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# Information Sharing and the Role of Sex Offender Registration and Notification

## EXECUTIVE SUMMARY

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## EXECUTIVE SUMMARY

Over the past three decades, sex offender registration and notification (SORN) policies have emerged as prominent fixtures on the United States (U.S.) public safety landscape. All U.S. states and territories and over 150 tribal jurisdictions have adopted such policies, creating an extensive web of independently-operated systems for registering individuals with sex offense convictions, maintaining registration information, sharing data across criminal justice agencies, and disseminating certain registrant information to the public.

While managed at the state level, the shape and contours of the nation's SORN policies and systems have come under increasing federal purview since the mid-1990s. The Sex Offender Registration and Notification Act (SORNA), also known as Title I of the Adam Walsh Child Protection and Safety Act of 2006, represented a pivotal milestone in this evolving federal role. Arising from a perceived need for more effective interjurisdictional consistency and coordination, SORNA envisioned a "comprehensive national system" for the registration of individuals convicted of sexual offenses.<sup>1</sup> In pursuit of this vision, SORNA significantly broadened the scope and range of federal requirements for SORN systems operating within states and other covered jurisdictions; expanded interstate enforcement efforts through the U.S. Marshals Service (USMS); established a new office within the U.S. Department of Justice to oversee implementation of the Act (the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, also known as the SMART Office); and called for improvements in federally-managed information systems to both enhance the interjurisdictional exchange of information between criminal justice agencies and expand access to registrant information to members of the general public.

With SORNA-driven reforms well into their second decade, this report presents findings from a comprehensive analysis of the progress that has been made toward SORNA's goals as envisioned in 2006, with an emphasis on the evolution of SORN systems as information sharing tools. As its primary purpose, the project aimed to provide data and insights that can both inform the continued refinement of federal and state policies and improve the public safety effectiveness of the nation's SORN systems.

## PROJECT FOCUS AND SCOPE

The study was guided by the following questions related to SORNA and its impacts:

- How, and to what extent, have there been improvements in addressing the key challenges and issues identified at the time of SORNA's passage? What areas have presented continued challenges, and why?
- What have been the impacts of federal initiatives -- including investment in compliance enforcement, information systems, interjurisdictional coordination, and grant funding to states - on advancing SORNA's broader goals?
- How have state-based SORN information sharing practices evolved in the years since SORNA's passage?
- What is the connection between a state's implementation of SORNA standards and the effectiveness of its systems for exchange and sharing of SORN information?
- Beyond SORNA standards, what factors either promote or impede the effective exchange and flow of information within and across jurisdictions?

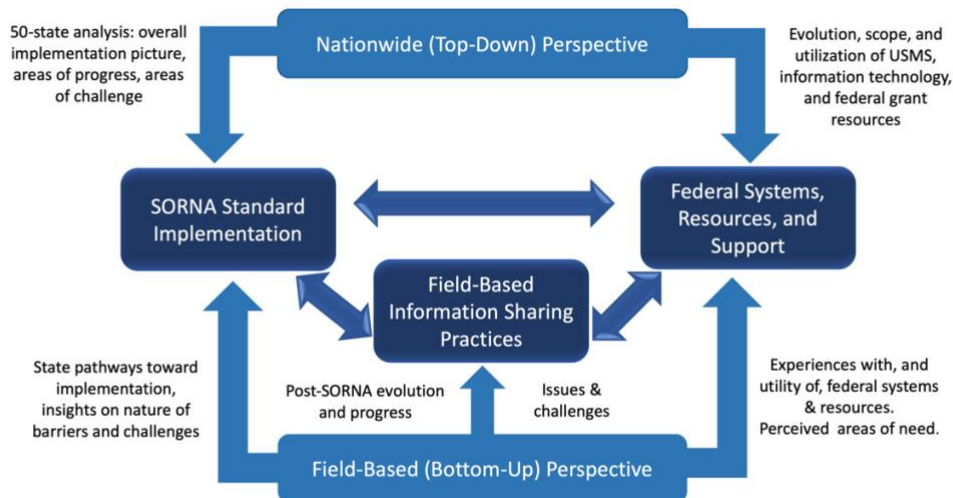
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<sup>1</sup> Pub. L. 109-248

To guide examination of these questions, the analysis explored three domains related to SORNA, its implementation, and its impacts:

1. **State implementation of SORNA standards**, including both aggregate levels of progress across the various standard areas and state experiences surrounding implementation of SORNA standards;
2. **The scope and nature of information sharing practices within the states**, including the evolution of these practices since SORNA’s passage, relationships to SORNA standards, emergent issues and challenges, and model practices; and
3. **The impact of federal investments made pursuant to SORNA**, including those related to the role of the USMS, state uses of SORNA federal grant funds, and the role of federal information systems in improving the interjurisdictional exchange of information, supporting compliance-related investigations and enforcement, and enhancing public access to sex offender information.

These three domains formed the basis for the project’s evaluative framework, as summarized in the figure below.



The three domains, and the interactions between them, were examined through a mixed-methods approach that included both “top down” and “bottom up” elements.

The “top down” portions of the analysis aimed to offer a **nationwide view** of SORNA implementation by exploring the contours and efficacy of federal systems, resources, and modes of support deployed in pursuit of SORNA’s goals. Key elements of the analysis included: 1) a systematic analysis of state-level implementation of SORNA standards utilizing SMART Office documents issued in response to state substantial implementation packet submission; 2) a series of informational interviews conducted with key federal stakeholders designed to establish the general contours of various federal initiatives related to SORNA; and 3) supplemental data analysis utilizing various data sets provided by these stakeholders.

The “bottom up” portions of the analysis aimed to offer a **field-based perspective**, encompassing state and local implementer experiences with, and perspectives on, the identified domains of interest. The primary data for these portions of the project were gathered in ten state-based case studies – five focused on states

that had received SORNA “substantial implementation” designations from the Department of Justice (Alabama, Florida, Michigan, Missouri, and Pennsylvania), and five focused on states that had not (California, Iowa, New Mexico, Texas, and Washington). The case study protocol, which included interviews with key personnel and analysis of supplementary data provided by agency officials, was designed to offer insights surrounding state experiences with implementing SORNA standards; the scope and evolution of state SORN systems and information sharing practices since SORNA’s enactment; and state and local experiences with federal systems and mechanisms of support.

Across the ten states, the research team interviewed more than 150 stakeholders representing a wide range of registry-related managerial and staff roles within state and local public safety agencies, as well as field-based USMS personnel. Several jurisdictions also offered in-depth demonstrations of their registry systems. In conjunction with the site visits, the research team collected and analyzed a range of ancillary data provided by state registry agencies, including legislative materials, case law, operational policies, registration caseload and activity reports, and cost data. Supplemental data collection related to field-based perspectives included focus groups with probation and parole professionals, and interviews with specialized law enforcement professionals engaged in investigating internet crimes against children and child abduction cases.

## KEY FINDINGS

Overall, the study’s findings offer evidence of significant progress toward the achievement of many SORNA objectives, including greater interjurisdictional consistency, more efficient and reliable exchange of information among states, improved identification and tracking of absconders, and streamlined access to information for use by law enforcement and the public. At the same time, the findings also highlight a series of persistent challenges related to SORNA’s goals, and offer insights that might inform improved partnership between the federal government and state and local jurisdictions that might address some of these challenges.

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## AREAS OF PROGRESS

The report illustrates the many ways in which the nation’s SORN systems have advanced in the years since SORNA’s passage, and highlights a range of innovations and practice improvements that have emanated from both federal and state-level initiatives. Below, this progress is described in the context of three overarching developments:

1. States have made significant progress toward SORNA standard implementation, improving interjurisdictional consistency, and expanding the range of registry information;
2. State information-sharing capacity, systems, and practices have evolved considerably since SORNA’s passage, independent of state adherence to SORNA standards;
3. Federal resources have been integral to state efforts to strengthen their SORN policies and systems.

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### *STATES HAVE MADE SIGNIFICANT PROGRESS TOWARD SORNA STANDARD IMPLEMENTATION, IMPROVING INTERJURISDICTIONAL CONSISTENCY, AND EXPANDING THE RANGE OF REGISTRY INFORMATION*

As of 2019, 17 states had been designated by the Department of Justice (DOJ) as having met criteria for substantial implementation of SORNA requirements, and 33 had not. Although this distinction between “substantially implemented” (**SI**) states and “not substantially implemented” (**NSI**) states has some relevance, sole focus on these binary categories obscures much of the progress states have made toward bringing their systems into closer alignment.

Under the SORNA guidelines, state policies are evaluated based on their consistency with federal requirements across 14 standard areas. Based on an analysis of 692 standard determinations made by the DOJ pursuant to its reviews of state policies<sup>2</sup>, the study findings indicate that:

- **In the aggregate, more than three quarters of standard determinations meet SORNA thresholds.** Approximately 77 percent (530 of the 692 standard determinations) were found to meet SORNA “substantial implementation” thresholds.<sup>3</sup> By all indications, this figure has likely increased as states have continued making adjustments in the years following the written reviews that formed the basis for the analysis.
- **Thresholds for most SORNA standards are met a majority of states.** For 13 of the 14 SORNA standard areas, at least half the states were determined to have met implementation thresholds. For nine of the standard areas, 75 percent of states were found to have met these thresholds.
- **Most states meet thresholds for a majority of standards.** 92 percent of states were found to have met implementation thresholds for at least half of the 14 SORNA standard areas, and more than two-thirds of states were found to meet thresholds for ten or more standards.

In tandem, the national analysis and case study findings indicate that, regardless of binary “substantial implementation” designations, states have made substantive improvements to their SORN policies that have brought the nation’s disparate SORN systems into closer alignment. Collectively, these efforts have served to:

- Produce greater consistency in the data elements contained within state SORN systems;
- Capture a broader range of registrant information that encompasses more activities and locations;
- Enhance standardized registration requirements, including those related to timeframes for updating information, verification frequency, duration of registration, and penalties for non-compliance; and
- Promote greater uniformity and consistency in public registry website information.

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*STATE INFORMATION-SHARING CAPACITY, SYSTEMS, AND PRACTICES HAVE EVOLVED CONSIDERABLY SINCE SORNA’S PASSAGE, INDEPENDENT OF STATE ADHERENCE TO SORNA STANDARDS*

Case study findings highlight a range of improvements to state-operated SORN systems since SORNA’s passage in 2006. Regardless of SORNA implementation status, states have made significant investments in technological capacity and adjustments to operational practice to enhance the quality, accessibility, exchange, and utility of registry data. While many state representatives described challenges associated with the introduction of new systems and the continuous expansion in the volume of registry data and activity, stakeholders with historical perspectives generally viewed their SORN systems as more robust, reliable, and effective than they were prior to SORNA’s passage.

**Technological improvements.** The technological capacity of state registry systems has evolved considerably since SORNA’s passage in 2006. All ten case study states have transitioned to newer and more robust registry platforms and/or invested in extensive redesigns of their central registry management systems, and all have made substantive improvements to their interfaces with the National Sex Offender Public Website (NSOPW) and the Federal Bureau of Investigation (FBI)-operated National Sex Offender Registry (NSOR).

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<sup>2</sup> 48 states were evaluated by DOJ on all 14 standards, and two states were evaluated on fewer than 14 standards due to missing information. Details are provided in the study methodology.

<sup>3</sup> Allowing for variation in state policy, DOJ criteria for substantial implementation permit certain deviations from the letter of the standards, provided that these deviations do not substantially disserve the purposes of SORNA. Of the 692 noted determinations, 245 were found to directly meet the applicable standard, 285 were found to have provisions that do not substantially disserve the purposes of the standard, and 162 were designated as not meeting the standard.

States also reported significant investments in record digitization, intra-state database interfaces (e.g., motor vehicles, and criminal history), expanded reporting and decision support capacity, and field-based technology such as Live Scan devices and biometric equipment. Through these and other advances, stakeholders viewed technological solutions as pivotal to their ability to efficiently manage a growing registrant population, as well as central office administrative staff capacity to improve and promote the accuracy and integrity of registry data.

**Operational improvements.** The SORNA implementation process has served as a catalyst for greater consistency of practice surrounding the management of offender relocations, as well as work process improvements to improve the quality and consistency of information within and across jurisdictions. States have invested in ongoing improvements to operational practice, including development of data quality assurance systems, deployment of field-based technology, training and technical support for local jurisdictions, cross-system data interfaces, enhanced methods of community notification, and expanded analytic and operational field-based based support for compliance enforcement.

**Culture of information sharing.** The state case studies offer consistent and ample evidence of an enhanced “culture of information sharing” in which state and local agencies have worked to build more effective collaboration and channels of communication. Although noting some persistent data access challenges, state registry personnel described constructive and effective relationships with their counterparts in other jurisdictions, and conveyed a high degree of attunement to the information needs of those outside the jurisdiction. In this context, state and local registry official commonly credited the activities of the SMART Office and the USMS as integral elements in fostering this mindset and building an interjurisdictional community of practice.

**State investment in and commitment to improved information sharing is largely independent of SORNA standards.** Although the range and extent of investment in technology and operational improvements varied considerably across states, this variation was **not** found to be associated with states’ level of adherence to SORNA standards. In fact, many of the model technological and operational practices identified through the study emanated from states that diverge from the standards in some other significant ways. Similarly, evidence of the enhanced “culture of information sharing” was found across all states in the sample, regardless of SORNA substantial implementation status.

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*FEDERAL RESOURCES HAVE EFFECTIVELY SUPPORTED STATE EFFORTS TO STRENGTHEN THEIR SORN POLICIES AND SYSTEMS*

The study findings underscore the myriad ways that the above-referenced state initiatives and improvements have been advanced by the infusion of SORNA-driven federal resources and support, including those provided through the SMART Office and the USMS.

**SORNA grant programs.** The financial resources managed through the SMART Office, both through the competitive SORNA grant program and mechanisms allowing non-implemented states to “recapture” funds to support SORNA implementation, have supported ongoing improvements to state SORN systems.<sup>4</sup> Specifically, these funds have been integral to state efforts to improve data quality, enhance technological capacity, expand registry enforcement efforts, and fulfill a range of other functions connected to the achievement of SORNA’s goals.

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<sup>4</sup> SORNA stipulates that states that have not substantially implemented SORNA are subject to a 10% reduction in their federal Justice Assistance Grant (JAG) funding. DOJ policy allows states to recapture these funds provided that they are used for purposes of advancing state SORNA implementation efforts.



**Support from the USMS.** The work of the USMS, particularly through the Sex Offender Investigations Branch (SOIB), has been instrumental in strengthening SORN systems within and between the states. Beyond its primary mandates of investigating and apprehending interstate absconders and supporting state and local compliance enforcement efforts, the USMS has evolved to encompass a range of formal and informal functions in service to SORNA's goals. Throughout the case studies, state and local stakeholders consistently offered examples of successful coordination and collaboration with USMS field operations, and highlighted the USMS role in providing manpower, training resources, and funding to support compliance and enforcement efforts.

**SMART Office facilitation role.** Although one of the SMART Office's primary responsibilities involves reviewing and certifying state adherence to SORNA requirements, stakeholders within the states generally viewed the Office as approaching this mandate through a collaborative framework, rather than serving simply as "enforcers" of the standards. Throughout the site visits, state registry officials described multiple ways in which SMART Office policy advisors have worked in partnership with jurisdictions to promote progress towards standard implementation consistent with each state's unique circumstances. Additionally, many described how regular regional and national symposia and training events coordinated through both the SMART Office and USMS have served to foster a cross-jurisdictional community of practice related to SORN policy and system management.

**Information technology initiatives.** Information technology initiatives carried out under the auspices of the SMART Office have been instrumental in promoting the exchange of information across jurisdictions, strengthening state-based registry systems, and streamlining public access to sex offender information:

- The **Dru Sjodin National Sex Offender Public Website (NSOPW)** has been improved in ways that have largely fulfilled the vision as contemplated by SORNA. Over the years, the system has enhanced its geographic search functionality, added a companion mobile application, and expanded the range of public education materials related to the prevention and identification of sexual abuse and assault.
- The **Sex Offender Registration Tool (SORT)**, a comprehensive, SORNA-calibrated, and freely available registration system platform for use within the states has offered states an affordable alternative to building their own registry systems. As of 2019, the system was operating in nine jurisdictions (eight states and Puerto Rico), under active consideration by several more states, and in the midst of a conversion to a more flexible and accessible programming framework (.NET). In the context of some persistent data exchange and access challenges that will be described shortly, the SORT system appears positioned to assume a growing role in advancing SORNA's vision of promoting greater consistency of data standards and seamlessly linking the nation's disparate web of registry systems.
- The **SORNA Exchange Portal (SEP)** was deployed in 2008 to serve as a secure platform to support transfer of registrant relocation information across jurisdictions. Despite some logistical and operational limitations that have constrained the SEP's use among many states, study findings indicate that the SEP utilization has increased over the years, and that the system has effectively augmented the range of tools for facilitating the interjurisdictional exchange of registrant information.



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## AREAS OF CHALLENGE

Beyond the noted areas of progress, the study findings also identified a series of policy-relevant challenges that have emerged in the 14 years since SORNA's passage. Although varied, the challenges in three areas emerged as particularly prominent:

1. Resource and capacity challenges faced by state and local jurisdictions related to a growing registrant population and expanded administrative and operational demands;
2. Persistent and systemic barriers to state implementation of certain SORNA standards; and
3. Field-based demands for more comprehensive, dynamic, and integrated information technology systems.

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### **STATE AND LOCAL JURISDICTIONS HAVE EXPERIENCED PERSISTENT CAPACITY CHALLENGES AMIDST A GROWING REGISTRANT POPULATION AND EXPANDED ADMINISTRATIVE AND OPERATIONAL DEMANDS**

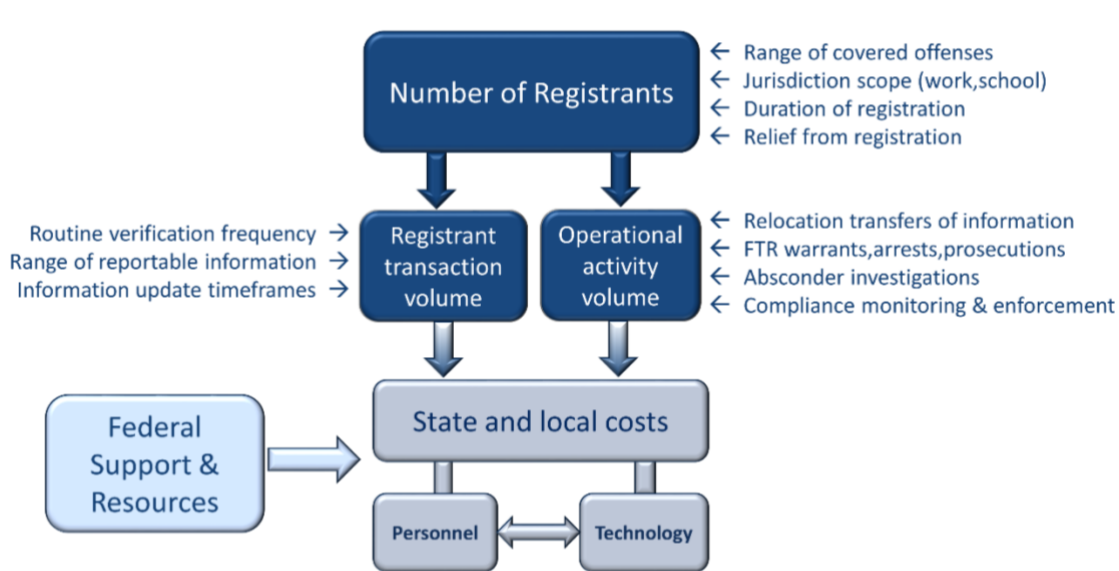
Across case study sites, issues of resources and “bandwidth” emerged as a prominent and ubiquitous theme, with stakeholders describing a range of significant and growing administrative and operational resource challenges. These multi-faceted challenges may be linked to three interrelated factors – a growing registrant population, expanded “per registrant” transaction volume, and increased operational activity tied to both enforcement and interjurisdictional exchange of information.

First, the **overall size of the registrant population** has grown steadily since SORNA's passage, from under 600,000 at the time of SORNA's passage to over 900,000 in 2018. This growth has been relatively stable at between 20,000-25,000 new registrants added each year, suggesting that the figure will surpass one million within the next few years. While these growth pressures are felt across jurisdictions, findings indicate that they are particularly pronounced among larger and more populous states. With SORNA implementation contributing to a growing proportion of lifetime registrants within many states, this population can be expected to compound further over time.

Along with the increased number of registrants, states have experienced an exponential growth in the **volume of administrative transactions**. Consistent with SORNA's intent, registrants are required to update a broader range of personal information, and in a more frequent and timely fashion, than they were in 2006. The associated expansion in triggering events requiring information updates has in turn increased average “per registrant” transaction volume, and along with this, the registry management workload demands associated with verification, data entry, and data quality assurance. Although some of these impacts have been mitigated through deployment of technology, the increased volume of face-to-face transactions has placed additional administrative workload demands on state agencies and – to an even greater degree -- local law enforcement agencies.

Beyond administrative demands, stakeholders within state and local jurisdictions also routinely reported an expansion in the **volume of operational activity**. As noted above, SORNA has produced greater attunement to the needs associated with the interjurisdictional exchange of information, and has effectively raised the bar of expectations surrounding the scope and timeliness of information exchange. Coupled with this, enhanced attention to compliance enforcement, address verification, and the tracking of absconders has generated additional demands. While these developments are fully consistent with SORNA's intent, they have also come with a price tag for state and local law enforcement agencies, which must balance these needs with other public safety priorities.

Reflecting these factors, the project report presents and discusses a model for considering the costs associated with the expansion of SORN policies and activities. A summary graphic of this model appears below.



Given the varied paths to state SORNA implementation, study findings underscore that there is no single methodology to produce generalizable estimates of what it costs a state to “implement SORNA.” It is clear, however, that the steadily growing registrant population and an expanded range of administrative and operational requirements has exerted growing pressure on state and local resources, and is likely to continue to do so. Although these strains may not be fully attributable to SORNA, virtually all of the cost model’s salient factors connect in some way to SORNA standards and their implementation. Accordingly, the viability of state SORN systems depends in part on federal policies that support the ability of jurisdictions to effectively prioritize the deployment of limited personnel resources and to harness the potential of technology to mitigate some of these growing needs.

*DESPITE SIGNIFICANT PROGRESS, STATE IMPLEMENTATION OF CERTAIN SORNA STANDARDS REMAINS CONSTRAINED BY FUNDAMENTAL AND SYSTEMIC BARRIERS*

As noted under “Areas of Progress,” state implementation of SORNA standards has been successful in many respects. Across the 50 states and 14 SORNA standard areas, more than three quarters of standard determinations have been found to meet implementation thresholds. Additionally, the SORNA implementation process has catalyzed state efforts to strengthen their SORN policies and systems, and has produced greater attunement to interjurisdictional issues. States have also continued to make modest incremental adjustments tied to SORNA standards, such as those related to expanding the range of reportable data elements, capturing palm prints or DNA samples, and adjusting mandated timeframes for updating of information.

Study findings suggest, however, that progress toward state implementation of SORNA standards has slowed considerably, and is likely approaching a point of stasis. Of the 17 states with SI designations as of 2019, only four had been so designated after 2011.<sup>5</sup> Moreover, although the case study findings identify

<sup>5</sup> Colorado (2013), Oklahoma (2017), Virginia (2017), and Delaware (initially 2010, reinstated 2019).

some instances of NSI states pursuing modest technical adjustments to align with certain standards, most remaining points of divergence were attributable to more systemic and intractable barriers.

Across the NSI case study states, state registry officials were consistent in their belief that the prospects for addressing the most significant points of divergence from SORNA standards were limited. Officials most often cited concerns over cost impacts (particularly for local jurisdictions), systemic legal barriers, legislative resistance and/or lack of legislative will, and fundamental inconsistency between certain SORNA standards and the underlying design of the state’s SORN policies and systems.

Hence, nearly 14 years following SORNA’s passage, it appears that many states have reached an impasse regarding certain SORNA requirements. Study findings attribute this impasse to three interrelated factors that call for the attention of federal policymakers: 1) the inherent variation in the structure, organization, and operation of state SORN policies and systems; 2) the differential challenges faced by states in adhering to certain key elements of the SORNA framework; and 3) a limited group of SORNA standards that have presented persistent challenges for many states.

### **Inter-state variation in SORN policies and systems**

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At the time of SORNA’s passage in 2006, SORN systems were fully operational across all 50 states, and encompassed approximately half a million registrants. Pre-SORNA federal policies -- initiated in 1994 with the Jacob Wetterling Crimes Against Children Act (“Wetterling Act”) -- had offered states a fair degree of latitude in establishing the frameworks and models for their SORN systems, and many state SORN policies and systems predated any federal involvement in SORN policy, in some cases by several decades.

The case study findings underscore the inherent diversity of state SORN policies and systems, which have been shaped by each jurisdiction’s distinctive legislative, legal, bureaucratic, and intergovernmental conditions. Across both SI and NSI states, the case studies reveal significant differences in operational practices, organizational frameworks, allocated resources, roles of state and local agencies, registrant classification systems, registration requirements, mechanisms for relief from registration, and other factors. This interstate variation is further reflected in results from the nationwide analysis, which illustrate how there is no single approach to “implementing SORNA.” The SMART Office review letters that formed the basis for the analysis illustrate how each state has approached the standards in the context of its unique conditions, and indicate that virtually all states—including those that have been designated as substantially implemented – diverge from SORNA standards in some way.<sup>6</sup>

Collectively, these findings suggest that, despite the success of the standards in strengthening and enhancing consistency across the nation’s SORN systems, SORNA has not amounted to a “one-size-fits-all” solution in practice. Rather, the SORNA standards are more appropriately viewed as a mechanism to promote basic standards of practice in the design and implementation of SORN systems rather than as a rigid prescription.

### **Differential challenges of SORNA implementation**

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Case study findings offer consistent evidence that most successful movement toward implementation of SORNA standards has been based on modest and incremental policy adjustments changes, and that more

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<sup>6</sup> Of the 530 standard determinations that were designated as meeting SORNA implementation thresholds, 285 (54 percent) were found to directly meet the standard, and 245 (46 percent) met the threshold based on DOJ determination that state policy “does not substantially disserve” (DNSD) the purposes of SORNA. For some standards, such as SORNA’s retroactivity provisions, DNSD emerged as the modal designation. The analysis found that only one state (Kansas) had been designated by the SMART Office as directly meeting all 14 standards.

extensive changes to state policy have proven far more difficult. By extension, the process of SORNA standard implementation has been a significantly “heavier lift” for some states than for others.

Among the SI case study states, three (Alabama, Florida, and Missouri) were found to have done so through modest incremental policy adjustments, while two (Michigan and Pennsylvania) required major realignments of their SORN policies and systems. After their SI designations, the former group of states were generally successful in implementing the required modifications, while the latter two encountered significant operational and legal impediments.<sup>7</sup>

The NSI case study states also varied in their “distance to travel” toward SORNA implementation, with some starting with policies and practices that were generally consistent with SORNA’s general framework, and others deeply invested in systems that diverge from SORNA in more significant ways. States in the former category have been generally fallen short of SI designations due to one or two persistent points of divergence, such as those related to relief from registration, certain covered offenses, and inclusion of juveniles on the registry. In contrast, states in the latter category generally face a more diverse range of issues, rooted in fundamental legal or operational provisions that are less easily reconciled with federal policy. Such challenges are particularly prominent among states with long-established SORN systems that predated federal involvement in SORN policy, such as California, which operates the nation’s oldest registry system, and Washington, which in 1990 established the nation’s first system of community notification.

Collectively, these varied state experiences indicate that successful implementation of SORNA standards remains highly dependent on the level of alignment between pre-SORNA systems and relevant aspects of the SORNA standards. Moreover, these experiences suggest that legislative initiative, although important for reaching SI status, is independent of a state’s capacity to successfully carry through with changes to its policy.

### **Common areas of challenge related to SORNA standards**

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Findings from the nationwide analysis indicate that approximately 23 percent of the standard determinations were deemed as not meeting SORNA requirements. Although some of the remaining points of divergence may be addressed through technical modifications to state policies and systems, the majority may be attributed to a limited subset of challenging issue areas.

**Juvenile registration requirements.** Despite adjustments to the standards and supplemental guidance provided by the SMART Office that has enhanced state flexibility related to the parameters involving juvenile offenses, many states have continued to fall short of SORNA requirements in this area. Of the 21 states found to not meet the standard related to registerable offenses (Standard 2), all but one (i.e., 20 states) were designated as not meeting the standard, either in whole or part, due to the state’s lack of inclusion of certain juveniles within its covered registrant population. Case study findings indicated that these implementation challenges were most commonly due to entrenched legislative resistance to placing youth on the registry, particularly in the absence of some form of judicial discretion.

**Classification and relief from registration.** A prominent cluster of challenging issues pertained to constraints on states’ flexibility in systems for classifying registrants and providing “safety valve” mechanisms allowing registrants to petition for a reduction or cessation of registration requirements

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<sup>7</sup> Michigan has been constrained by a series of federal court rulings from implementing key elements of its SORNA-based policy, and has faced a related array of operational and resource challenges tied to this transition. Pennsylvania also encountered legal challenges to its SORNA-driven reforms, and in response to these rulings the state legislature rolled back certain key provisions, ultimately leading to DOJ’s withdrawal of the Commonwealth’s SI designation in 2018.

(commonly referred to as “relief from registration”). While affecting multiple standard areas, these issues share a common thread – they all connect to states’ capacity to manage the aforementioned growth in resource demands. Across several states, stakeholders expressed concerns that implementing certain SORNA requirements would adversely affect the public safety efficacy of their SORN systems by restricting their ability to direct resources and attention toward those registrants who present more significant threats to public safety. Noted points of concern included SORNA standards expanding the range of individuals subject to lifetime registration, and standards constraining state ability to adjust registry requirements for those determined to present minimal risk to the community. These themes were particularly prominent in (although not limited to) states using risk-based methods for establishing certain registration requirements and/or for determining eligibility for relief from registration.<sup>8</sup>

**Public website requirements.** Twenty-four states were deemed to have not met the SORNA standard related to public registry website requirements (Standard 10). However, states’ failure to meet this standard was most commonly linked to a limited subset of missing data elements. The most common among these were requirements concerning the posting of employer address information, school addresses, and vehicle information. Case study interviews suggest that, while challenges related to the latter two categories are primarily operational in nature, states’ resistance to including employer addresses on public websites is more commonly grounded in specific concerns, such as policymakers’ apprehension around adverse impacts on business owners who employ registered individuals.

**Retroactive application.** SORNA’s provisions requiring registration of certain individuals whose convictions pre-dated the state’s registration statutes continue to present both legal and operational challenges for most states. In the nationwide analysis, “does not substantially disserve” emerged as the modal designation for SORNA’s retroactivity standard (Standard 7), covering 80 percent of all states and even two-thirds (67 percent) of states that had received SI status. This finding indicates that a vast majority of states – generally due to state constitutional constraints -- have been unable to bring their laws into compliance with the letter of the SORNA guidelines. As an outgrowth of this tenuous legal terrain, many states have been required to establish different sets of rules for varying groups of registrants, depending upon their year of conviction. This, in turn, has typically led to a confusing web of rules and requirements applied to different registrant “epochs.”

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*STATE AND LOCAL REGISTRY AGENCIES FACE CONTINUED DATA ACCESS AND DATA EXCHANGE CHALLENGES, MANY OF WHICH COULD BE ADDRESSED THROUGH EXPANDED FEDERAL INFORMATION TECHNOLOGY INVESTMENTS*

Since SORNA’s passage, states have invested considerably in upgrading their SORN information technology platforms to capture a growing array of registrant information, improve data quality, support field-based enforcement operations, and promote interjurisdictional exchange of information. These state efforts have been enhanced through various federal initiatives, including SORNA grant programs, NSOPW improvements, and deployment of tools such as SORT and the SORNA Exchange Portal (SEP).

At the same time, stakeholders across the states identified multiple persistent and common information-sharing challenges, with many linked to the growing volume of interjurisdictional transfer activity. This expanded activity has emerged through the convergence of three primary factors: the growing registrant population, state adoption of specific SORNA requirements related to the transfer of information, and the expanded “culture of information-sharing” and field-based attunement to interjurisdictional issues.

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<sup>8</sup> While SORNA does not preclude states from utilizing risk assessment systems for certain purposes tied to registration, under current law such systems cannot be applied in a manner that would override SORNA’s minimum requirements that are tied to conviction offense.

When registrants relocate from one state to another, receiving states require access to a range of information for both administrative purposes (e.g., establishing duty to register and conditions of registration) and operational purposes (e.g., compliance enforcement and absconder investigations). Commonly required data elements reported by jurisdictions included those involving court records, supplemental conviction offense information (e.g., victim age), address histories, and arrest information.

Amidst the growth in registration activity volume, state and local registry agencies dedicate substantial personnel resources to locating, gathering, and transmitting such information for both incoming and outgoing relocations. Multiple instances of parallel processes emerged across the ten case study states, with registry personnel in different states pursuing the same information elements, in some cases for the same individual registrants. Many registry staff expressed awareness of these duplicated efforts, and cited the need for more comprehensive, dynamic, and integrated mechanisms for accessing information needed to meet operational, administrative, and legal demands. Such sentiments were most commonly raised in the context of discussing field-based uses of federally-managed systems, including the National Sex Offender Registry (NSOR) and the SORNA Exchange Portal (SEP).

NSOR is operated by the Federal Bureau of Investigation as part of the National Crime Information Center (NCIC). State and local registry personnel described NSOR as “antiquated,” noting that the system functions in a manner that has been only minimally modified since its roll-out in the late 1990s. Designed as flat data file providing access to current individual records on a case-by-case basis, the system is widely viewed by those in the field as having minimal utility as either a reliable repository of actionable information or as an analytic and operational planning tool. Specific issues raised by field-based registry personnel included challenges with NSOR’s user interface, the sporadic reliability of the data, constraints of certain data fields (e.g. offense fields, “offender status” field), and the system’s inability to generate reports and capture and maintain historical information.

The SEP, developed and managed by the SMART Office, is regarded as a useful tool and resource for many in the field. However, the system was viewed by others as a “band-aid” solution that is not fully integrated with other systems for sharing and exchanging registrant information. Although the system’s usage has grown, study findings indicate that its utility remains constrained by uneven use across jurisdictions, non-standardized information, and lack of local access.

In light of these limitations, many case study participants raised the need for expanded federal investments in information technology that responds to field-based operational needs. Some suggested development of a centralized, shared platform that would embed “portal-like” functionality within a more informationally robust and user-friendly version of NSOR. Others raised the possibility of more decentralized frameworks, including those employing direct system-to-system data sharing protocols and distributed ledger (e.g., blockchain-based) solutions. Details about these suggestions are provided in the full report.

## SUMMARY AND POLICY CONSIDERATIONS

Collectively, the study findings document significant progress toward SORNA’s vision of a “comprehensive nationwide system” of sex offender registration and notification. They also indicate that this vision remains deeply relevant, and has been widely embraced among those involved in the day-to-day management of the nation’s SORN systems. Notably, strong evidence of commitment to this vision, and to SORNA’s broader public safety goals, is common across the states, independent of states’ extent of alignment with SORNA standards.

Yet, although SORNA’s broader goals as envisioned in 2006 are still highly pertinent, the conditions within the field have changed considerably. Overall, the nation’s SORN systems are capturing a wider range of



information, on far more registrants, and in a more consistent fashion than they were at the time of SORNA's passage. Concurrent with the growing volume of information, the interjurisdictional exchange of that information has increased exponentially, amidst a burgeoning culture of information sharing and enhanced collaboration among federal, state, and local agencies. Finally, while technological potential has not been fully leveraged, state investments in their registry platforms and in ancillary technology have offered more robust tools to manage the expanded array of information and respond to mounting resource challenges within the field.

These and other developments in the information-sharing landscape over the past 14 years carry important implications for the evolution of federal SORN policy. The findings presented in this report suggest that continued progress toward SORNA's goals calls for consideration of policy strategies in four main areas:

1. The findings underscore the **critical role of federal resources and support for state initiatives and interstate enforcement efforts**. SORNA grant programs have enhanced states' technical capacity, and have been instrumental in fostering innovation, but work remains to be done at both the federal and state levels to maintain this momentum. In addition, the USMS provides a needed infusion of resources to address absconder enforcement, and has helped bridge some of the jurisdictional gaps by bringing different registration entities together. Collectively, these resources have been integral to SORNA's success, and continued federal support in these areas can promote further advancement.
2. The findings point to the need for specific **expanded federal investment in information technology** calibrated to field-based operational demands. To date, state investments in technological enhancements have generally outpaced those of the federal government. Particularly amidst growing resource demands, effectively integrating the disparate web of state SORN systems calls for federal leadership in promoting shared technological solutions, whether through investment in enhanced centralized mechanisms or facilitation of decentralized solutions. It is particularly essential that such efforts be conducted with the active input of states and other SORNA covered jurisdictions.
3. The findings offer insights that can inform **refinements to the SORNA standards**, and an attendant evaluation of the role of these standards in advancing SORNA's broader policy goals. Findings suggest that such refinements should be calibrated to advance the goals of inter-jurisdictional consistency while also recognizing the limits of standardization among the states. Specific factors to be considered include the variation in structural design of state SORN systems, differential and sometimes intractable state challenges associated with meeting certain SORNA standards, and the varied approaches and model practices that states have adopted to meeting SORNA's broader public safety objectives. Consideration should also be given to the study's finding that states' levels of adherence to current SORNA standards are largely independent of the effectiveness of state information sharing practices and state commitment to SORNA's broader vision and public safety goals.
4. Finally, findings underscore the importance of ongoing federal efforts to **build and strengthen the community of practice** among federal, state and local agencies and personnel engaged with SORN activities. The bridge-building roles assumed by both the SMART Office and USMS have been integral to promoting interjurisdictional communication, and have facilitated the sharing of model practices, and collective addressing of common challenges. Such efforts are central to states' continued progress toward SORNA's goals, and should be maintained and expanded in the years to come.