



October 2008

Report No. 08-60

Sex Offender Registration and Public Notification Improved; Some Aspects of the Process Could Be Streamlined

at a glance

State efforts to track sex offenders have improved. The number of absconded sex offenders has declined and registration and public notification efforts have been strengthened since our 2006 review.

The Florida Department of Law Enforcement could enhance the efficiency of the sex offender program by working with local law enforcement agencies to reduce duplication in sex offender address verification efforts. FDLE also should post the Department of Corrections' most recent sex offender address verification date on the state sex offender registry so that local law enforcement agencies can use this information in their monitoring efforts. The state also needs better procedures to track homeless sex offenders.

Scope

As directed by Ch. 2005-28, *Laws of Florida*, OPPAGA reviewed the effectiveness of Florida's sexual predator and sex offender registration process, community and public notification provisions, and supervision and monitoring of sex offenders.^{1,2}

¹ As directed by this law we previously published *Florida's State, County, Local Authorities Are Implementing Jessica Lunsford Act, Report No. 06-03*, January 2006.

² "Sex offender" is used in this report as an inclusive term to denote convicted felons who are sex offenders or predators having committed certain crimes. Generally, a sexual predator has committed a more serious or repeat sex crime than a sex offender and under Florida law, a court must make an official finding that an offender is a sexual predator.

Background

Nationwide and in Florida, highly publicized sex crimes committed by repeat offenders have prompted federal and state lawmakers to enact laws that increase social and judicial control over these offenders. Federal law now requires states to establish registries of persons convicted of sexually violent offenses or crimes against children.³ Certain sex offenders living in the community are required to notify local law enforcement agencies of their place of residence, employment, and enrollment (if a student). Additionally, convicted sex offenders must verify their addresses annually for at least 15 years. Sexually violent predators must verify their addresses on a quarterly basis for life. Federal law also requires states to alert the public to released sex offenders.⁴

In Florida, the 2005 Legislature passed the Jessica Lunsford Act in response to the kidnapping and murder of a central Florida girl by a registered sex offender.⁵ The act made significant changes to Florida's sex offender laws, such as requiring certain sex offenders to re-register twice a year, in person, with the sheriff of the county in which they reside.⁶ In 2007, the Legislature further required sexual predators, juvenile sex offenders

³ Adam Walsh Child Protection and Safety Act of 2006, P.L. 109-248.

⁴ 42 U.S.C. 16921.

⁵ Chapter 2005-28, *Laws of Florida*.

⁶ Sex offenders as defined in s. 943.0435, *F.S.*; sex offenders under the custody, control or supervision of the Department of Corrections as defined in s. 944.607, *F.S.*; sexual predators as defined in s. 775.21, *F.S.*; and juvenile sex offenders as defined in s. 943.0435, *F.S.*

adjudicated guilty, and sex offenders convicted of certain crimes to re-register four times a year, and required driver’s license and identification cards issued to all registered sex offenders display distinctive information on the front to identify these offenders as sexual offenders or predators.^{7, 8}

Florida’s monitoring system for sex offenders has four main components.

- **The sex offender registry.** The Florida Department of Law Enforcement (FDLE) maintains the sex offender registry, which is a statewide system for collecting and disseminating sex offender registration information, such as the offender’s address and photo and type of sex offense.
- **Registration requirements.** Certain sex offenders who are released from prison or placed on supervision must register with the sheriff in the county where they live within 48 hours of establishing a permanent or temporary residence. All sex offenders required to register also must obtain a driver’s license or identification card from the Department of Highway Safety and Motor Vehicles within 48 hours of registration and notify that agency within 48 hours of any change of address.
- **Address verification.** FDLE verifies addresses through mailings. The Department of Corrections and local law enforcement agencies verify addresses through in-person contacts at the sex offender’s residence.
- **Community notification.** FDLE is responsible for statewide public notification efforts and informs the public about sexual predators and sexual offenders via the internet and a toll-free, nationwide hotline.⁹ Local law enforcement agencies are required to notify the community and public of the presence of sexual predators living in the community.

Within 48 hours, law enforcement agencies must notify licensed child care centers and schools within a one-mile radius of the predator’s residence. Additionally, local law enforcement agencies or the Department of Corrections, if the predator or offender is on community supervision, must also notify institutions of higher learning of a sex offender’s enrollment or employment at an institution of higher learning, such as a community college or state university.

Findings

The number of absconded sex offenders has declined and registration accountability and public notification have improved since our 2006 report. FDLE could enhance the efficiency of the sex offender program by working with local law enforcement agencies to reduce duplication in sex offender address verification. FDLE also should post the Department of Corrections’ most recent sex offender address verification date on the state sex offender registry so that local law enforcement agencies can use this information in their monitoring efforts. Changes also are needed to better track homeless sex offenders.

The number of Florida registered sex offenders who abscond has declined while the population has increased

Law enforcement efforts to better track sex offenders appear successful, as the number of absconders has declined while the number of registered sex offenders in Florida has increased.

Our 2006 report noted that many sex offenders living in the community had not complied with registration requirements and 1,259 could not be located as of November 7, 2005. This problem has been reduced since that time, although the number of registered sex offenders has grown. The number of sex offenders in Florida’s registry has increased from 36,037 in November 2005 to 48,346 in June 2008. As shown in Exhibit 1, almost half of these offenders (22,127, or 46%) reside in Florida communities, while the remainder is incarcerated or lives out of state. Of the offenders living in Florida’s communities, 6,995 are subject to supervision, such as probation, while 14,271 have completed their sentence and are not

⁷ This requirement is provided in s. 322.141, F.S.

⁸ Sexual predators are individuals who have been convicted of serious or repeated sexual offenses and a written finding of a court has been issued designating them as sexual predators. Sexual offenders are defined by Florida statutes based on various qualifying offenses, such as kidnapping, false imprisonment, and sexual battery, among others. It is not necessary to have a court order to be classified as a sexual offender.

⁹ Chapter 97-299, *Laws of Florida*.

supervised. While 861 sex offenders could not currently be located, this represents a substantial decrease from the 2005 level. (See Appendix A.)

**Exhibit 1
Nearly Half of Sex Offenders Live in the Community**

Status	Totals
Total Offenders in Registry	48,346
Non-Florida Residents	(10,941)
Florida Resident Offenders	37,405
Incarcerated/Committed	(15,278)
Living in Community	22,127
Absconded	861
Supervised	6,995
Not Supervised	14,271

Source: OPPAGA analysis of FDLE data as of June 1, 2008. See Appendix A for a more detailed summary of sex offenders in the FDLE registry.

According to state law enforcement staff, several factors appear to have contributed to this reduction in absconded sex offenders.

- FDLE created a unit dedicated to identifying and searching for absconders. This unit located 2,367 absconders between November 2005 and June 2008.
- The Department of Corrections created an absconder unit and added a section on the department’s website for the public to send tips to locate absconders.
- Local law enforcement agencies have increased resources and activity to track sex offenders.
- Law enforcement agencies have greater access to information from other sex offender registries and can use federal and state databases to identify and locate absconders.
- The public has responded to community notification information with tips and location information about registered sex offenders.

Registration accountability deficiencies have been addressed

Since our 2006 report, state law enforcement agencies have addressed several deficiencies in the sex offender registration process. For example, previously FDLE did not reconcile its sex offender registry with records of the courts, the

Department of Corrections, or the Department of Highway Safety and Motor Vehicles to ensure that sex offenders registered as required. FDLE now coordinates with local law enforcement agencies to track sex offenders that are newly released from prison to ensure that the offenders register as required. (See Appendix B.) Upon release from prison, an unsupervised sex offender has five days to secure a residence and 48 hours from that point to register with the county sheriff. On the day a sex offender is released from prison, the Department of Corrections notifies FDLE of the sex offender’s intended residence address. FDLE posts the sex offender’s status as RELEASED on the registry and notifies the sheriff in the county of the sex offender’s intended residence.

If the offender does not register with the sheriff as expected, FDLE then flags the sex offender as a possible absconder. The sheriff then attempts to verify that the sex offender is at the intended residence. If the sheriff is unable to confirm the sex offender’s residence, the sheriff notifies FDLE. FDLE then changes the sex offender’s status to ACTIVE ABSCONDER and FDLE, the sheriff, and the U.S. Marshals Service begin to search for the absconded sex offender.

Public notification efforts have improved

Community notification efforts to help members of the public obtain information to protect itself from convicted sex offenders have also improved. Our 2006 report identified several limitations in public notification efforts that have now been addressed. Previously, the state sex offender registry provided limited information on the nature of the offense and the offender. In addition, our research found that only two-thirds of sheriff’s offices’ websites provided links to FDLE’s sex offender registry on their sites.

As we recommended, FDLE has made registry information more useful and understandable to the public. The website now lists the offenders’ statutory convictions, clear descriptions of their offenses, and the county in which the crime occurred. The registry also includes a Spanish language option. Additionally, FDLE has expanded its statewide notification capability by implementing an electronic notification system. Citizens can sign up for email updates of

registration details for specific sex offenders or any sex offenders within geographic areas up to five miles of a specified address.

Local law enforcement agencies also have strengthened their notification procedures. The agencies are required to notify the public of the presence of sexual predators living in their community, and are using a variety of notification methods, including the internet, newsletters and media releases, reverse 911 telephone systems, door-to-door distribution and mailed or posted flyers.

More county sheriffs are using the internet to support public notification efforts. In 2005, 43 county sheriffs' offices provided a link to FDLE's registry on their websites. This has increased to 54 sheriffs. Twenty sheriff's websites also provide a list of local sex offenders with photos and addresses, an increase from 13 in 2005. In total, 58 county sheriffs now display a list of local sex offenders and/or a link to the FDLE registry on their websites.

FDLE should limit verification mailings to counties that request the information

Florida law requires local law enforcement agencies, in conjunction with FDLE, to verify the addresses of sex offenders not under the supervision of the Department of Corrections in a manner consistent with federal standards.¹⁰ To assist in address verification, FDLE sends address verification letters four times a year to sexual predators and once a year to sex offenders who are no longer supervised by the Department of Corrections. Florida law allows offenders three weeks to return the address verification form. FDLE compiles a list of sex offenders who do not respond or who send the form back with incomplete or inaccurate responses. It sends the list to the applicable local law enforcement agencies to verify, in person, the non-responding sex offenders' addresses. FDLE places sex offenders who cannot be located on the "absconded" list and a judge may issue a warrant for their arrest. FDLE reported that in Fiscal Year 2006-07, the mailings cost approximately \$10,800.

Most county sheriffs and city police departments conduct their own in-person address verifications of sex offenders as a routine practice to protect their citizens. In many counties, the FDLE mailings are duplicative and have limited utility as a mechanism to ensure offender accountability. The Florida Department of Law Enforcement reports that about a third of offenders fail to return the address verification form of which, less than 5% turn out to be absconders. While failure to respond is illegal, FDLE and local law enforcement agencies reported that sex offenders who fail to respond to FDLE address verification mailings are not prosecuted.

Since most local law enforcement agencies already routinely conduct address verifications, following up on FDLE mailings is inefficient, given that few of the non-compliant offenders are absconders. Local law enforcement agencies report that most of the offenders who fail to return the letters are readily found by their own verification efforts. Twenty of the 32 law enforcement agencies who responded to our survey reported that eliminating FDLE's mailing process would have no impact on their address verification efforts. Most of these agencies do not use the FDLE non-responder list and find additional follow-up based on FDLE's mailing process redundant to local practices.

Florida's address verification mailing was based on federal requirements that no longer exist. Florida law requires that FDLE's address verification process conform to any federal standards the state must meet to receive federal funds. The federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act of 1994 required annual address verification mailings; however, Florida no longer receives funding pursuant to this act and is not bound to follow these requirements. The federal Adam Walsh Child Protection and Safety Act of 2006, which supersedes the Wetterling Act, only requires in-person re-registration and does not specify any address verification requirements.

It would be more efficient for FDLE to better coordinate with local law enforcement agencies and send its address verification mailings only to those offenders who live in jurisdictions where local law enforcement agencies request the information. FDLE could continue to provide the service to those local law enforcement agencies

¹⁰ Section 943.0435(6), *F.S.*, requires address verification in a manner consistent with provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 or any other applicable federal standards required to be met to receive federal funds.

that use the mailing as a filter to prioritize offenders for address verification.

The registry should include the Department of Corrections' most recent sex offender address verification date to assist local law enforcement with monitoring sex offenders

The FDLE sex offender registry could be enhanced if the most recent residence verification date from the Department of Corrections' records were included to assist local law enforcement agencies with monitoring sex offenders. The Department of Corrections has a significant role in tracking and monitoring sex offenders. While local law enforcement agencies perform in-person address verifications, Department of Corrections' probation officers make frequent face-to-face, or personal, contacts with supervised sex offenders as part of their supervision requirements. For example, probation officers visit the offender at his or her residence, employment site, and treatment provider. When the officer visits the sex offender at his or her home, the contact is used to verify the home address. However, this updated information is not accessible to local law enforcement because it is not currently available in the sex offender registry.

Including the most recent residence verification date made by the Department of Corrections in the registry would improve coordination among law enforcement agencies and allow county sheriffs and police departments to put priority on verifying the addresses of offenders who are not under Department of Corrections' supervision. FDLE reports that posting this information on the registry is feasible.

Monitoring homeless sex offenders continues to challenge local law enforcement agencies

Sex offenders tend to have difficulty finding housing. Florida residents have voiced their objection to sex offenders residing within their communities and local governments have created residency restrictions. In addition, although sex offenders being released from prison may need housing assistance, transitional housing providers contracted with the Department of Corrections do not serve sex offenders.

Homeless sex offenders present significant oversight challenges for law enforcement. Homeless sex offenders tend not to report detailed information on how they can be contacted, where they stay during the day, or who helps meet their survival needs.¹¹ Consequently, law enforcement agencies often have difficulty finding these persons. Public notification also is more difficult when a sex offender does not have a fixed address.

Florida's efforts to track homeless sex offenders could be improved if two actions were taken.

- The FDLE sex offender registry should permit law enforcement agencies to designate sex offenders as homeless.
- Law enforcement agencies should no longer permit homeless sex offenders to list their address as "transient".

The sex offender registry should permit law enforcement agencies to designate sex offenders as homeless. Because the registry is not configured to allow law enforcement agencies to designate sex offenders as homeless, most local law enforcement agencies ask homeless sex offenders to register addresses that include homeless shelters, camps, and geographic locations (i.e., under the Julia Tuttle Bridge in Miami) as permanent addresses. Consequently, the registry understates the number of homeless sex offenders because the entry for these persons makes it appear that they have a regular, fixed lodging place.

The absence of a homeless status indicator on the registry undermines the state's efforts to keep an accurate count of homeless sex offenders for policy and information purposes.¹² FDLE reports that it can add a homeless status indicator to the sex offender registry. Doing so would allow local law enforcement agencies and FDLE to more accurately count the number of homeless sex

¹¹ Section 420.621(4), *F.S.*, define homeless as an individual, who lacks a fixed, regular, and adequate nighttime residence or an individual who has a primary nighttime residence that is a supervised shelter for temporary living accommodations, an institution, or a place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

¹² OPPAGA asked all county sheriffs to report the number of sex offenders who met the criteria of the statutory definition of homeless. Forty-five county sheriffs who responded reported a total of 277 such persons.

offenders over time to inform public policy decisions such as residency restrictions. Additionally, as homeless sex offenders are more likely to re-offend, a homeless status indicator would assist local law enforcement to assess the relative risk an offender poses to the community.

Law enforcement agencies should not allow homeless sex offenders to list their address as “transient”. Some sheriffs allow homeless sex offenders to list their address as “transient” and do not require these persons to provide address or location information, such as a homeless shelter or camp, where they can be found. This practice is problematic for two reasons. First, sheriffs reported that they cannot complete address verifications on individuals listed as transient because they have no address or location to verify. As a result, once homeless sex offenders list their address as “transient”, the sheriff can only wait for them to return and re-register at the required time. During the time between re-registrations (three months for predators, six months for offenders), the sex offender’s location is unknown. Law enforcement agencies believe that some sex offenders purposely list their address as “transient” to avoid monitoring, even if they do have a consistent nighttime location.

Second, allowing sex offenders to list their address as “transient” does not conform to federal requirements. The Adam Walsh Act requires sex offenders who lack fixed abodes and meet the state statutory definition of homeless to provide a specific description of the place(s) where they habitually stay. For example, the offender should specify a park, vacant lot, or street corner where he or she stays during the day or night, or places in public buildings, places of worship, restaurants, or shelters that the sex offender frequents.

Recommendations ---

To improve the sex offender monitoring process, we recommend that the Florida Department of Law Enforcement take the actions described below.

- Limit its address verification mailing to those local law enforcement agencies that request it to eliminate duplication and reduce costs in this process.
- Add Department of Corrections’ most recent residence verification date to the sex offender registry to assist local law enforcement address verification efforts.
- Add a status of homeless to the sex offender registry in order to keep an accurate count of homeless sex offenders for policy and information purposes.
- Direct local law enforcement agencies to require homeless sex offenders to list specific descriptions of the place(s) where they habitually stay and not list their addresses as “transient” in the sex offender registry to better monitor homeless sex offenders and comply with federal requirements.

Agency Response ---

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Florida Department of Law Enforcement and the Department of Corrections for each to review and respond. Both written responses have been reproduced in Appendix C.

Appendix A

The Florida Department of Law Enforcement's Registry Lists Over 48,000 Sex Offenders

As shown in the table below, the Florida Department of Law Enforcement's registry listed 48,346 offenders as of June 1, 2008. The table shows all sex offenders and predators in the registry by status categories. The table shows the number of non-Florida residents that are on the registry and then separates Florida residents into four main categories: absconded (missing), incarcerated/committed, supervised, and released/not supervised. The table shows each of these main categories and their subcategories that provide a further detailed breakdown of the status of registered sexual offenders and predators.

Sex Offenders/Predators

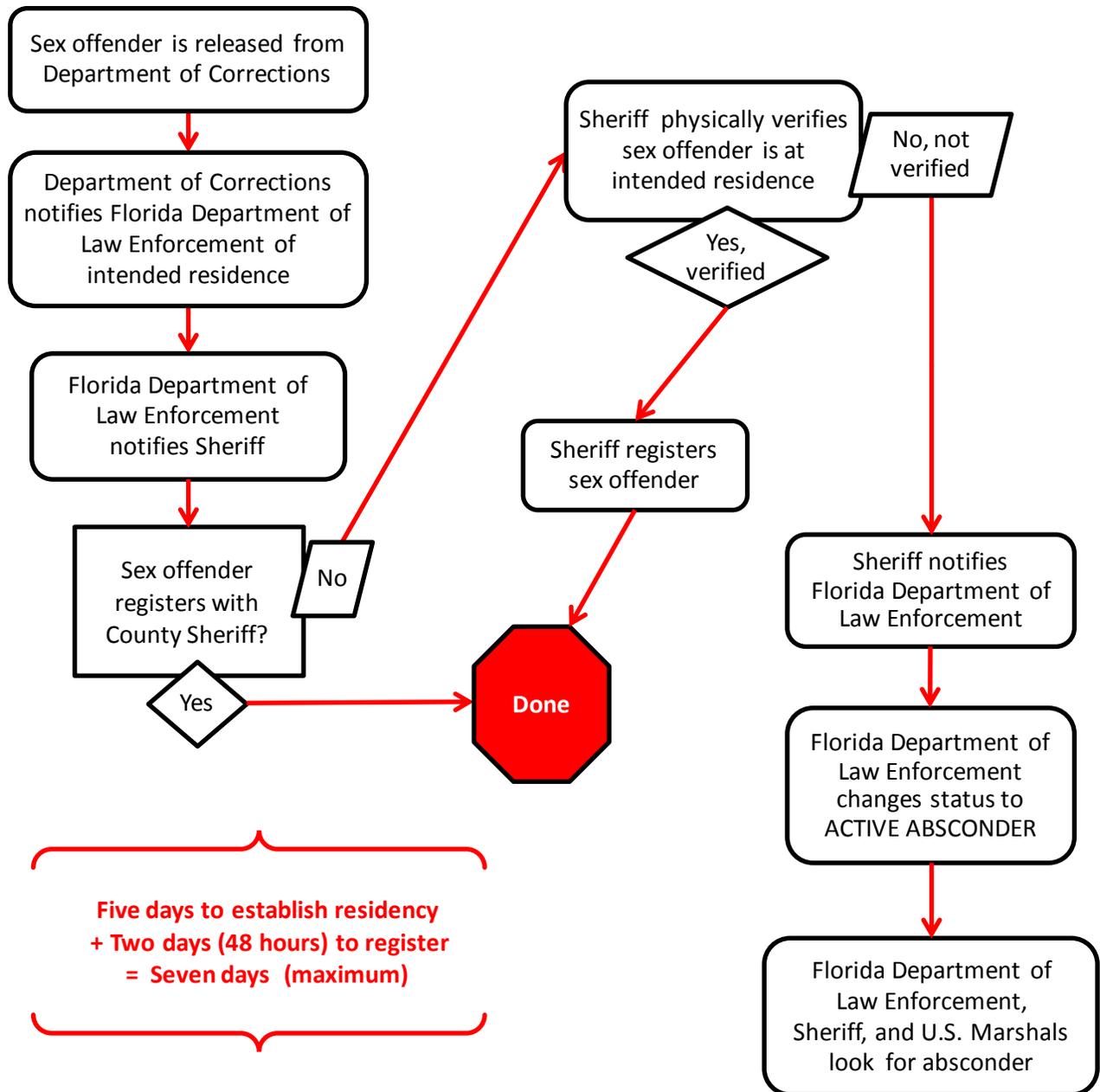
Status	Predators	Offenders	Totals
Non-Florida Residence	609	10,332	10,941
Florida Residence			
Absconded			
Probation	34	436	
Registration	11	380	
Total Absconded	45	816	861
Incarcerated / Committed			
County Incarceration	170	871	
DJJ Custody ¹	0	19	
Federal Incarceration	6	78	
ICE Custody	10	25	
State Incarceration	4,343	9,203	
Jimmy Ryce Commitment	203	350	
Total Incarcerated/Committed	4,732	10,546	15,278
Supervised			
Administrative Probation	4	65	
Community Control	50	370	
DJJ Supervision	0	8	
Federal Supervision	0	140	
State Supervision	953	5,312	
State Parole	0	93	
Total Supervised	1,007	5,988	6,995
Released / Not Supervised			
Released	613	13,102	
Revoked	0	27	
Deported	0	5	
Reported Deceased	43	300	
Deceased	18	163	
Total Released/Not Supervised	674	13,597	14,271
Total in Florida	6,458	30,947	37,405
Total on Registry			48,346

¹ Juvenile sex offenders who must re-register as required by the Adam Walsh Child Protection and Safety Act of 2006.

Source: Florida Department of Law Enforcement.

Appendix B

Law Enforcement Agencies Take Several Steps to Ensure That Sex Offenders Register Upon Release from Prison



Source: Florida Department of Law Enforcement and Department of Corrections.

Appendix C



Florida Department of
Law Enforcement

Gerald M. Bailey
Commissioner

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

Charlie Crist, Governor
Bill McCollum, Attorney General
Alex Sink, Chief Financial Officer
Charles H. Bronson, Commissioner of Agriculture

October 6, 2008

Mr. Gary VanLandingham, Director
OPPAGA
Room 312, Claude Pepper Building
Tallahassee, Florida 32399-1475

Dear Mr. VanLandingham:

We have received the preliminary findings and recommendations from the following report:

**Sex Offender Registration and Public Notification Improved;
Some Aspects of the Process Could Be Streamlined**

Our response is offered below:

OPPAGA Recommendation

- ◆ **Limit address verification mailing to those local law enforcement agencies that request it to eliminate duplication and reduce costs in this process.**

FDLE disagrees. The costs of implementing, administering and adapting the registry system to account for this type of flexibility would surpass any potential savings. As an alternative FDLE will initiate an updated protocol with local law enforcement wherein FDLE will continue to conduct quarterly mail-outs to all appropriate registrants and follow-up may be at the local agency's discretion. This will allow for increased flexibility at the local level with no increase in costs at the state level.

OPPAGA Recommendations

- ◆ **Add Department of Corrections' probation contact data to the sex offender registry to assist local law enforcement address verification efforts**
- ◆ **Add a status of homeless to the sex offender registry in order to keep an accurate count of homeless sex offenders for policy and information purposes.**
- ◆ **Direct local law enforcement agencies to require homeless sex offenders to list specific descriptions of the place(s) where they habitually stay and not list their addresses as "transient" in the sex offender registry to better monitor homeless sex offenders and comply with federal requirements.**

Mr. Gary VanLandingham, Director
October 6, 2008
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FDLE disagrees. Funds are not available to implement these recommendations. Each of the recommendations is feasible and may carry some benefit. However, all are dependent upon adaptations to FDLE systems and, in most cases, will also require system adaptations for DOC, DJJ and DHSMV. The costs of the system changes, together with the lack of current funding to adequately maintain the registry system, renders planning and implementation virtually impossible.

The recommendations in your audit report are appreciated. If you require further information please contact me or Inspector General Al Dennis at 410-7225.

Sincerely,



Gerald M. Bailey
Commissioner

GMB/ALD/mc



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October 14, 2008

Gary R. VanLandingham, Director
Office of Program Policy & Analysis &
Government Accountability (OPPAGA)
Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1475

Dear Director VanLandingham:

Thank you for the opportunity to review OPPAGA's draft report on *'Sex Offender Registration and Public Notification Improved; Some Aspects of the Process Could Be Streamlined'*. The Department concurs with the recommendations contained in the report regarding uploading the Department of Corrections' most recent residence verification date to the sex offender registry. This information will assist law enforcement verification efforts.

The Department works daily with the Florida Department of Law Enforcement (FDLE) and local law enforcement agencies to ensure offenders on community supervision register as required by Florida Statutes.

The Department welcomes the chance to further work with you and the Legislature on these important issues.

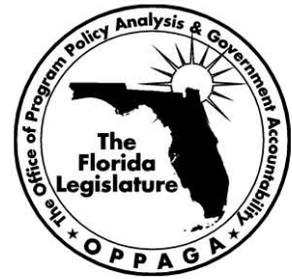
Sincerely,

Richard Prudom
Chief of Staff

RP/JN/cg

The Florida Legislature

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OPPAGA provides performance and accountability information about Florida government in several ways.

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Project supervised by Marti Harkness (850/487-9233)

Project conducted by Michelle Harrison (850/487-9220) and Steve Lize, Ph.D.

Gary R. VanLandingham, Ph.D., OPPAGA Director