

**SEX OFFENDER  
ASSESSMENT  
COMMITTEE  
GUIDELINES AND  
PROCEDURES  
COMMUNITY NOTIFICATION  
ASSESSMENT PROCESS**

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# **SEX OFFENDER ASSESSMENT COMMITTEE GUIDELINES AND PROCEDURES 2014**

## **Historical Background**

The United States Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act as part of the Federal Violent Crime Control and Law Enforcement Act of 1994. On June 19, 1998, the U.S. Department of Justice published the Proposed Guidelines in the Federal Register (63 FR 33696) to implement the act as amended by “Megan’s Law,” the Pam Lyncher Sexual Offender Tracking and Identification Act of 1996, and §115 of the General Provisions of Title I of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 1998. The Wetterling Act was further modified by the “Campus Sex Crimes Prevention Act” (§1601 of Public Law 106-386). This federal law, enacted October 28, 2000, provides for the tracking of, and availability of, notification information to the campus community about convicted, registered sex offenders enrolled as students, working, or volunteering at institutions of higher education. These requirements are tied to state eligibility for certain types of federal grant funding and must be implemented through state law. The Adam Walsh Child Protection & Safety Act of 2006 further expanded Title 1 to include certain juvenile offenses, possession of child pornography, sex trafficking, and a new definition of sex offense. As of the 2013 legislative session, Arkansas has not adopted the provisions of the Adam Walsh Child Protection & Safety Act of 2006 in total.

## **Arkansas Legislation**

The 81<sup>st</sup> General Assembly of the State of Arkansas passed Act 989 of 1997 entitled, “Sex and Child Offender Registration Act of 1997.” This legislation has been amended on several occasions including; Act 1353 of 1999; Acts 1740 and 1743 of 2001 (which renamed the Act to read “Sex Offender Registration Act of 1997”; Act 21 of the 2<sup>nd</sup> Extraordinary Session of the 84<sup>th</sup> General Assembly in 2000; Act 4 of the First Extraordinary Session of 2006; Act 394 of 2007; Act 1023 of 2011 and Act 286 of 2011. Act 172 of 2013 amended Arkansas law to require those persons adjudicated delinquent of a sex offense from another jurisdiction who move to Arkansas or otherwise live, work or attend school or other training program in Arkansas to register as a sex offender in Arkansas. Act 505 of 2013 and Act 508 of 2013 amended Arkansas law to change certain name designations and enacted noncontroversial sections of the Adam Walsh Child Protection and Safety Act of 2006.

Current code section references for adult offenders and offenders adjudicated delinquent in another state who have moved to Arkansas are A.C.A. §§12-12-901 through 927. Assessment and registration requirements for juveniles adjudicated as a sex offenders in an Arkansas Juvenile Court are governed by A.C.A §9-27-356. The intent of these

various Acts is to provide local law enforcement with information that allows them to conduct the appropriate level of community notification, which will allow the people of Arkansas a better opportunity to protect themselves from victimization by individuals who have previously engaged in criminal sexual behavior.

### **The Sex Offender Assessment Committee**

Arkansas law at A.C.A. § 12-12-921 establishes a nine (9) member Sex Offender Assessment Committee (“SOAC”). Subject to confirmation by the Senate, the Governor appoints the following six (6) members:

- A defense attorney
- A prosecuting attorney
- A licensed mental health professional
- A victim’s rights advocate
- A law enforcement officer
- A member with expertise in juvenile justice or treatment

Also serving on the Committee

- The director of the Arkansas Department of Correction (“ADC”), or the director’s designee
- The director of the Arkansas Crime Information Center (“ACIC”), or the director’s designee
- The director of the DCC, or the director’s designee

The SOAC is charged with promulgating guidelines and procedures for disclosure of relevant and necessary information to the public when the release of the information is necessary for the public protection. The Committee must also establish qualifications for examiners and qualify examiners to prepare reports in accordance with the assessment protocol.

The requirement to register as a sex offender is determined by the Courts and/or local law enforcement. SOAC does not participate in registration requirement determinations.

Adult assessments are completed by the Sex Offender Community Notification Assessment Program (SOCNA). SOCNA is a unit within the ADC. Correspondence to the SOAC and to the staff for SOCNA is to be directed to Post Office Box 6209, Pine Bluff AR 71611-6209, faxed to (870) 850-8446, or e-mailed to [adc\\_socna@arkansas.gov](mailto:adc_socna@arkansas.gov). The office may be reached by phone: (870) 850-8429.

The ADC, on behalf of the SOAC, contracts with a provider program to conduct community notification assessments of minor’s adjudicated delinquent and required to register as a sex offender in Arkansas, according to standards and procedures developed by that organization and approved by the Sex Offender Assessment Committee.

## **Arkansas Crime Information Center**

Maintenance of the Sex Offender Registry and Web Site and responsibility for tracking of sex offenders in the community are vested in the ACIC. Information is available through the Internet, <http://www.acic.org>. The Internet links provide statistical information, as well as individual information, on offenders and Sexually Dangerous Persons as authorized by law. Correspondence is to be directed to the Arkansas Crime Information Center, 322 South Main St., Suite 615, Little Rock, AR 72201. The phone numbers for the Sex Offender Registry at ACIC is (501)682-2222. The fax number is (501) 683-5592.

If a member of the public believes that a sex offender should have registered, but did not, or has changed address or employment without proper notification; that information should be given to the ACIC at the above listed numbers.

### **Sex Offender Registration**

A.C.A. § 12-12-905 requires that the following persons must register:

- (1) A person who is adjudicated guilty on or after August 1, 1997, of a sex offense, aggravated sex offense, or sexually violent offense;
- (2) A person who is serving a sentence of incarceration, probation, parole, or other form of community supervision as a result of an adjudication of guilt on or after August 1, 1997, for a sex offense, aggravated sex offense, or sexually violent offense;
- (3) A person who is acquitted on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense;
- (4) A person who is serving a commitment as a result of an acquittal on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense; and
- (5) A person who was required to be registered under the Habitual Child Sex Offender Registration Act, formerly § 12-12-901 et seq., enacted by Acts 587 of 1987, §§ 1-10 and 989 of 1997, § 23.

A.C.A. §12-12-906 requires registration for sex offenders moving to Arkansas.

12-12-906. Duty to register or verify registration generally - Review of requirements with offenders.

**(2) (A)** A sex offender who moves to or returns to this state from another jurisdiction and who would be required to register as a sex offender in the jurisdiction in which he or she was adjudicated guilty or delinquent of a sex offense shall register with the local law enforcement agency having jurisdiction within seven (7) calendar days after the sex offender moves to a municipality or county of this state.

(B) (i) Any person living in this state who would be required to register as a sex offender in the jurisdiction in which he or she was adjudicated guilty or delinquent of a sex offense shall register as a sex offender in this state whether living, working, or attending school or other training in Arkansas.

(ii) A nonresident worker or student who enters the state shall register in compliance with the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248, as it existed on January 1, 2007.

Pursuant to A.C.A. § 9-27-356, the Juvenile Division of the Arkansas Circuit Court determines whether or not a juvenile adjudicated delinquent in Arkansas is required to register as a sex offender.

**Target Offenses:**

Pursuant to federal law, (42 U.S.C. 14071 a, (3) A and B), target offenses include:

- Kidnapping of a minor, except by a parent;
- False imprisonment of a minor, except by a parent;
- Criminal sexual conduct toward a minor;
- Solicitation of a minor to engage in sexual conduct;
- Use of a minor in a sexual performance;
- Solicitation of a minor to practice prostitution;
- Any conduct that by its nature is a sexual offense against a minor;
- Any sexually violent offense regardless of the age of the victim (18 U.S.C. Sections 2241 and 2242);
- An attempt to commit any of the above offenses if the legislature chooses to make such an attempt a criminal offense requiring registration;
- Exceptions to the above may be made if the act is criminal based on the age of the victim and the perpetrator is 18 years of age or younger;
- Any other offense that the Arkansas Legislature determines is a sexual offense or violent offense against a child.

Additionally, the court may require registration of any offense for which there was a sexually motivated component. If the court determines that there is a sexual component, registration may be required. (For example, some stalking cases are not sexually motivated and others are.) Adults convicted of any of the following offenses must register.

- |  |            |
|--|------------|
| 1. Kidnapping of a minor, not by a parent                          | § 5-11-102 |
| 2. False imprisonment of a minor 1 <sup>st</sup> , not by a parent | § 5-11-103 |
| 3. False imprisonment of a minor 2 <sup>nd</sup> , not by a parent | § 5-11-104 |
| 4. Permanent detention or restraint of a                           | § 5-11-106 |

minor, not by a parent	
5. Rape	§ 5-14-103
6. Sexual indecency with a child	§ 5-14-110
7. Indecent exposure, if a felony offense	§ 5-14-112
8. Exposing another person to HIV, when ordered by the Court to Register	§ 5-14-123
9. Sexual Assault 1 <sup>st</sup> degree	§ 5-14-124
10. Sexual Assault 2 <sup>nd</sup> degree	§5-14-125
11. Sexual Assault 3 <sup>rd</sup> degree	§5-14-126
12. Sexual Assault 4 <sup>th</sup> degree	§5-14-127
13. Video Voyeurism, if a felony offense	§5-16-101
14. Voyeurism, if a felony offense	§5-16-102
15. Incest	§ 5-26-202
16. Permitting abuse of a minor	§ 5-27-221
17. Engaging children in sexually explicit conduct for use in visual or print medium	§ 5-27-303
18. Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child,	§ 5-27-304
19. Transportation of minors for prohibited sexual conduct	§ 5-27-305
20. Internet Stalking of a Child	§ 5-27-306
21. Employing or consenting to the use of a child in a sexual performance	§ 5-27-402
22. Producing, directing or promoting a sexual performance	§ 5-27-403
23. Distributing, possessing, or viewing matter depicting sexually explicit conduct involving a child	§ 5-27-602
24. Computer child pornography	§ 5-27-603
25. Computer exploitation of a child	§ 5-27-605
26. Promoting prostitution in the first degree	§ 5-70-104
27. Stalking when ordered by the court to register	§ 5-71-229
28. An attempt, solicitation, or conspiracy to commit any of the above offenses.	

**This list of target offenses is not exclusive.** The registration requirement extends to the requirements of other state laws, tribal laws, military laws, and additional federal laws. Newly enacted sex offenses or current target offenses subsequently modified by legislation shall be considered target offenses unless otherwise specified by the legislature. The sentencing court has the authority to order the registration of any offender shown in court to have attempted to commit or to have committed a sex offense, even if the offense is not listed as a target offense. Any individual living in or moving into Arkansas, or entering Arkansas for employment, education, or training, who has been convicted of a target offense, or a differently titled, but equivalent offense by a federal court, tribal court, military court, or court of another state, that is the substantial



equivalent of a target offense, or is required to register under the laws of another state is required to register and to submit to assessment in Arkansas.

### **Aggravated Sex Offenses**

“Aggravated sex offense” means an offense substantially equivalent to “aggravated sexual abuse” as defined in 18 U.S.C. § 2241 as it existed on March 1, 2003, which principally encompasses:

- (A) Engaging or attempting to engage in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence; or causing or attempting to cause another person to engage in a sexual act either by using or threatening force against that other person or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; Engaging in sexual acts involving the penetration of victims below the age of twelve (12) by knowingly rendering another person unconscious and then engaging in a sexual act with that other person; or by administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct and engaging or attempting to engage in a sexual act with that other person.
- (B) Crosses a state line with intent to engage or attempt to engage in a sexual act with a person who has not attained the age of twelve (12) years.
- (C) Knowingly engages or attempts to engage in a sexual act with another person who has not attained the age of twelve (12) years; or knowingly engages or attempts to engage in a sexual act under the circumstances in A and B above with another person who has attained the age of twelve (12) years but has not attained the age of sixteen (16) years and is at least four (4) years younger than the alleged offender.

Determination as to whether an offense qualifies as an “Aggravated Sex Offense” may depend on the circumstances surrounding the offense. The court must indicate on the judgment and commitment or judgment and disposition form whether or not the offense is an aggravated sex offense.

Should there be any confusion regarding whether a sex offense qualifies as an “Aggravated Sex Offense”, the Court will be contacted during the course of the assessment.

Individuals convicted of (an) aggravated sexual offense(s) are required to register for life.

### **Registration of Offenders**

A Court in which an individual is either adjudicated guilty or acquitted on grounds of mental disease or defect of a sex offense, aggravated sex offense, or sexually violent

offense, shall advise the individual that he or she is required to register as a sex offender. The Registration form, the ACIC Acknowledgment form, and Sex Offender Community Notification Assessment Disclosure Form shall be a part of the paperwork completed at the time of conviction and shall be included with any other paperwork completed by the offender at that time. The prosecutor is to provide these forms to ACIC with the packet of information completed by the sex offender. These forms are available at the ACIC website.

The law enforcement agency having jurisdiction will ensure that sex offenders moving into their jurisdiction, whether from within Arkansas or from an out of state jurisdiction, register with the Arkansas Sex Offender Registry. The law enforcement agency with jurisdiction shall complete the registration form and have the offender read and sign the ACIC Acknowledgement form and immediately fax those forms to ACIC or use CENSOR, the electronic system established by ACIC. Law enforcement officials shall also fax these forms to SOCNA (Fax: 870-850-8446) unless the information is entered into eSOMA, the electronic sex offender management system in use by SOCNA. This will alert SOCNA to the need to begin the assessment process and/or alert SOCNA to the fact that an offender has relocated.

The ADC, the DCC, the Department of Human Services (DHS), and the Arkansas State Hospital shall complete the registration form for any offender being released from confinement ten days prior to release. The custodian shall also have the offender read and sign the ACIC Acknowledgement form. These forms shall be faxed to ACIC and SOCNA.

Sex offenders released from custody must register with the law enforcement agency where they will reside upon release.

### **Residency**

Residency is defined by A.C.A. § 12-12-903(10) as the place where a person lives notwithstanding there may be an intent to move or return at some future date to another place. Residency also includes place of employment, training, or education. An offender must register in each law enforcement jurisdiction where he or she lives, attends school or is employed. For example, a convicted sex offender who is a college student must register with law enforcement (chief of police or sheriff) in the jurisdiction in which he or she lives, and the campus police or safety office, and possibly a third jurisdiction if working in a different city or county from where he or she resides.

Residence shall include a motor home, vehicle or boat when that is where the individual resides.

Nonresident worker(s) or student(s) from outside Arkansas whom have been or would be required to register by the laws of the jurisdiction in which they were adjudicated are required to be assessed and to register.

## **Verification of Residency**

Pursuant to Act 64 of 2011, A.C.A. § 12-12-909, the Arkansas Crime Information Center (ACIC) was directed to provide an electronic format for the law enforcement community to use to register, update and verify sex offenders in their jurisdiction. The system created by ACIC is called Centralized Electronic Network of Sex Offender Registries (CENSOR). The new legislation eliminated the need to mail certified letters to sex offenders informing them of their next verification date, which is indicated on the acknowledgement form. This form shall be printed from CENSOR and given to the offender upon completion of the registration process.

To verify residency, Levels 1, 2 & 3 offenders must present themselves every six (6) months to the law enforcement agency having jurisdiction. Levels 1, 2, and 3 sex offenders must notify ACIC and law enforcement of any change of address ten (10) days prior to change. For an unexpected emergency change of address as in the case of a dwelling fire or natural disaster changes must be reported within three (3) days. A.C.A § 12-12-906.

Sexually Dangerous Persons/Level 4 offenders must present themselves every three (3) months to the law enforcement agency having jurisdiction to verify residency. According to A.C.A § 12-12-923, Sexually Dangerous Persons (Level 4), released from confinement after 04/07/2006, are subject to electronic monitoring for ten (10) years.

Failure to register or maintain registration is a Class C Felony. A.C.A. § 12-12-904.

## **Individualized Community Notification Assessment**

SOCNA under the auspices of the SOAC must conduct a community notification assessment on each adult sex offender required to register in Arkansas, unless the offender was assessed by a law enforcement agency prior to the development of SOCNA and that assessment information was entered into the ACIC database.

Community notification assessments are conducted strictly for the purpose of determining the most appropriate level of community notification.

Effective August 16, 2013, pursuant to Act 172 of 2013, an offender, adjudicated delinquent in another state of an offense requiring registration in the other state, who lives in the State of Arkansas and has reached the age of 18, shall be assessed for community notification purposes by SOCNA. Offenders under the age of eighteen (18) shall be assessed by the SOAC contractor for juvenile assessments.

## **Assessment Process**

Community Notification Assessments may include, but are not limited to, the following:

- A review of the sex offender's criminal history, with particular attention given to any offense that was sexual or violent in nature.
- An interview of the sex offender completed by SOCNA staff.
- A polygraph examination or a Computerized Voice Stress Analysis in cases in which SOCNA staff believe truth verification will help provide a more accurate assessment.
- A thorough review of any mental health or treatment records available to SOCNA staff at the time of assessment which may be relevant to the offender's risk to the community.
- Psychological testing when deemed necessary by SOCNA psychologists.
- Child maltreatment reports, incident reports, disciplinary charges from correctional facilities, and criminal offenses for which the offender was charged but not convicted.
- Other information that is relevant to the offender's offense history and/or pattern of behavior.
- Completion of appropriate actuarial instruments designed to assess individuals convicted of sexual offenses.

The assigned community notification level is based on a consideration of all of the relevant factors mentioned above and any other information obtained by SOCNA that impacts the community's need to be notified. All of that information is contained in the SOCNA assessment file.

### **Referrals**

Sex Offenders are referred to SOCNA for assessment in a number of ways. ACIC should electronically alert SOCNA of each newly registered Sex Offender. Law enforcement should alert SOCNA of sex offenders living in their jurisdictions. They may notify SOCNA electronically, by phone, fax, or email. A court or prosecutor can refer an offender for assessment and shall include copies of any relevant case files. The Arkansas Parole Board may refer an offender for assessment. The DCC may refer an offender for assessment. An offender may call and alert SOCNA of the need for assessment upon conviction or upon moving, working, or attending school in Arkansas.

### **Initial Information Gathering**

Pursuant to A.C.A. 12-12-917, prosecutors shall forward a copy of their file to SOSRA within 30 days of conviction of an offense requiring registration of a sex offender. Referrals from law enforcement, a court, and/or a prosecuting attorney should include the following information:

- Name of Caller
- Date of Call
- Agency of Caller

- Address & Phone Number of Caller
- Offender name
- Offender Date of Birth
- Offender Social Security Number
- Offender Address
- Offender Phone Number
- Sex Offense Conviction(s)
- Date of Sex Offense Conviction(s)
- Jurisdiction of Sex Offense Conviction(s)

If the law enforcement agency making the referral was the arresting agency, a request will be made that they forward **all available information** from the investigative file, including, but not limited to:

- Arrest Report/Incident Report
- Number & Age of Victims
- Victim Statement
- Offender Statement
- Injury to Victim/Force Used
- Whether a weapon was used in the commission of the crime
- Any Medical Information

Arkansas Crime Information Center Referral: If the referral is received from the Arkansas Crime and Information Center, SOCNA will begin the assessment process.

Arkansas Department of Community Correction Referral: If the Department of Community Correction is the referring agency, it will forward any information it has pertaining to sex offense conviction(s) involving the offender.

Arkansas Parole Board Referral: If the Arkansas Parole Board is the referring agency, the Board will provide the name, ADC#, and any relevant information about the offender's incarceration history.

Offender Self-Referral: If the offender makes the initial referral, the following information will be obtained and documented in eSOMA and the paper file:

- Date of call
- Offender name
- Offender Date of Birth
- Offender Social Security Number
- Offender Address

- Offender Phone Number
- Sex Offense Conviction(s)
- Date of Sex Offense Conviction(s)
- Jurisdiction of Sex Offense Conviction(s)
- What the offender reports happened that led to his/her conviction

### **General Information Gathering**

Diligent attempts will be made to gather all available information necessary to complete an accurate assessment and all attempts will be documented.

Desired information for a complete and accurate assessment is listed below. The list is not exhaustive, and the staff member is expected to use his/her best judgment as to what further information may be required to complete the assessment.

- Judgment & Commitment or Judgment & Disposition Order for each sex offense
- Affidavit & Warrant for Arrest
- Detailed description of sex offense(s)
- Detailed description of nonsexual violent offense(s)
- Current & Complete ACIC/NCIC Report(s)
- Drug & Alcohol history & Treatment Information
- Community Sex Offender Treatment information
- RSVP/SOFT Treatment Information Medical information regarding possible injuries to the victim(s)
- Relevant incarceration information
- Relevant probation/parole information
- Felony information

A list of documents obtained will be maintained in the electronic sex offender management system and the list mailed to the offender along with his community notification level letter.

### **Interview**

A.C.A. § 12-12-917(b)(4)(B) protects any admissions to SOCNA made by the offender during the assessment interview from use in a criminal proceeding; therefore, the offender may not avoid answering any questions by claiming protection under the 5<sup>th</sup> amendment right to avoid self-incrimination. This protection does not relieve SOCNA staff of mandated reporting obligations.

Upon receipt of the necessary information the record will be assigned to and reviewed by a SOCNA interviewer in preparation for an interview. The interviewer may gather additional information.

Offenders residing in the community are required to travel to the SOCNA Offices at 2403 E. Harding Avenue in Pine Bluff, unless they are hospitalized or have a medical condition that would prevent them from traveling. In such cases, offenders must provide written documentation from a physician that the medical condition currently prevents them from traveling. In rare instances, if local law enforcement or a probation/parole officer is able to confirm the existence of a condition preventing an offender from traveling, SOCNA will work with that agency to ensure an assessment is conducted in the most appropriate setting.

Offenders will be given two opportunities to appear for an interview. The first notice will be sent first class mail. If the offender fails to appear, a second notice will be mailed by first class mail and by certified mail. SOCNA will send the letter scheduling the interview to the address registered with ACIC, unless the offender, law enforcement agency with jurisdiction, or the DCC provides SOCNA with a more recent address. Provision of a new address to SOCNA does not relieve the offender of the obligation to provide the current address directly to law enforcement. The offender shall have the burden of establishing evidence that he/she failed to receive both notices.

Interviews will be recorded. Video recording will be used if possible.

Information gathered during the interview includes, but is not limited to:

- Number of sex offense convictions.
- Number of offenses that were sexual in nature, but pled to another offense.
- Number of violent convictions/incidents.
- Manner in which the offender gains access to victims.
- Number of victims.
- Age & sex of victims.
- Relationship of offender to victims.
- How the offender gained compliance.
- Whether the offender has caused physical injury to victim(s).
- Deviant sexual interests.
- Any sadistic behavior/interest on the part of the offender.
- Any other information deemed necessary for the accurate completion of actuarial instruments and/or to accurately assess the offender.

The SOCNA psychologist will determine whether enough information exists within the SOCNA file to find the offender fits the criteria of a Sexually Dangerous Person. A SOCNA psychologist may participate in or conduct a supplemental interview of any offender who may fit the criteria for Sexually Dangerous Person. The psychologist will document his/her participation in the file, including any diagnoses made as a part of the assessment.

The salient aspects of the interview will be documented in a typed Assessment Report. The Assessment Report should include the official version of all known sex offenses and violent offenses, as well as the offender's version of these events. The information listed above and any other relevant information used to determine a community notification level should also be included; however, not all information in the case file can be written into the Profile Report.

### **Actuarial Instruments**

The interviewer will complete the actuarial instruments deemed appropriate in accordance with the scoring guidelines for each instrument. The actuarial instruments are only one component of the assessment process and are considered in conjunction with other relevant information to determine the appropriate level of community notification.

### **Default Assessment Determination:**

If an offender living in the community fails to appear for his/her first scheduled interview, he/she will be sent another letter scheduling a second interview. If the offender fails to appear for the second appointment; refuses to cooperate in the assessment process (where the offender's aggressive, threatening, or disruptive behavior prevents an assessment); or the offender voluntarily terminates the assessment after having been advised of the consequences, he/she will be assigned a Default Level 3 or will have information reviewed for consideration of Sexually Dangerous Persons status. If a SOCNA psychologist determines that there is adequate information available to indicate that the offender fits the criteria of a Sexually Dangerous Person, the offender will be referred to the SOAC for consideration.

SOCNA will refer appropriate incidents to the prosecutor for refusal to cooperate with the assessment process, a Class C Felony (see A.C.A. §12-12-904(a)).

### **Paperwork/DNA/Digital Photographs**

While conducting the assessment, a SOCNA staff person will be assigned to monitor offenders, complete the SOCNA Sex Offender Community Notification Disclosure Form and the ACIC acknowledgement form and instruct them about basic assessment information. If the offender refuses to sign the forms, the SOCNA staff person will attempt to obtain a witness to document the offender's refusal. Both witnesses will sign and date the form.

SOCNA will make attempts to ascertain whether or not an offender's DNA has been obtained prior to an interview at the SOCNA offices. If evidence does not exist that DNA has been gathered, SOCNA will obtain a DNA sample.

Whenever possible, a digital photograph will be taken of each offender during the assessment process. The offender will be identified at the time the photographs are taken.



The photos will be transferred to the Offender Fact Sheet. In the event that an offender is not photographed at the time of his interview, a photograph will be obtained from another source, such as the eOMIS system, local law enforcement, the DCC, or ACIC.

### **Truth Verification Techniques**

If SOCNA staff determines that additional information may be obtained, a computerized voice stress analysis (CVSA) or polygraph may be used.

The SOCNA administrator and/or SOCNA psychologist can make the final decision whether to use a truth verification measure with an offender.

Offenders will be given one opportunity to present themselves and submit to a truth verification examination. Failure to appear for the scheduled examination as part of the assessment process will result in the offender being assessed a Default Level 3 or referred to the SOAC for a determination of Level 4 if appropriate.

Any behavior by the offender to influence the results of a truth verification examination will result in the offender being assessed as a Default Level 3 or referral to the SOAC for a Level 4 consideration. The offender may be referred for prosecution for failing to cooperate with the assessment process, a Class C Felony. (See A.C.A. 12-12-904(a)).

### **Sexually Dangerous Person (“SDP”)**

Sexually Dangerous Person refers to a person who has been adjudicated guilty of a sex offense or acquitted on the grounds of mental disease or defect of a sex offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sex offenses. The designation indicates that the highest and most visible means of community notification should be conducted on these offenders. Sexually Dangerous Person status should be considered for the following:

- Offenses involved multiple instances with multiple victims;
- The offender caused or threatened serious harm to the victim(s);
- The offense(s) involved bizarre, ritualistic, or sadistic behaviors;
- The offense(s) involved attempts on the part of the offender to manipulate him/herself into a position of power or authority over, or establish a relationship with the victim for the primary purpose of violation, exploitation, or victimization; and/or
- Evidence of sexual deviancy or psychopathy exists.

Potential routes for determination as to whether an individual should be designated a Sexually Dangerous Person:

1. Pursuant to §12-12-918, a prosecutor may allege SDP status and upon conviction, the Court shall enter an order for an assessment by an examiner

qualified by the SOAC. SOCNA will prepare a report to be sent to the Court with copies to the prosecuting attorney and the defense attorney. Upon receipt of a report, the Court shall determine if SDP status is appropriate.

2. Pursuant to A.C.A. §12-12-922, if during the course of a SOCNA assessment grounds are found for believing that an individual may be a SDP, that information will be presented to the SOAC by SOCNA. SOAC will determine whether the offender meets the criteria for SDP by a majority vote.

Sex Offenders moving into the State of Arkansas from other states will be considered Sexually Dangerous Persons, if that or an equivalent, determination has been made by the sending state. If terminologies or criteria differ, SOCNA will request the offender's assessment file. SOCNA may make a determination based on that file or may require the offender to submit to assessment in Arkansas.

### **Community Notification Levels**

After completing the assessment process, each offender will be assigned one of the following community notification levels.

- Level 1: Typically offenders in this category have no prior history of sexual offending and the community can be protected with notification inside the home and to local law enforcement authorities. Level 1 would not generally be appropriate with prepubescent victim(s), predatory behavior, sexual interest in children, a history of working with children or around children if the victim was a child, and allegations of force or threats of physical harm were used in the offense.
- Level 2: Typically offenders in this category have a history of sexual offending where notification inside the home is insufficient. Community notification requires notice to the offender's known victim preference and those likely to come into contact with the offender.
- Level 3: Typically offenders in this category have a history of repeat sexual offending, and/or strong antisocial, violent or predatory personality characteristics. These are individuals whose offense and criminal history require notification throughout the community.

Default Level 3: Offenders who appear for the assessment under the influence of alcohol, illegal drugs or who fail to timely disclose the use of medications, individuals who fail to appear for any phase of the assessment, individuals who are aggressive, threatening, or disruptive to the point that SOCNA staff cannot proceed with the assessment process, and individuals who voluntarily terminate the assessment process having been advised of the potential consequences will be

classified as being a Level 3 or referred to SOAC for Sexually Dangerous Person status.

Level 4: Sexually Dangerous Person refers to a person who has been adjudicated guilty of a sex offense or acquitted on the grounds of mental disease or defect of a sex offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sex offenses. The designation indicates that the highest and most visible means of community notification is required.

### **Overrides & Departures**

The actuarial tools used during the assessment are only one component of a community notification assessment. The other components of the assessment have been previously described in these guidelines. The following additional information will be used in connection with the results of actuarial tools and the other components of the assessment previously discussed. In instances where an actuarial instrument is used, the following are nonexclusive and non-binding descriptions of when an increase or decrease from the actuarial score may be appropriate in determining the notification level.

### **Considerations for Increased Community Notification**

- If the offender has committed previous juvenile or adult sexual offense(s); has multiple offenses; or has multiple victims, whether or not there are convictions, the community notification level may go beyond the recidivism risk suggested by the actuarial instruments. This may extend to known or self-admitted molestations, offenses that were reported and reliably investigated even if not prosecuted, and offenses primarily sexual in nature but pled down to non-sexual offenses.
- If statements made by the offender during the interview, or relevant historical data suggest there are psychological abnormalities that may predispose the offender to sexual offending; a physical condition, addiction or other psychological impairment that decreases his/her ability to control sexual impulses, or increases his/her potential for sexual violence; or other data that suggest higher risk than the actuarial model predicts, the community notification level should go beyond the recidivism risk suggested by the actuarial instruments.
- If the offense involved extreme physical injury, death, or other heinous actions, the offender should be assigned no lower than a Level 3.
- If the offender has provided information on record or during the interview that he/she is likely to commit subsequent sex offenses, the offender may be assigned Level 3 or referred to the SOAC for a determination of Level 4, if appropriate.

- If the offender's offense history, behavior, or victim characteristics (e.g., extremely young victim, stranger victim, extra-familial victim, etc.) indicates community notification should go beyond the recidivism risk suggested by the actuarial instruments.

### **Considerations for Decreased Notification**

- If after treatment, (behavioral, anti-androgen or other), the offender is able to show evidence that the treatment has significantly enhanced the offender's impulse control ability and decreased the predisposition to re-offend, the community notification level assigned may be lower than the recidivism risk suggested by the actuarial instruments, unless the offender has been classified at Level 4, Sexually Dangerous Person.
- If there is evidence to show that the offense was a temporary aberration unlikely to recur, or the nature and pattern of the offense is such that it poses less of a risk to the community at large, the community notification level assigned may be lower than the recidivism risk suggested by the actuarial instruments.
- If the offender's current risk assessment data is at such variance with aspects of the official record (e.g., the alleged victim recanted, or the spouse or other witness admitted that the allegations were fabricated out of spite), the community notification level assigned may be lower than the recidivism risk suggested by the actuarial instruments.
- If the official documentation of the sex offense indicates that it was a statutory offense, without evidence of violence, coercion or a deviant attraction, and if there is not a pattern of illegal sexual behavior, the community notification level assigned may be lower than the recidivism risk suggested by the actuarial instruments.

### **Sex Offender Assessment Report**

A sex offender assessment report may be written summarizing the important aspects of each record completed, indicating the level of community notification level assigned the offender, and providing recommendations for purposes of notification and monitoring.

The report may include:

- Identifying demographic information,
- Sexual offense conviction(s) and date,
- Brief synopsis (overview) of the sex crime,
- Prior (other) criminal convictions of a violent or sexual nature for which SOCNA has a judgment,

- Interview synopsis,
- A history of learning or intellectual problems,
- A history of mental illness or mental health treatment,
- Additional factors affecting community notification level,
- The assessed community notification level,
- High risk behaviors impacting supervision, and
- Signature line.

A Disclaimer should be placed at the end of the report identifying those individuals who have access to this information and the requirement for them to delete any identifying victim information if given to anyone other than law enforcement.

### **Offender Fact Sheet**

The Offender Fact Sheet will include the following information:

Pursuant to Ark. Code Ann. § 12-12-917(f)(4)(B) the Offender Fact Sheet will include the following information, as applicable:

- (i) Registration information as required in § 12-12-908;
- (ii) Risk level;
- (iii) Date of deoxyribonucleic acid (DNA) sample;
- (iv) Psychological factors likely to affect sexual control;
- (v) Victim age and gender preference;
- (vi) Treatment history and recommendations; and
- (vii) Other relevant information deemed necessary by the committee or by professional staff performing sex offender assessments including, as available,
  - A recent photo of the offender/Date of Photo, if known
  - Offender name
  - Known aliases
  - Social security number
  - Fingerprint ID class/code
  - SID#
  - CSN#
  - ADC#
  - Driver's license number
  - Date of birth
  - Height
  - Weight
  - Race
  - Identifying marks or scars
  - Hair color
  - Eye color
  - Community notification level
  - Date of DNA sample

- Anticipated legal address/Date Last Verified
- Temporary address (if applicable)
- Probation/Parole Office
- Place of employment
- Brief description of crime
- Criminal History/Sexual Violence
- Victim preference
- Treatment history

### **Notification of Community Notification Assessment Level to the Offender**

The offender will be notified by both certified mail and first class mail of the assessed community notification level and the rights and procedures for administrative review. The notification will include a copy of the Assessment Report and the Offender Fact Sheet. The notification will be mailed to the address provided to the Arkansas Crime Information Center for purposes of registration, unless there is a valid reason to deviate from this policy, i.e., the offender has just updated his address, but the address has not been updated on the ACIC registry.

### **Administrative Review**

The offender's request for an administrative review must be made, in writing, within fifteen (15) days of receipt of the advisement of the assessment level notification sent to the offender by certified mail and first class mail; receipt of the advisement of the risk level notification will be presumed within five (5) days of postmark. The offender is responsible for delivery of the request for administrative review to SOCNA. The offender should send a written request for administrative review to P.O. Box 6209, Pine Bluff, AR 71611.

The offender must clearly state and support, with documentary evidence attached to the request, his/her basis for the administrative review. The following shall be considered as a basis for administrative review:

1. The rules and procedures of the SOCNA were not properly followed in reaching a decision of the community notification level of the sex offender;
2. Documents or information not available at the time of assessment have a bearing on the risk that the sex offender poses to the community; or
3. The assessment is not supported by substantial evidence.

The administrative review is a review of the record only and is conducted by a member of the SOAC. The offender has no right to a hearing in which he/she will appear and/or call witnesses.

Upon receipt of a request for an administrative review, SOCNA will forward the request and the record to the reviewing official. The reviewing official will review the record and determine whether to uphold the assessment or submit the review to SOAC for modification consideration. A majority vote of SOAC will be required to modify the notification level based upon the administrative review. If an administrative review cannot be completed within thirty (30) days of receipt of the request for administrative review, the reviewing official shall notify the offender of the delay by regular mail. Upon completion of the administrative review, the results will be documented and forwarded to the offender by certified mail. For those incarcerated, service shall be as provided in the Arkansas Rules of Civil Procedure or by personal delivery to the offender. Community notification at the risk level assigned in the administrative review will commence five (5) days after the postmark of the administrative review decision to the offender.

During the Administrative Review, the local law enforcement agency having jurisdiction may make community notification at the initial level of assessment A.C.A. 12-12-922(b)(5). SOCNA will notify law enforcement of the conclusion and results of the administrative review and community notification will be adjusted pursuant to any change in the level assigned.

### **Judicial Review**

Upon receipt of the findings of the administrative review, the offender has thirty (30) days to file a petition under the Arkansas Administrative Procedures Act in Pulaski County Circuit Court or in the Circuit Court of the county in which the offender resides, requesting judicial review of the community notification level.

As part of the judicial review process, the Committee may ask the court to seal statements of victims, medical records, and other items that could place third parties at risk of harm.

Community notification will continue at the level determined by the Administrative Review during the pendency of a judicial review. The community notification level will be adjusted pursuant to any change ordered by the court as a result of the judicial review process.

When notice of a judicial review is received, SOCNA will fax copies of the notice to the Arkansas Attorney General's Office, and the ADC's Compliance Office.

### **Preparing the Record**

SOCNA will use the following procedure when preparing the record for the judicial review:

- Copy information contained in the record,
- Remove duplicates, unless the duplicates have notes written on them or contain information not on the original document,
- Retain any duplicate documents in a manila folder marked “duplicates” in the original file,
- Bind copies in a four-part folder,
- Certify each copy as true and correct, and
- Provide one (1) copy of the file to the Arkansas Attorney General’s Office.

## **Notification**

If a request for Administrative Review is not received within twenty (20) days of the postmark of the advisement of the community notification level, the notification process will proceed. A copy of the Sex Offender Assessment and Offender Fact Sheet will be mailed to the Local Police Department, Local Sheriff’s Department, Prosecuting Attorney, DCC, the ACIC, and the Arkansas Parole Board.

The law enforcement officer having jurisdiction over an offender shall review the notification guidelines and procedures, and the offender fact sheet. Prior to notification, the law enforcement agency should confirm the offender’s location. Any discrepancies on the Offender Fact Sheet should be immediately brought to the attention of the SOCNA: Phone (870) 850- 8429 or FAX: (870) 850-8446.

Local law enforcement agencies are permitted to perform notification regarding sex offenders to members of the community.

## **Notification Guidelines**

The notification guidelines indicate which segments of the community must be notified. Notification given to any individual or agency does not authorize that individual or agency to disseminate information beyond those residing with the individual, or beyond those who have a need to know within the agency.

The higher the community notification level assigned, the broader the notification that must be given. These notification guidelines apply to adult offenders. It is the responsibility of the Chief Law Enforcement Officer to interpret these guidelines and prepare a notification plan. Should circumstances change that may increase the offender’s threat to the community, it is the responsibility of the Chief Law Enforcement Officer to modify the existing notification plan or request a reassessment.

Discretion must be used in applying the guidelines to any offender. The harm that may be caused by a particular notification must be weighed against the protection that would be afforded the public.



### **Level 1 / Low Community Notification**

- The law enforcement agency having jurisdiction, and other law enforcement agencies likely to encounter the offender. This may include state and federal law enforcement agencies, campus police, school safety officers, and the like.
- All adult members of the household where the offender is residing or intends to reside, unless the offender is residing or intends to reside in a residential treatment facility, group home, foster home, half-way house or other supervised living arrangement, in which case only the residence supervisor or foster parent should be notified.
- Victims or guardians of victims of adult offenders are notified through the VINE system operated by the ADC. Victims or guardians of victims of juvenile offenders should be notified by law enforcement.

### **Level 2 / Moderate Community Notification**

- All parties specified in level 1 must be notified.
- The heads of agencies and organizations that serve individuals in the offender's target group must be notified. This may include, but is not limited to, schools, day care centers, community and youth groups, religious organizations, libraries, the DHS, women's organizations and shelters, park security, businesses frequented by children.
- Employers must be notified.
- State licensing boards will be notified as deemed appropriate by local law enforcement, when the person is licensed by the board.
- Individuals or heads of families with members within the offender's target group who are likely to encounter the offender, or live in the same neighborhood as the offender must be notified.
- Offender Fact Sheet information on adult offenders rated at Level 2 with a victim who is fourteen (14) years of age or younger will be available to the public on the ACIC web site (<http://www.acic.org/>).

### **Level 3 / High Community Notification including Default Level 3**

- All of the entities and individuals listed for Levels 1 and 2 must be notified, unless to do so would cause harm to the victim(s).
- Notification must be made to any member of the community whom the offender is likely to encounter, based on the offender's prior history, recreational or religious interests, employment, or the characteristics of the offender's victims.
- Notification should be conducted face-to-face between law enforcement and citizens to the extent possible. Those likely to encounter the offender, including all neighbors, are to be given an Offender Fact Sheet and cautioned about the appropriate use of the information.

- Offender Fact Sheet information on offenders rated at Level 3 (high) or Level 4 (Sexually Dangerous Person) will be available to the public on the ACIC web site (<http://www.acic.org/>).

#### **Level 4 / Sexually Dangerous Person**

- All of the entities and individuals listed for Levels 1 through 3 must be notified.
- Notification of members of the general public in the vicinity of where the offender lives, travels and works should be done. It is preferable to notify these individuals in a face-to-face meeting, and to encourage assistance in monitoring the offender rather than instigating harassment, fear or hatred. However, open community meetings or meetings with neighborhood watch groups are also acceptable.
- Any individual having good reason may request an Offender Fact Sheet from the Chief Law Enforcement Officer. Each individual given an Offender Fact Sheet must be advised that it is not for publication, but may only be used in accordance with the law and these guidelines.
- The media may also be used to conduct level 4 notification, if the Chief Law Enforcement Officer having jurisdiction deems it necessary to protect the community.
- Printed material, posters, and electronic media may be used to notify and inform the public in the most necessary and potentially dangerous situations.
- The Offender Fact Sheets of all Sexually Dangerous Person will be available to the public on the ACIC website.

#### **Re-Assessment**

Adult offenders may request reassessment five (5) years after the date of the most recent assessment. Reassessments will include a polygraph, or voice stress analysis, as deemed appropriate by the SOCNA. The cost of polygraph and/or computerized voice stress analysis will be billed to the person being reassessed.

Reassessments of incarcerated individuals will include administration of a polygraph examination, and/or computerized voice stress analysis, as deemed necessary by SOSRA staff.

Reassessment may be requested by the DCC, the law enforcement agency having jurisdiction, or the Arkansas Parole Board to the SOAC at any time, by submission of the Sex Offender Re-Assessment Form or a statement of reason to the SOCNA Program. The cost of any polygraph or voice stress analysis examinations on referrals by law enforcement will be borne by the SOCNA. Forms for requesting reassessment are available from the ACIC web site or may be obtained from the SOCNA.

Refusal of, or non-compliance with, reassessment will result in a written notification to law enforcement in the area in which the offender resides, and to any supervising agency.

Refusal or non-compliance will also result in the offender being assigned a default level 3 or a level 4, if enough information exists to determine that he/she fits the SDP criteria.

Offenders who are reassessed based upon their request will be given one opportunity to appear for re-assessment. If the offender provides advance notice of an inability to make the scheduled appointment, he/she will be allowed one additional opportunity to appear. If the reassessment is at the request of a state or local agency, the offender will have two opportunities to appear.

### **Termination of Requirement to Register**

Termination of the registration requirements are found in A.C.A. § 12-12-919.

Expungement of criminal convictions under the provisions of A.C.A. §§ 16-93-301 - 303 does not relieve an individual of the duty to register or reregister. The requirement to register due to a criminal conviction is relieved if the underlying conviction of the offender is reversed, vacated, or set aside, or if the offender is pardoned.

### **Records**

The SOCNA will maintain all documentation gathered and all assessments administered. Original documents will be maintained for at least one year, after which time case files may be stored electronically and the original documents can be destroyed. If there is ongoing litigation that would necessitate the hard copy being maintained beyond one year, the files will not be digitally imaged until the resolution of the court proceedings.

Access to documents generated by the SOCNA may be granted to ACIC, and to any law enforcement agency or court of competent jurisdiction.

The offender may request copies of all reports generated and a list of all documents obtained from other agencies from the SOCNA. A copy of the tape or video of the interview may also be requested.

The SOCNA will not provide copies of working notes, or of copywrited psychological tests that are restricted to licensed professionals. Copies of records generated by other agencies will not be released except under court order.

**These documents are not subject to the Freedom of Information Act.**

### **Research**

The assessment process will be the subject of ongoing research to improve the accuracy of the overall assessment process.

Access for the purpose of research must be requested in writing and is subject to approval by the ADC with recommendation by the SOAC.

### **Immunity**

Public officials, public employees, public agencies, and members of the SOAC are immune from civil liability for good faith conduct under Act 989 of 1997, as amended.

Nothing in Act 989 of 1997, A.C.A. 12-12-920, shall be deemed to impose any liability upon, or give rise to a cause of action against, any public official, public employee, public agency, or member of the SOAC for any discretionary decision to release relevant and necessary information, unless it is shown that the official, employee, agency or Committee member acted with gross negligence or in bad faith.

## **Resources**

### **ADULT ASSESSMENTS**

Sex Offender Screening & Risk Assessment  
P.O. Box 6209  
2403 E. Harding Ave.  
Pine Bluff, AR 71611  
Phone: (870) 850-8429  
Fax: (870) 850-8446

### **SEX OFFENDER REGISTRATION**

Arkansas Crime Information Center  
322 South Main Street, Suite 615  
Little Rock, AR 72201  
Phone: (501) 682-2222  
Fax: (501) 683-5592

### **JUVENILE ASSESSMENT**

Family Treatment Program  
1120 Marshall, Suite 401  
Little Rock, AR 72202  
Phone: (501) 364-3815  
Fax: (501) 364-3816

### **CHILD ABUSE HOTLINE**

Arkansas State Police  
(800) 482-5964

### **INFORMATION ABOUT ABUSE**

Commission on Child Abuse, Rape & Domestic Violence  
University of Arkansas for Medical Sciences  
4301 W. Markham, Slot 606  
Little Rock, AR 72205  
Phone: (501) 661-7975  
Fax: (501) 661-7977

### **VICTIM ASSISTANCE**

Arkansas Crime Reparation  
323 Center St., Suite 1100  
Little Rock, AR 72201  
Phone: (501) 682-1020  
(800) 448-3014  
Fax: (501) 682-5313