TIERING OF OFFENSES

SORNA standards require that all offenders included on sex offender registries be classified based on the nature of their offense of conviction. SORNA establishes a minimum standard, the 3-tier classification system of tier I, tier II, and tier III offenders. Each tier carries a different registration length designation: tier I offenders are required to register for 15 years, tier II for 25 years, and tier III for life. States can implement their own supplemental classification systems as long as they allow for demarcation of offenders based on their offense.

	Meets	Does not substantially disserve	Does not meet
All states (N= 41)			
Number of states	7	25	9
Percent	17	61	22
Substantially implemented (N=17)			
Number of states	5	12	-
Percent	29	71	-
Not substantially implemented (N=24)			
Number of states	2	13	9
Percent	8	54	38

Of the states included in this analysis, 7 (17%) were found to have met or exceeded these standards, 25 (61%) were found to have provisions that did not substantially disserve the standards, and 9 (22% of the total, and 38% of the NSI states) were determined to have failed to meet the standards.

Among the 25 states with DNSD designations, the most common deviations involved the failure of states appropriately classify offenses under the correct tier level, typically leading to "under-classification" of certain offenders. For example, in Maryland, a 3rd degree sex offense involving a minor is classified as a tier II offense requiring 25 years registration, but under SORNA standards this offense would require tier III classification and lifetime registration. Four states, Arkansas, Massachusetts, Georgia, and Idaho were noted as deviating from SORNA standards through their reliance on risk assessment processes accounting for factors other than the conviction offense for purposes of assigning tiers.

Noted issues for the 9 states determined to not meet this standard were similar to those cited above, although were generally deemed to be more substantial in their extent of deviation from SORNA requirements. Failure to implement the standards was most commonly due to policies and practices that may lead to "under-classification" of certain offenses (e.g., assigning offenders

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meeting "Tier 3" offense criteria to a lower tier), including instances in which states assign registry requirements based on risk factors other than offense of conviction (i.e.. "risk-based" rather than "offense-based" tiering. Several states also failed to meet this standard due to durations of required registration that did not meet SORNA-mandated thresholds (e.g., 10 year durations for certain offenders).

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SECTION IV. REQUIRED REGISTER INFORMATION

SORNA standards require that jurisdictions collect certain information about registered sex offenders, and that they keep that information current and available in a digitized form. This information includes a wide range of elements, including the offender's name, photograph, physical description, criminal history, date of birth, a DNA sample, their driver's license, employment information, finger and palm prints, internet identifiers, passport or immigration documents, phone numbers, professional licensing information, their address, school information, social security number, temporary lodging information, vehicle information, and text outlining the offense for which they are required to register.

	Meets	Does not substantially disserve	Does not meet
All states (N= 40)			
Number of states	6	28	6
Percent	15	70	15
Substantially implemented (N=17)			
Number of states	5	12	-
Percent	29	71	-
Not substantially implemented (N=23)			
Number of states	1	16	6
Percent	4	70	26

Of the states included in this analysis, 6 (15%) were found to have met these standards, 28 (68%) were found to have provisions that did not substantially disserve the standards, and 6 (15% of all states and 26% of NSI states) were determined to have failed to meet the standards. North Dakota was not rated due to a lack of sufficient information furnished to the SMART Office.

Among the various standards, the standard involving required registry information was among the most multi-faceted, involving 20 specifically listed data elements. The supplemental table below provides additional detail regarding state adherence to the various sub-elements of this particular standard.

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Required Information	% Meets	% Does not substantially disserve	% Does not meet
Criminal History	71	20	7
Date of Birth	100	0	0
DNA Sample	93	5	2
Driver's License/ID	76	5	19
Employment Information	80	5	12
Fingerprints	96	2	2
Internet Identifiers	86	2	12
Name	98	0	2
Palm Prints	73	5	22
Passport/Immigration Docs	66	0	32
Phone Numbers	86	2	12
Photograph	83	12	5
Physical Description	100	0	0
Professional licensing info	64	2	34
Resident address	95	0	2
School Info	90	10	0
Social Security #	95	0	5
Temporary Lodging Info	54	12	32
Text of Registration Offense	76	10	14
Vehicle Info	51	27	20
Overall Rating	**15**	**68**	**15**

Half of the required data elements (10 of 20) produced high rates of state adherence, with fewer than 10% of the states not meeting SORNA thresholds. These items included name, date of birth, fingerprints, DNA sample, school information, criminal history, physical description, resident address, photograph, and social security numbers. Of these items, provisions related to criminal history were the most likely to be designated "does not disserve," with 8 states (20%) receiving this designation. Reasons for this varied, but in most cases involved systems that displayed some of an offender's criminal history but not all of it. For instance, South Dakota does not collect the dates of arrests or information on outstanding warrants, and Montana does not list the offenders parole, probation, or supervised release status.

Of the remaining data elements, states most commonly fell short of the standards related to professional licensing information (14 states, or 34% of sample), passport and immigration documentation (13 state, or 32%), temporary lodging information (13 states, or 32%), palm prints (9 states, or 22%), and motor vehicle information (8 states, or 20%). Of note, three of these top five items – licensing, immigration, and motor vehicles – involve information that could be provided through improved interfaces with other state or federal databases.

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SECTION V. WHERE REGISTRATION IS REQUIRED

SORNA standards require that jurisdictions register sex offenders who were convicted and/or incarcerated in that jurisdiction, as well as those who live, work, and attend school within the jurisdiction.

	Meets	Does not substantially disserve	Does not meet
All states (N= 41)			
Number of states	36	4	1
Percent	88	10	2
Substantially implemented (N=17)			
Number of states	16	1	-
Percent	94	6	-
Not substantially implemented (N=24)			
Number of states	20	3	1
Percent	83	13	4

Of the states included in this analysis, 36 (88%) were found to have met or exceeded these standards, and 4 (10%) were found to have provisions that did not substantially disserve the standards. Only one state (New York) was determined to have failed to meet this standard.

Among the 4 states with DNSD designations (Rhode Island, New Mexico, California, and South Dakota), this was most commonly due to the state's lack of provisions to register offenders convicted in their state who move directly out-of-state upon their release. For New York, the only state that was established to not meet this standard, lack of implementation was the result of the state's failure to register employment information for sex offenders who work but do not reside in the state. Additionally, sex offenders who attend school in New York are only required to register if the Board of Examiners of Sex Offenders deems it necessary.

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SECTION VI. INITIAL REGISTRATION: GENERALLY

SORNA standards require that: 1) offenders incarcerated in a jurisdiction must be registered in that jurisdiction prior to their release from the facility; 2) offenders sentenced in a jurisdiction, but not incarcerated, must be required to register within three business days of their sentencing; and 3) offenders convicted, sentenced, or incarcerated in another jurisdiction be required to register within three business days of establishing residence, employment, or school attendance within the state. During the initial registration process, jurisdictions are required to inform the offender of their registration requirements and obtain written acknowledgement that the offender understands these requirements.

	Meets	Does not substantially disserve	Does not meet
All states (N= 40)			
Number of states	26	11	3
Percent	65	27	8
Substantially implemented (N=17)			
Number of states	16	1	-
Percent	94	6	-
Not substantially implemented (N=23)			
Number of states	10	10	3
Percent	43	43	14

Of the states included in this analysis, 26 (65%) were found to have met or exceeded these standards, 11 (27%) were found to have provisions that did not substantially disserve the standards, and 3 (8% of all states, 14% of NSI states) were determined to have failed to meet the standards. North Dakota was not rated due to a lack of sufficient information furnished to the SMART Office.

Among the 11 states with DNSD designations, the most common deviation involved failure to meet the timeline requirements implemented by SORNA for initial registration. For example, both New Hampshire and New Mexico register all offenders within five business days, not three as required by SORNA. Another point of deviation involved lack of provisions to fully inform registrants of their registration duties. For example, while Idaho only informs registrants of their duty to update address information, no other registration obligations are addressed. For the 3 states established to not meet this standard (New York, Oregon, and Arkansas), non-implementation was due to more significant deviations from required timeframes for registration following release from incarceration or residence within the state.

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SECTION VII. INITIAL REGISTRATION: RETROACTIVE CLASSES OF OFFENDERS

Sex offender registration under SORNA also applies to offenders sentenced prior to the implementation of the state's sex offender registry. SORNA requires jurisdictions to have procedures in place to register such offenders who are currently incarcerated or under supervision, those who are already registered or subject to pre-existing registration requirements, and those offenders convicted of another felony offense in the jurisdiction.

	Meets	Does not substantially disserve	Does not meet
All states (N= 40)			
Number of states	8	31	1
Percent	20	78	2
Substantially implemented (N=17)			
Number of states	6	11	-
Percent	35	65	-
Not substantially implemented (N=23)			
Number of states	2	20	1
Percent	9	87	4

Of the 40 states included in this analysis, 8 (22%) were found to have met or exceeded these standards, 31 (78%) were found to have provisions that did not substantially disserve the standards, and 1 (2%) was determined to have failed to meet the standards. North Dakota was not rated due to a lack of sufficient information furnished to the SMART Office.

With nearly three quarters of states in the sample (31, or 78%) falling into the "does not substantially disserve" category, the SORNA retroactivity requirement produced the highest overall level of deviation from SORNA provisions among the 15 standards. In most of these instances, states were deemed unable to apply SORNA requirements to those convicted prior to the implementation and/or revision of their registry statute, often due to court rulings and constitutional constraints. States also had trouble meeting this standard because of the failure to recapture offenders convicted for a new felony offense in the jurisdiction. Massachusetts, for example, does not re-register offenders who were relieved of their registration requirements and reenter the criminal justice system with a new (non-sexual) felony offense as required by SORNA.

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SECTION VIII. KEEPING THE REGISTRATION CURRENT

SORNA standards require states to maintain policies that require offenders to update any changes to their name, residence, employment, school attendance, and termination of residence within three days. Offenders must also update any information about their email addresses, internet identifiers, telephone communications, vehicle information, and temporary lodging information. These updates must occur in-person, with the offender visiting the appropriate jurisdiction agency to update all information. Policies must also mandate that, if an offender travels outside of the U.S., they must notify the jurisdiction in which they reside of their travel 21 days prior to leaving. Finally, this section requires home jurisdictions to notify any other jurisdiction where the offender is registered or required to register, update the U.S. Marshals Service, and immediately update this information in NCIC/NSOR.

	Meets	Does not substantially disserve	Does not meet
All states (N= 40)			
Number of states	10	20	10
Percent	25	50	25
Substantially implemented (N=17)			
Number of states	9	8	-
Percent	53	47	-
Not substantially implemented (N=23)			
Number of states	1	12	10
Percent	4	52	44

Of the states included in this analysis, 10 (25%) were found to have met or exceeded these standards, 20 (50%) were found to have provisions that did not substantially disserve the standards, and 10 (25% of all states, 44% of the NSI states) were determined to have failed to meet the standards. North Dakota was not rated due to a lack of sufficient information furnished to the SMART Office.

Among the 20 states with DNSD designations, the most common deviation involved states not requiring offenders to update information in person or to provide and update all pertinent information. For example, Maine, South Dakota, and Florida all require pertinent information to be updated, but allow offenders to update this information via mail or computer. While the majority of these states required all pertinent information to be updated, several states were missing key information. For example, Utah does not require information on internet identifiers to be updates, while Nebraska doesn't require vehicle information to be immediately updated. States also were

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categorized as implementing standards that do not disserve the purposes of SORNA for failing to require the update of all information within the 3-day time period required by SORNA. For example, Iowa requires all pertinent information to be updated, but gives offenders five days to update information in person.

For the 10 states that failed to meet this standard, lack of implementation was largely due to the failure of states to require updates in person, provide updated information about international travel, or require the immediate update of information. For example, Rhode Island, Connecticut, and Georgia do not require offenders to inform the jurisdiction in which they reside of their intent to leave the U.S. for travel, work, or school purposes. Several states, including Massachusetts, Alaska, and Arkansas do not require offenders to update registration information in person as per SORNA guidelines.

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SECTION IX. VERIFICATION/APPEARANCE REQUIREMENTS

SORNA standards require offenders to register for specified period of time, and to make in-person appearances depending on their assigned tier. Tier 1 offenders must register for 15 years and report annually. Tier 2 offenders must register for 25 years and report every 6 months. Tier 3 offenders register for life and report every 3 months. At each in-person appearance, a current photograph must be taken if the individual's appearance has significantly changed, the information listed in the registry must be reviewed for accuracy, and any erroneous information must be adjusted and shared with other jurisdictions the individual registers with (e.g., for school).

	Meets	Does not substantially disserve	Does not meet
All states (N= 41)			
Number of states	9	15	17
Percent	22	37	41
Substantially implemented (N= 17)			
Number of states	8	9	-
Percent	47	53	-
Not substantially implemented (N= 24)			
Number of states	1	6	17
Percent	4	25	71

Notably, this particular standard reflected one of the highest levels of non-adherence with SORNA requirements, with 41% of states in the overall sample and 71% of the NSI states receiving a "does not meet" designation. Nine states (22%) were determined to have met the standards, and 15 states (37%) had provisions that did not substantially disserve the purposes of SORNA.

The table on the next page provides greater detail related to state-level adherence to SORNA's requirements regarding the two core elements of this standard - frequency of appearance and duration of registration.

Concerning frequency of appearance and verification, the most significant point of deviation from SORNA standards requiring that the presumably highest risk (Tier 3) offenders appear in-person every three months to update and verify their registration. 27% of all states and 46% of NSI states failed to meet this requirement.

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Concerning the duration of registration, the deviation from standards was more heavily concentrated around the ostensibly lower risk Tier 2 offenders, with nearly half of NSI states (46%) failing to adhere to the requirement that these offenders register for a minimum of 25 years. One additional point of departure from the standards regarding duration involved state provisions that provide for the reduction of registration under conditions beyond those permitted by SORNA. For example, Colorado law sets forth a procedure for offenders to petition for removal from the registry after periods of 5, 10 and 20 years after completion of criminal justice supervision (depending on the nature of the offense), while SORNA requires a minimum of 25 years on the registry for these same offenses. After considering this deviation, the SMART Office determined that the state's provisions nonetheless did not substantially disserve the purposes of SORNA.

	% Exceeds	% Meets	% Does Not Disserve	% Does Not Meet
Frequency Requirements				
Overall (N=41)				
Tier I (Once a year)	20	63	2	10
Tier II (Every 6 months)	29	39	17	15
Tier III (Every 3 months)	7	54	12	27
Substantially Implemented (N=17)				
Tier I (Once a year)	24	77	0	0
Tier II (Every 6 months)	17	59	17	6
Tier III (Every 3 months)	12	76	12	0
Not Substantially Implemented (N=24)				
Tier I (Once a year)	17	63	4	17
Tier II (Every 6 months)	37	25	17	21
Tier III (Every 3 months)	4	37	13	46
Duration Requirements				
Overall				
Tier I (15 years)	27	42	19	12
Tier II (25 years)	0	61	10	29
Tier III (Lifetime)	0	83	10	7
Substantially Implemented				
Tier I (15 years)	12	65	24	0
Tier II (25 years)	0	82	12	6
Tier III (Lifetime)	0	88	0	0
Not Substantially Implemented				
Tier I (15 years)	37	25	17	21
Tier II (25 years)	0	46	8	46
Tier III (Lifetime)	0	79	8	13

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SECTION X. REGISTRY WEBSITE REQUIREMENTS

SORNA requires every jurisdiction to maintain a public sex offender registry website, and to include on this website several items, including absconder status, criminal history of convictions, current offense, employer address, name and aliases, current photograph, physical description, resident address, school address, and vehicle information. SORNA standards also prohibit certain information from being shared with the public, including arrests not resulting in conviction, social security number, travel and immigration document numbers, and victim identity.

Beyond these informational requirements, the website must link to sex offender safety and education resources, provide instructions on how to contact the registry to correct erroneous information, and a warning that the information obtained from the registry cannot be used unlawfully. The website must also have search-field capability involving name and the ability for the public to search for sex offenders within a specified geographic radius.

	Meets	Does not substantially disserve	Does not meet
All states (N= 41)			
Number of states	11	13	17
Percent	27	31	42
Substantially implemented (N=17)			
Number of states	10	7	-
Percent	59	41	-
Not substantially implemented (N=24)			
Number of states	1	6	17
Percent	4	25	71

Of the states included in the analysis, 11 (27%) met all of the requirements, 13 (31%) received "does not substantially disserve" designations, and 17 (42% of all states and 71% of NSI states) were determined to not have met the standards for the public registry website. Along with the standards for included offenses (Standard II) and verification/appearance (Standard IX), this standard reflected the highest level of state-level non-compliance with SORNA.

As reflected in the table below, states' failure to adhere to this standard is attributable to a limited number of required data elements, including those related to address information (particularly related to employment and school), absconder status, criminal history, and vehicle information. States met all or the majority of the requirements for 6 of the items. Every state met the requirement for displaying the name, photograph of the offender, the current offense, and physical

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description, and all but three states (Arkansas, North Dakota, and Washington), met the requirements for the residential address.

Overall Rating	% Meets	% Does Not Disserve	% Does Not Meet
Name	100	0	0
Photograph	100	0	0
Current Offense	100	0	0
Physical Description	100	0	0
Resident Address	93	0	7
Absconder	83	0	17
Criminal History	71	12	17
School Address	54	17	29
Employer Address	54	12	34
Vehicle Information	54	7	39

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SECTION XI. COMMUNITY NOTIFICATION

SORNA requires jurisdictions disseminate information to specific agencies and the community whenever certain offenders initially register or update their information. Law enforcement are required to notify four types of governmental recipients: national databases (e.g., National Sex Offender Registry maintained by the FBI), law enforcement and supervision agencies (e.g., probation agencies, other agencies with criminal investigation, prosecution, or sex offender supervision functions), each jurisdiction where a sex offender resides, is employed, or is a student, and agencies covered under the National Child Protection Act (NCPA). In the general community notification component, four types of recipients are required to be contacted: each school and public housing agency in the area in which the sex offender resides, is an employee, or is a student; social service entities responsible for protecting minors in the child welfare system; volunteer organizations that work with minors; and any organization, company, or individual who requests such notification pursuant to procedures established by the jurisdiction. Additionally, jurisdictions must set up an automated notification system that incorporates an e-mail notice that includes the sex offender's identity when the offender commences residence, employment, or school attendance within a zip code and/or geographic radius.

	Meets	Does not substantially disserve	Does not meet
All states (N= 40)			
Number of states	16	17	7
Percent	40	43	17
Substantially implemented (N= 17)			
Number of states	11	6	-
Percent	65	35	-
Not substantially implemented (N= 23)			
Number of states	5	11	7
Percent	22	48	30

Of the states, 16 (40%) were determined to have met these standards, 17 (43%) had provisions deemed to not substantially disserve, and 7 (17% of all states and 30% of NSI states) did not meet these standards. North Dakota was not rated due to a lack of sufficient information furnished to the SMART Office.

Among the states with DNSD designations, most received this designation based on deviations from requirements involving notification of NCPA agencies and/or other criminal justice entities such as

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prosecutors or probation. Among the subset of states that did not fully comply with the general community notification requirements, deviations most commonly involved limitations on public notification protocols (for example, Tennessee does not provide notification for changes to school information, Alabama does not notify the community when an offender is first employed or begins school, and Colorado only notifies the public if an offender moves within a specified geographic radius).

For the 7 states deemed to not meet this standard, three states (Kentucky, Massachusetts, and New York) failed to meet the law enforcement component and all failed to meet the general community component. Regarding the former, Kentucky does not notify all of the required law enforcement groups; Massachusetts does not notify actively notify prosecutor's, probation, or NCPA agencies; and New York allows up offenders up to 10 business days to register once they have established residence rather than 3 in addition to the process utilized to notify local law enforcement agencies.

The most common reason for failing to meet the general community portion of this standard was lack of a sufficient automated e-mail system (e.g., Alaska, California, and Rhode Island). Other cited issues involved omission of notifications for school or employment events (e.g., Kentucky), confining community notification to a group of sex offenders that is too narrowly defined (e.g., Oregon), and placing discretion about when to notify the public with local law enforcement rather than encoding in statute (e.g., New York).

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SECTION XII. FAILURE TO REGISTER AS A SEX OFFENDER: STATE PENALTY

SORNA requires states to have statutes that ensure that failure-to-register is an offense punishable by a maximum term of imprisonment that exceeds one year.

	Meets	Does not substantially disserve	Does not meet
All states (N= 41)			
Number of states	31	9	1
Percent	76	22	2
Substantially implemented (N= 17)			
Number of states	16	1	-
Percent	94	6	-
Not substantially implemented (N= 24)			
Number of states	15	8	1
Percent	63	33	4

Of the states included in the analysis, 31 (76%) were determined to have met the requirements of this standard, and another 9 (22%) had provisions that did not substantially disserve the standard. One state (Alaska) was deemed to not meet the standard.

Among the 9 states with DNSD designations, deviations from the standard varied. Several states provided for fines or lesser sentences for certain types of sex offenders, such as those initially convicted of misdemeanor offenses, juvenile registrants, those who are homeless, or those whose failure to register is established to be due to inadvertent negligence rather than knowing non-compliance.

Alaska, the only state to not have met the requirements, classifies the first failure-to-register conviction, regardless if the underlying offense is a misdemeanor or felony, as a misdemeanor, resulting in imprisonment of 1 year or less.

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SECTION XIII. WHEN A SEX OFFENDER FAILS TO APPEAR FOR REGISTRATION

SORNA requires that, when a jurisdiction is notified by another agency that a sex offender intends to reside, be employed, or attend school in its boundaries, and the offender fails to register as required, the receiving jurisdiction must have systems to inform the originating jurisdiction that the sex offender failed to appear for registration.

	Meets	Does not substantially disserve	Does not meet
All states (N= 40)			
Number of states	36	1	3
Percent	90	2	8
Substantially implemented (N= 17)			
Number of states	17	-	-
Percent	100	-	-
Not substantially implemented (N= 23)			
Number of states	19	1	3
Percent	83	4	13

Of the states included in the analysis, 36 (90%) were determined to have met these standards, 1 state (Georgia) had provisions that did not substantially disserve, and 3 (8% of the total, 13% of NSI states) did not meet these standards. North Dakota was not rated due to a lack of sufficient information furnished to the SMART Office.

Georgia's DNSD designation was based on a finding that, although the state meets this standard in actual practice, these practices were not fully reflected in the state's policy and procedure documentation. Of the three states determined to not meet this SORNA standard, Kentucky and Rhode Island were found to not have provisions calling for notification of the originating jurisdiction when an offender does not appear. New York was similarly found to not have such provisions, although does have systems for notifying the U.S. Marshal in such instances.

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SECTION XIV. WHEN A JURISDICTION HAS INFORMATION THAT A SEX OFFENDER MAY HAVE ABSCONDED

SORNA requires states to establish and maintain systems and processes to respond to instances in which a registered sex offender may have absconded from the jurisdiction. This includes provisions to ensure timely investigation and notification of various law enforcement agencies, including federal authorities.

	Meets	Does not substantially disserve	Does not meet
All states (N= 41)			
Number of states	25	12	4
Percent	61	29	10
Substantially implemented (N= 17)			
Number of states	14	3	-
Percent	82	18	-
Not substantially implemented (N= 24)			
Number of states	11	9	4
Percent	46	37	17

Of the states included in the analysis, 25 (61%) were determined to have met these standards, 12 (29%) had provisions that did not substantially disserve the standards, and 4 (10% of all states, 16% of NSI states) that did not meet these standards.

Among the states with DNSD designations, the most common variations involved: 1) lack of provisions to ensure consistent and timely notification of U.S. Marshal Service; 2) policies providing for local agency discretion related to issuance of warrants; and 3) lack of sufficient provisions for updating federal databases (NCIC/NSOR) in a timely fashion once an offender has been designated as absconded.

Among the 4 states (California, Hawaii, Kentucky, and Rhode Island) that failed to meet the standard, reasons varied. Primary issues cited by the SMART Office included the lack of standardized state-wide policies for investigation and handling of non-compliance, as well as lack of sufficient coordination and communication with the U.S. Marshal Service.

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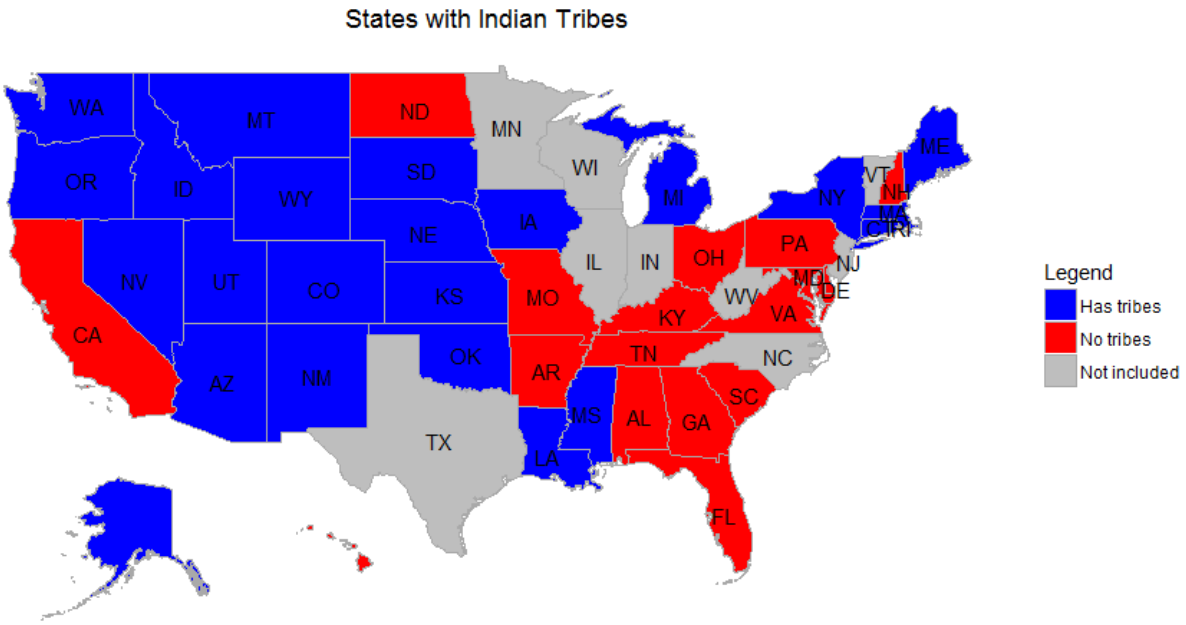
INDIAN TRIBES

Beyond the 14 standard areas, SORNA guidelines also require states to share information on registered sex offenders with area tribal jurisdictions. This standard applies only in cases where: 1) one or more federally recognized tribes are housed within the state; and 2) one or more of those tribal jurisdictions operate their own independent sex offender registry, rather than falling under the state's registry system. Of the 41 states included in this report, 24 states had Indian Tribes within their boundaries that met these criteria, as indicated by the map below.

Although states were not formally assessed on this area, their progress and the quality of their interaction with tribes was documented. In general, the SMART Office determined that a substantial majority of these states were working effectively with the tribes to implement SORNA requirements. Relatively minor concerns were noted for two states (Montana and Oklahoma), which were found to be generally open to cooperation but had not sufficiently institutionalized their arrangements. One state (New York) was cited for a more significant lack of sufficient communication, support, and assistance.



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SUMMARY

The data in this report reflect the dynamic nature of state-level implementation of SORNA requirements, and underscore the need to recognize SORNA implementation as more than a dichotomous designation. They also serve as a reminder that SORNA standards may be implemented by states in varying ways, and that there is no single pathway to SORNA implementation.

The following summarize some of the key findings from this report:

- With one exception (Kansas), all states (both SI and NSI) deviate from SORNA standards in some way. The vast majority of these deviations, however, have been determined by the SMART Office to be minor enough to not substantially disserve SORNA purposes.

- The standards with the highest level of direct adherence to SORNA requirements include those related to:
    - Inter-jurisdictional communication when a sex offender fails to appear (Section 13), with 90% of states meeting this standard;
    - Provisions specifying where registration is required — i.e., state of conviction as well as where the sex offender resides, works, or goes to school (Section 5), with 88% of states meeting the standard;
    - State penalties for failure to register (Section 12), with 76% of states meeting the standard; and
    - Timeframes for the transfer of information (Section 1), with 73% of states meeting the standard.

- The standards with the highest level of "does not disserve" designations included those related to:
    - Retroactive application of registry requirements (Section 7), with 78% of states placed in this category; and
    - The scope of required registry information (Section 4), with 70% of states placed in this category.

- Among NSI states included in the analysis, direct non-adherence to SORNA requirements (i.e., deviations that were significant enough to not meet the "does not disserve" standard, and therefore remain the primary impediments to achieving SI status) was concentrated among a limited group of standards. These include:
    - The scope of offenses that must be included on the registry (Section 2), with 78% of NSI states failing to meet this standard;
    - Public registry website requirements (Section 10), with 71% of NSI states failing to meet this standard;
    - Registry verification and appearance requirements (Section 9), with 71% of NSI states failing to meet this standard;
    - Provisions related to keeping registration information current (Section 8), with 44% of NSI states failing to meet this standard; and
    - Provisions related to the tiering of offenses (Section 3), with 38% of NSI states failing to meet this standard.

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- Among NSI states included in the analysis, all but three states (Kentucky, New York, and Rhode Island) were deemed to meet or not disserve at least half of the standard areas, and a majority (70%, or 16 out of 23 states) were deemed deficient on 4 or fewer standards. Three states (Virginia, Idaho, and Iowa) were deficient on only one standard.

As noted at the outset of this report, the data cited here are based on SMART Office reviews of 41 states that were available as of June 2016. It is anticipated that the report will be updated with information from additional states during the third quarter of 2016.

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