

# 2016 NATIONAL SYMPOSIUM

ON SEX OFFENDER MANAGEMENT AND ACCOUNTABILITY

JULY 26–27 | KANSAS CITY MARRIOTT DOWNTOWN, KANSAS CITY, MO

ADAM WALSH ACT

10<sup>th</sup>

ANNIVERSARY

## *Sex Offender Registration in the United States*

## *Emerging Policy and Legal Issues*

Lori McPherson—SMART Office

Mary Coffee, Seth Montgomery, Alan Moses & Jon Roddenberry—  
Florida Department of Law Enforcement



SMART

2016 NATIONAL SYMPOSIUM

ON SEX OFFENDER MANAGEMENT AND ACCOUNTABILITY



SMART

# SMART

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

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Welcome to the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) site. The SMART Office was authorized in the Adam Walsh Child Protection and Safety Act of 2006, which was signed into law on July 27, 2006. The responsibilities of the SMART Office include providing jurisdictions with guidance regarding the implementation of the Adam Walsh Act, and providing technical assistance to the states, territories, Indian tribes, local governments, and to public and private organizations. The SMART Office also tracks important legislative and legal developments related to sex offenders and administers grant programs related to the registration, notification, and management of sex offenders.

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SORNA Implementation Status

SOMAPI



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## Multimedia & Publications

### Webinars

[FY 2016 Support for Adam Walsh Act Implementation Grant Due April 7, 2016 - View Transcript](#)

### Newsletters

SMART Watch is SMART's newsletter, highlighting ongoing activities, resources, funding opportunities, and upcoming events.

- SMART Watch Dispatch, February 2016**  
Read about International Megan's Law, key provisions and practical implications.
- SMART Watch Dispatch, January 2016**  
Read about Enhanced Sentencing under the Tribal Law and Order Act (TLOA) and the potential impact on SORNA implementation.

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### Publications



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### Publications

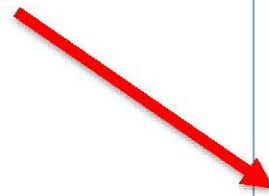
#### Featured Publication

##### The Sex Offender Registration and Notification Act (SORNA) A guide on SORNA implementation in Indian Country

The SMART Office developed this guide to assist tribal jurisdictions in implementing or continuing implementation of SORNA. It provides a comprehensive overview of SORNA's requirements and serves as a job aid for sex offender registration personnel in Indian Country. It includes step-by-step direction on how to complete certain tasks and links to helpful templates and guidance documents.



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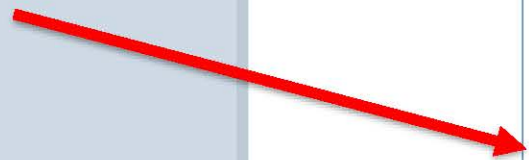
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- SMART Summary: Prosecution, Transfer, and Registration of Serious Juvenile Sex Offenders
- International Tracking of Sex Offenders Working Group White Paper
- Global Overview of Sex Offender Registration and Notification Systems
- A Practitioner's Guide to the Adam Walsh Act
- The SMART Office: Open for Business
- Sex Offender Registry Laws: From Jacob Wetterling to Adam Walsh

### SOMAPI

[The Sex Offender Management Assessment and Planning Initiative \(SOMAPI\)](#)

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# A Lot to Cover...

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- **Sex Offender Registration: An Overview**
- **Federal Government & Sex Offender Registration**
- **Recent Case Law**
- **Innovations in Enforcement**
- **Military Registration**
- **International Travel**
- **Juvenile Registration**



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# Sex Offender Registration: An Overview



# History of Registration Systems (Brief!)

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- **1947: California**
- **1951: Arizona**
- **1961: Nevada**
- **1963: Ohio**
- **1967: Alabama**
- **1980's: Arkansas, Illinois, Montana, Oklahoma, Oregon, Utah**
- **....**
- **1996: DC, Massachusetts, Nebraska, Vermont**

# Registration is a Local Activity

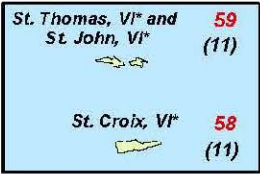
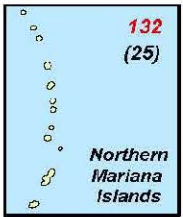
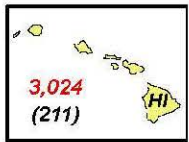
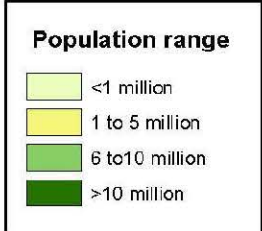
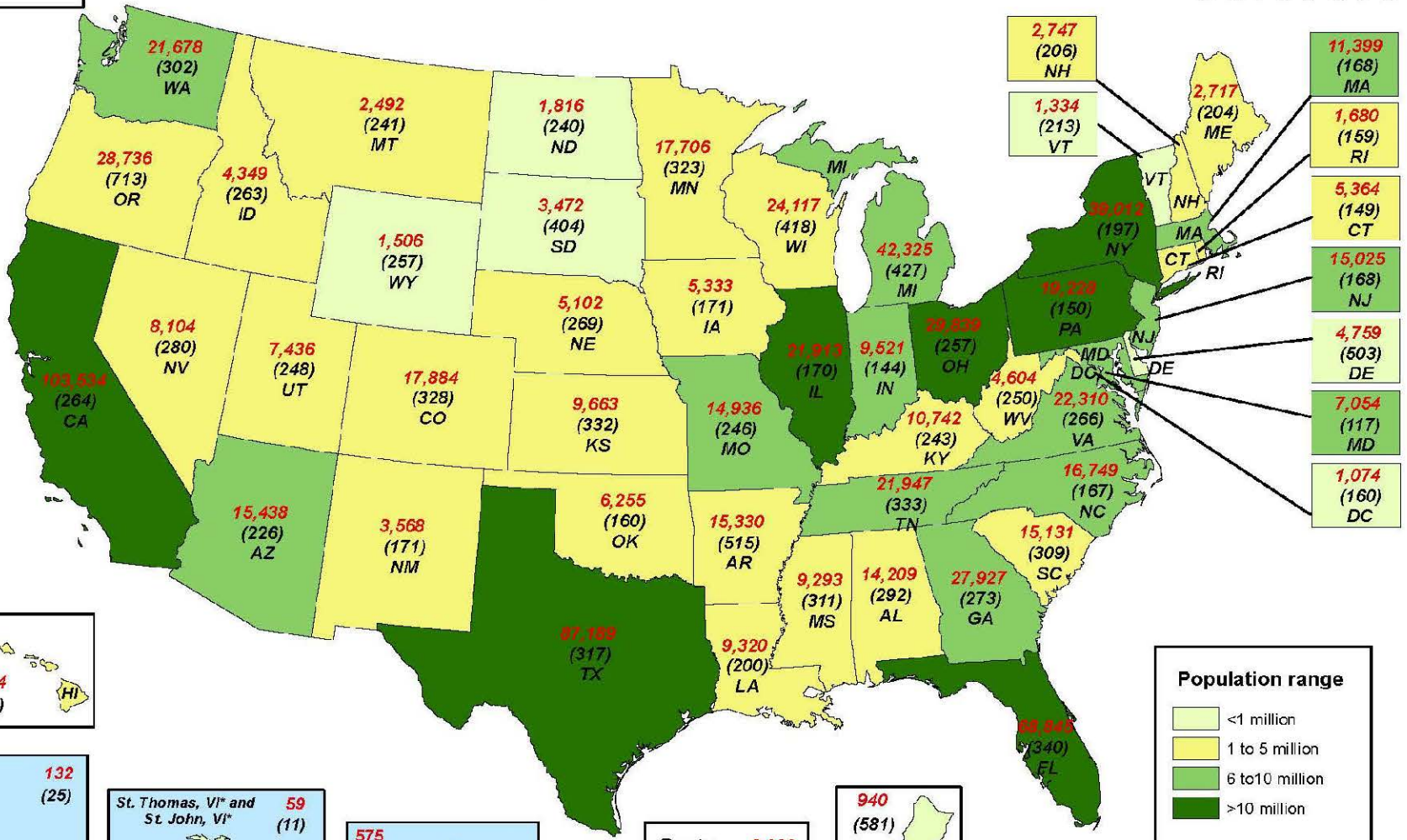
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- **There is no federal registration system**
  - **Exception: Military (later in presentation)**
- **Every State and all 5 Principal US Territories have registration laws on the books**
- **100+ Indian Tribes/Nations**
- **Each determines**
  - **Who must register and how**
  - **What offenders will be posted on their public websites**



# Registered sex offenders in the United States and its territories per 100,000 population

**Total - 851,870** (per 100,000 population - 262)



Territories with population rates per 10,000 (American Samoa, N. Mariana and Virgin Islands)

Prepared by the Records and Access Unit, June 17, 2015  
National Center for Missing & Exploited Children (NCMEC)  
RSD data: State or territory sex offender registries  
Population range: 2010 U.S. Census Bureau or  
2010 U.S. Census Bureau  
Mapping software donated to NCMEC by Esri, Redlands, California

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# How is the Federal Government Involved in Sex Offender Registration and Notification?

# SORNA: Two Components

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- **1994: Jacob Wetterling Act**
- **1996: Megan's Law**
- **2006 SORNA**
  
- **A set of standards jurisdictions are asked to substantially implement**
  
- **A set of requirements sex offenders are required to follow**

# National Sex Offender 'Registries'

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- **National Sex Offender Public Website (NSOPW)**
  - [www.nsopw.gov](http://www.nsopw.gov) (Search Engine)
- **National Sex Offender Registry (NSOR)**
  - Folder within NCIC
  - Law Enforcement (ORI) Only

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# Case Law





# Case Law: 2015-2016

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- **U.S. v. Nichols: International Travel**
  - 136 S.Ct. 1113 (2016)
- **U.S. v. Bryant: Tribal Conviction**
  - 84 U.S.L.W. 4400 (2016)
- **Kansas: Retroactivity Cases**
  - State v. Petersen-Beard, 2016 Kan. LEXIS 241
- **Washington: Tier I Disclosure Case**
  - Doe v. Wash. St. Patrol, 2016 Wash. LEXIS 474
- **Nevada: Injunction Litigation**

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# Innovations in Enforcement



# OEA ~ WHO WE ARE

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- Florida Offender Enforcement & Apprehension Unit
- Began July 2014
- Part of FDLE Registration/Missing Persons
  - 3 Statewide Inspectors
  - 5 Analysts

Since Inception OEA has:

- Generated 521 Leads
- Obtained 101 Warrants
- Arrested 195 Sexual Offenders/Predators
- Brought 48 Sexual Offenders/Predators Into Registration Compliance

# TASKS

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- Enforce Florida Sexual Offender/Predator & Career Offender Registration Laws.
- Identify/Locate absconded or non compliant Sexual Offender/Predators & Career Offenders.
- Assist local law enforcement & United States Marshals Service
  - Individual Cases
  - Regional & Statewide Investigative Initiatives.
- Special Projects

# OPERATION LOCATOR

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## SEPTEMBER 2015

- FDLE compared a listing of approximately:
- 764,000 NCIC Sexual Offenders
- 30 million Florida Vehicle/DL Records

# OPERATION LOCATOR

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## NOVEMBER 2015

- FDLE Statistical Analysis Center (SAC) compared data sets
- 15,000 possible matches submitted for OEA for review:
  - Research, Registration Requirement Verification, & Determination of Florida Residency.

## December 2015 - Present

- Review of narrowed list of ~ 5,800 matches

# Operation Locator Results

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## Numbers to Date:

346 reviewed cases

➤ 294 identified non-viable cases

- Non-qualifiers for Florida Registration
- Subjects already registered & compliant in Florida or other jurisdictions.

# Operation Locator Results

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## Numbers to Date:

52 Viable Cases (of the 346 reviewed)

➤ 36 Referred to Inspectors/LLE/USMS

- 17 Arrested
- 11 Brought Into Registration Compliance
- 8 Pending Arrest/Compliance

➤ 16 Continue Research

- 9 Awaiting Out-of-State Documentation
- 7 Pending Confirmation of FL Registration Requirement



# ISSUES

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1. Resources (People & Analytical Tools)
2. Out-of-State Sexual Offenders:
  - No Registrations or Registrations without Adam Walsh Language (Notice of registration requirement in new jurisdiction)
  - No warrants or no extradition on warrants
  - Out-of-State Offenders with “compliant” flags but also have active warrants.

# ISSUES

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3. Time delays receiving necessary registration/court documentation.
4. Difficulties/costs dealing with out-of-state clerks of courts.
5. Compromised Identity Cases and False Hits.

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# Military Registration



# Military Registration

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- **SORNA Requires UCMJ-convicted offenders to register**
- **DoD Instruction 1325.07**
- **Special Legal Issue:**
  - **Federal Enclaves (art. I, § 8, cl. 17)**
- **Coordination with local registration officials**
- **Sexual Assault in the Military**

# Military Registration

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- **2013: Any person convicted of a felony sex offense barred from enlistment or commission**
  - **NDAA 2013, § 523**
  - **2015—expanded to anyone required to register as a sex offender**
  
- **Branch policies now generally require a person be processed for administrative separation if convicted of a sex offense**
  - **When sentence does not include discharge/dismissal**

# Military Registration



## Justice for Victims of Trafficking Act

- **May 29, 2015**
- **§ 502**
- **Requires DoD to send information about any convicted sex offender to:**
  - **NSOPW; and**
  - **NSOR**

# Military Registration

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- **2015: DoD requires all installations to:**
  - Identify any affiliated personnel that are required to register
  - Notify state sex offender registries of their presence
  - Monitor the offenders while they are on the installation
  - Report any intended international travel to NSOTC
- **2015: Army**
  - Requires all sex offenders living or working on an Army installation (CONUS or OCONUS) to register
    - Provost Marshal

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# International Travel





# SORNA & International Travel

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- **SORNA: 42 U.S.C. 16928**
- **Final Guidelines: Entering & Departing Offenders**
- **International Working Group**
- **White Paper**
- **2011 Supplemental Guidelines:**
  - **21-Day Notice of International Travel**
  - **Submit to NSOTC**
  - **Sent to foreign country via INTERPOL-USNCB**

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# International Travel: Florida's Experience



# International Travel

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- Effective July 2014
  - Registrants must~ Report to Sheriff's Office "within" 21 days prior to establishing residency of 5 or more days out of the country.
    - Provide Passport information
    - Immigration status/documentation

# International Travel

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- Effective October 2016
  - Registrants must ~ Report to Sheriff's Office
  - “at least” 21 days prior to establishing residency of 5 or more days out of the country.
  - Unanticipated travel (emergencies) 21 days prior to leaving the country reported to Sheriff's Office ASAP.
  - Offenders must include travel information:
    - Expected Departure & Return Dates
    - Flight Number(s) & Airport of Departure
    - Cruise Port of Departure
    - Any other means of Intended Travel (Train/Bus etc.)

# International Travel

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## FDLE's Process

- Send Out of Country Travel/Relocation Information to:

### United States Marshals & Interpol

- Completed US Marshals International Travel Form
- FL Reg Form with Travel Information

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# International Megan's Law and Other International Travel Resources



# International Megan's Law

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- **H.R. 515, Passed Feb. 8, 2016**
- **Angel Watch Center**
- **USMS**
- **21-Day Notice**
- **18 USC § 2250 Amendment**
- **Passport Marking**
- **Civil Litigation: Northern District of California**

# Three Primary LE Interests

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- **Fugitive or Absconder**
  - We've got a warrant out--where is my guy?
- **Interdiction or Monitoring**
  - We think this guy is travelling to engage in CSE
  - Stop him, or keep an eye on him
- **Investigatory or Informational**
  - Where has my guy been?
  - Depending on where he's been, what else should I look for?



# Passport Issuance

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- **Passport Services Directorate**
- **State Department/Bureau of Consular Affairs**
- **When you apply:**
  - **Name run through CLASS for wants/warrants/prohibitions**
  - **LE can request that a passport be revoked/denied in certain situations:**
    - **Barred from leaving the jurisdiction/country**
    - **Active warrants**

# Information Sharing: SORNA 21 Day Notice

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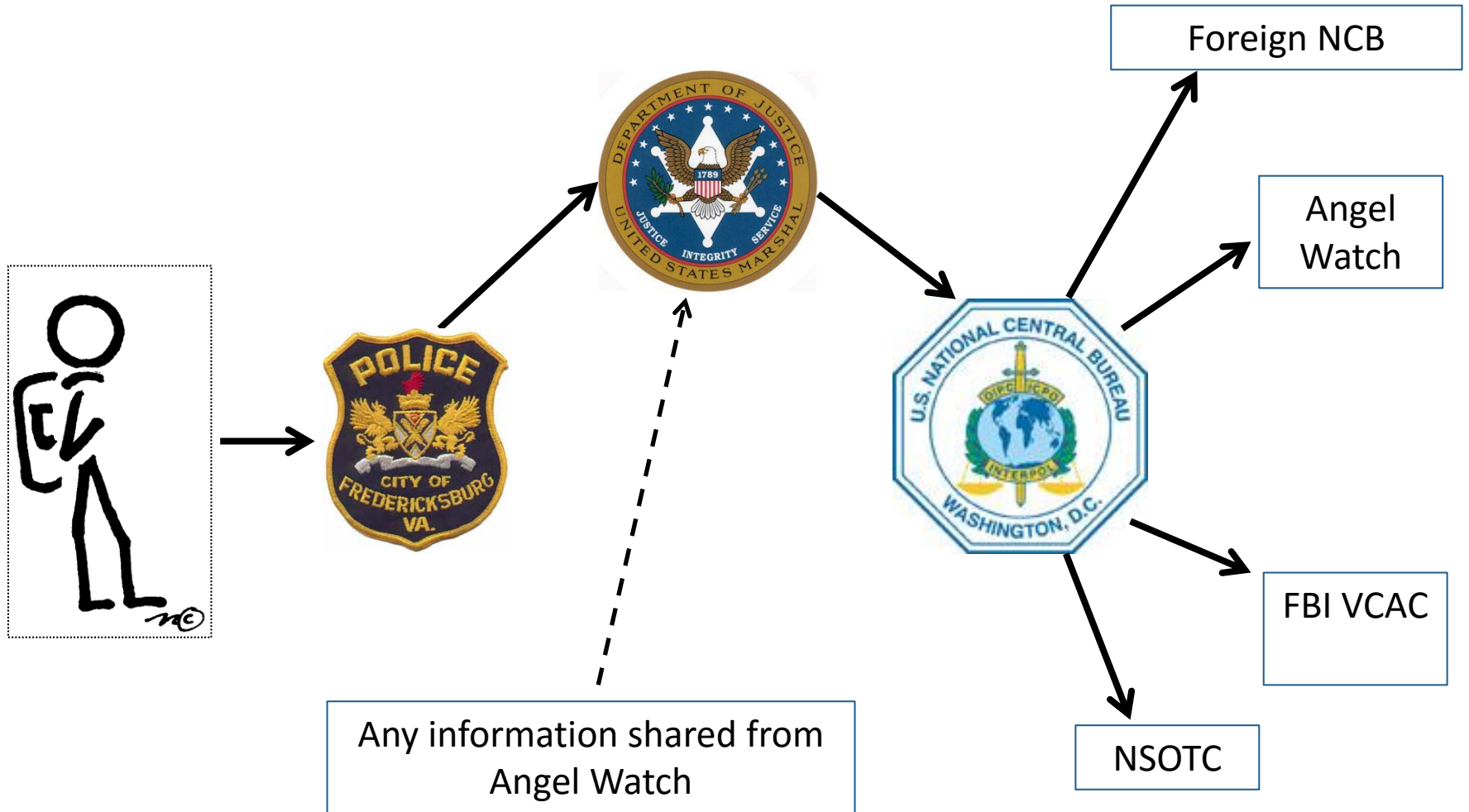
- **21-Day Notice**
  - Sent to NSOTC, then INTERPOL for distribution
  - International Travel Form & Instructions
- **Electronic Submission to NSOTC**
  - <https://portal.nsopw.gov>

# SORNA 21-Day Notice: Email Notifications

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- **Sent to destination countries**
- **Informal LE-to-LE communication**
  - NCB-to-NCB
  - Cc: NSOTC, Angel Watch, FBI VCAC
- **No request for action made**
- **Detailed travel information provided**

# SORNA 21-Day Notice Process





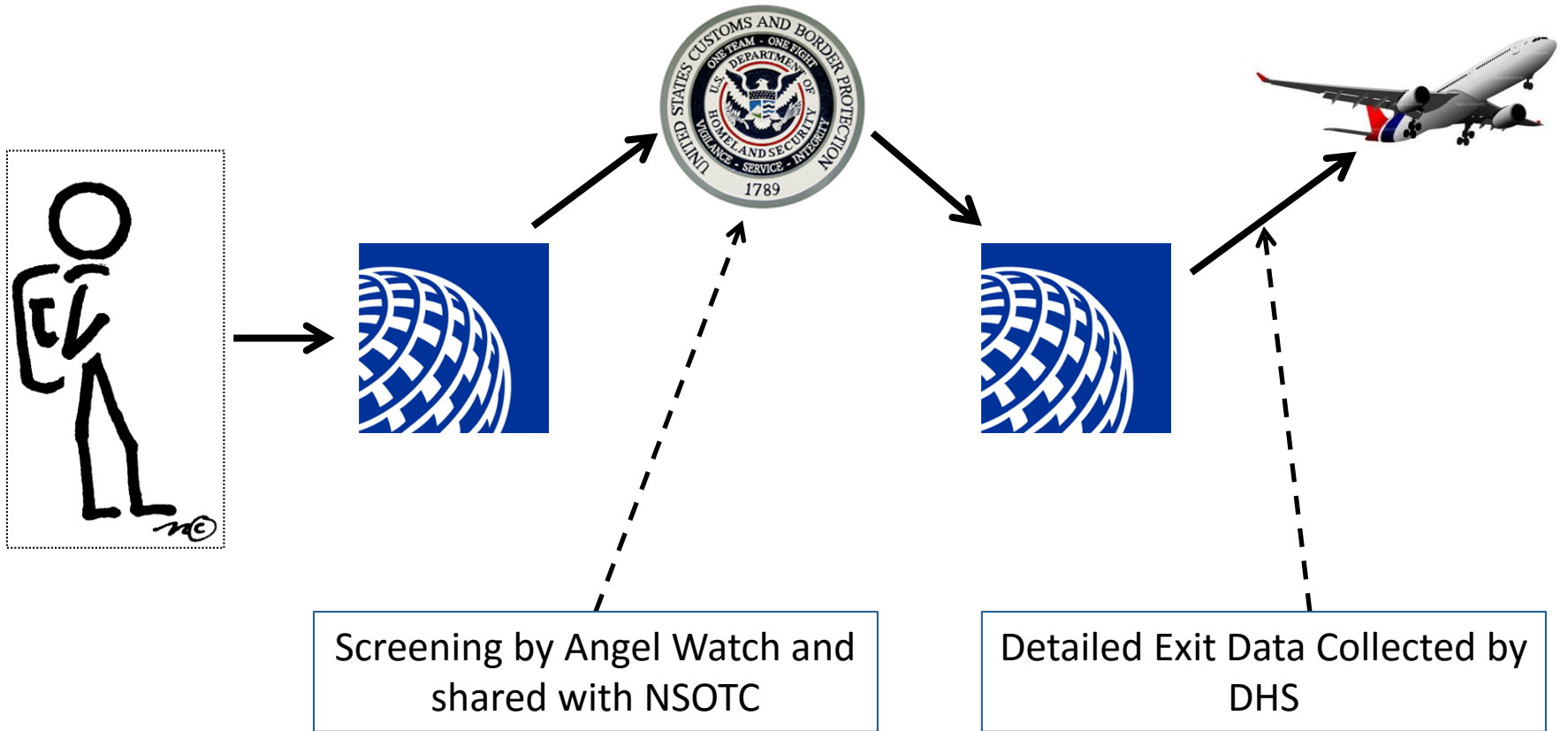
# Information Sharing: Angel Watch

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- **Run by ICE/CEIU**
- **Started as a project out of Southern California**
- **Screens APIS data for persons convicted of sex offenses against children**
  - **Travelling to certain destination countries**
- **Offenders may or may not have given 21 Days' Notice**
- **Notice to foreign immigration officials**



# Data Points & Interdiction Possibilities: Departure



# Foreign Countries' Response

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- Some countries turning away most, if not all, convicted American sex offenders when notice is received:
  - Mexico
  - Philippines
  - DR?
  - Possible others
- Sometimes US receives reciprocal notice
  - Detection and privacy issues
  - Few countries require notice of international travel

# Foreign Country Registries

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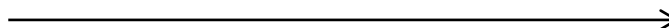
- **@30 Countries w/ Registries**
- **Australia**
- **Canada**
- **Ireland**
- **South Korea**
- **United Kingdom**
- **Global Survey, 2d ed. (2016) (forthcoming) on [www.smart.gov](http://www.smart.gov)**





**INTERPOL**

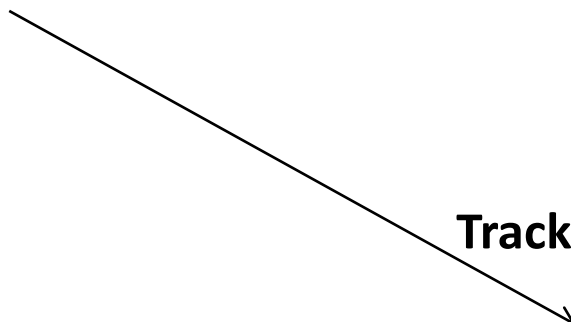
**Arrest Warrant**



**Notification**



**Tracking/Trace**



# Green Notices

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- Sent to *ALL* member countries
- Legal standard met re: risk of offending
- In the INTERPOL system for 5 years
- Renewable



# Operation Predator

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- **Started in 2003 by ICE to protect children from sexual predators**
- **Identifies arrested and prosecuted child predators**
- **INTERPOL-Washington issues Green Notices upon deportation**
- **Over 5,000 Green Notices issued**





**Jozef deVries**

**Extradited from the Netherlands on a Red Notice (2009)**

Department x Search Results x sex-offender.vsp.virginia.g x FordStepney & Layman-IT x Commonwealth of Virginia x

sex-offender.vsp.virginia.gov/sor/offenderDetailsx.html?regId=08102015110001-AEA3D7D57275C0FF&x=0dff90a8-e0f6-4c33-a12a-80db53591

## Virginia State Police

### Offender Details



Photo Date : September 23, 2010

**Registration ID :** 29961

**Name :** DEVRIES, JOZEF, PIETER

**Sex :** Male

**Race :** White

**Age :** 55

**Height :** 5 Feet 06 Inches

**Weight :** 155 lbs

**Hair Color :** Brown

**Eye Color :** Green

**Palm Print :** On File

**Finger Print :** On File

**Violent :** Yes

**Status :** [INCARCERATED](#)

#### Address Information

**Home :** DEPARTMENT OF CORRECTIONS, 6900 ATMORE DRIVE, RICHMOND, VA 23225

#### Registration Information

**Initial Registration :** Jun 17, 2010

#### Sex Offender Conviction Record

| Case Number  | Sentencing Court    | Code Section              | Statute                   | Date of Conviction | State Convicted | Victim Age |
|--------------|---------------------|---------------------------|---------------------------|--------------------|-----------------|------------|
| CR0200034100 | KING GEORGE CIRCUIT | <a href="#">18.2-67.3</a> | AGGRAVATED SEXUAL BATTERY | Jun 17, 2010       | VA              | Minor      |
| CR0200034300 | KING GEORGE CIRCUIT | <a href="#">18.2-67.1</a> | FORCIBLE SODOMY           | Jun 17, 2010       | VA              | Unknown    |



# International Travel: Summary

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- **SORNA 21-Day Notice (DOJ/NSOTC/USNCB)**
- **Angel Watch (DHS)**
- **Passport Revocation/Rescinding (State)**
- **Green Notice (DOJ/USNCB)**
  - Proactive
  - Operation Predator

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# Juvenile Registration



# Juvenile Registration

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- **SORNA:**
  - **14 or Older at the Time of the Offense**
  - **Adjudicated Delinquent of a forcible penetration offense**
  - **Must have some mandatory period of registration**
  - **Do not need to be posted on public website**
- **Many states have much broader registration requirements than SORNA**
- **SMART Summary**

# NEW Juvenile Guidelines

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- **Will enable SMART to look at policies and practices regarding:**
  - **The prosecution of serious juvenile sex offenders (SJSO) as adults;**
  - **The registration (if any) of SJSO, even if the system is technically discretionary;**
  - **The identification, tracking, monitoring, or managing of SJSO; and the sharing of information about SJSO as might be necessary for public safety.**



# New Juvenile Guidelines Standard

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The SMART Office will determine that a jurisdiction relying on these factors has substantially implemented SORNA's juvenile registration requirement only if it concludes that these factors, in conjunction with that jurisdiction's other policies and practices, have resulted or will result in the registration, identification, tracking, monitoring, **or** management of juveniles who commit serious sex offenses, **and** in the availability of the identities and sex offenses of such juveniles as needed for public safety purposes, in a manner that does not substantially disserve SORNA's objectives.

# Questions?

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# FDLE CONTACT INFORMATION

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**Florida Department of Law Enforcement  
Offender Enforcement & Apprehension**

**1-888-357-7332**