

The level of arbitrary, capricious, and anecdote-based requirements throughout the SORNA scheme is frightening and high. Even the updated language and modifications proposed lack a scientific method, data-backed evidence approach to achieving the goal of promoting and fostering a safe, healthy, and productive society. The only achievement of this updated scheme is the continued enablement and perpetuation of inefficient, ineffectual government bloat which encumbers tax revenue that should otherwise be utilized productively to reach the same goal with much greater efficiency.

For each SORNA requirement, I've taken an operations optimization analysis approach to assess the Value-add, The "why?" and The Method of the current proposal to create an alternative. This operations optimization analysis approach should be considered, if not implemented wholly, in developing the final regulatory policy.

SORNA: 72.1-72.3 (and related U.S.C.), Purpose and Applicability of SORNA

Purpose and Objective: To create a register of all persons who have been convicted of or pled to a state or federal "sex offense" as defined by statutes and codes. The persons on this registry will be burdened by enumerated legal requirements enforced by criminal sanctions for a period of time to prevent future additional sex-offenses.

Why? (1): Individuals who commit a sex-offense will continue to commit sex-offenses absent any mitigation.

Why? (2): (Supposition) Individuals who possess the mindset to commit a sex offense have a proclivity for such patterns of behavior.

Why? (3): A few individuals who had committed a prior sex offense went on to commit additional, worse sex-offenses and murder.

Why? (4): There was nothing to mitigate the future risk these individuals posed.

Why? (5): The majority of individuals who committed a sex-offense did not go on to commit future sex-offenses and/or murder.

Value-Add: Increase Public safety by preventing future potential sex-offenses.

Method: 100% of individuals who committed a sex-offense, both state and federal, are registered as “sex-offenders and are required to provide certain identifying information at prescribed intervals by prescribed means for prescribed lengths of time in each jurisdiction prescribed.

Variance: High- Each jurisdiction has developed its own version of a registry that suits its needs through local legislation based upon varying methodologies that may or may not fall within the specifications and boundaries as adjusted by refreshing SORNA requirements.

Metrics
And Measurement: The SMART office scrubs Federal SORNA requirements against each jurisdiction’s registry scheme to create a compliance spreadsheet/score with ratings: “In compliance”, “In compliance with a slight deviation” and “not in compliance”. Scores determine if and in what amount federal funding is provided to the jurisdiction to award compliance.

Analysis Disposition: Needs Improvement- costly and sub-optimal.

Qualitative Analysis:

In addition to the waste created by a scheme engineered for exceptions, the constitutionality of SORNA at large is questionable. The first constitutional concern is made apparent in the language of SORNA. SORNA generally directs the Attorney General to”Interpret and implement” SORNA (USC 34 20912(b)). Congress created SORNA and if there is vague or ambiguous language requiring the Attorney General to “interpret” congressional intent, then SORNA itself violates the vagueness doctrine. As Justice Gorsuch reiterates, “In our constitutional order, a vague law is no law at all.” (US v. Davis). Furthermore, interpreting the intent of congress is subjective due to the interpreter, so absolute clarity is never possible. This is amplified even more as jurisdictions constantly try to adapt to inputs that could vary from one Attorney General to the

next. Congressional intent cannot be written into existence by any one individual. The responsibility rests entirely upon Congress itself.

The second constitutional concern arises from SORNA'S creation of a class of citizens, the "sex offenders", who face societal burdens that greatly impact the inalienable rights to life, liberty and the pursuit of happiness. Arguably, this creates a cruel and unusual punishment as well. Instead of narrowly tailoring the registration requirements for each individual based on actuarial evidence-based risk assessment, SORNA applies a baseless, massive generalization across a class of citizens; a constitutionally forbidden bill of attainder.

Waste in the form of unnecessary costs (tax revenue encumbrance) accumulates exponentially as resources are consumed in SORNA'S imposed requirements across 100% of the "sex-offender" class. Why invest law enforcement resources in the monitoring, managing and enforcement of regulations across individuals who, based on actuarial evidence based risk assessments, do not require monitoring and management? Instead of focusing these resources on the offenders who need careful management based on their risk assessment, the effectiveness of enforcement is diluted across the entire sex-offender class. This, in turn, creates the false perception of a resource shortage resulting in more wasteful consumption of underutilized resources.

Various jurisdictions have had registry schemes in-place. Some jurisdictions continually modify their respective registry schemes to minimize administrative costs while improving public safety metrics. Jurisdictions accomplish this by focusing their resources on only the help-needed areas and individuals; continuous improvement. Efforts like these are hamstrung by the high-level mass generalizations of SORNA. Because jurisdictions that improve their registry schemes likely find the regression imposed by SORNA to be cost prohibitive, they remain "non-compliant" and in some cases are penalized. SORNA penalizes jurisdictions for fine-tuning, narrowly tailoring their registration schemes to individuals, thereby reinforcing the maintaining of a "sex-offender" class of citizens, returning to the constitutional question. Other jurisdictions will simply comply with SORNA'S requirements, chasing an ever-changing goal post to

acquire federal funding to, hopefully, cover the costs. For these jurisdictions, the goal is not to foster public safety but is to capture funding. While the need for funding can be attributed to many things, one thing that funding is not needed for is to manage an out of control sex-offender class. Data shows that such a group does not exist.

The bias for government bloat, unproductive tax revenue use, constitutionally questions, compliance variation proliferation, and rewarding of public safety sub-optimizations are the results of current and proposed SORNA policy. There are better alternatives.

The following alternatives are better proposals and should be taken into account.

Alternative 1- SORNA as a Synthesis and Best Practice Sharing Vehicle

SORNA is stripped, streamlined and simplified into the following policy statements:

- (1) The Sex Offender Registration and Notification Act requires each jurisdiction to promote public safety through effective monitoring, management and enforcement of constitutional requirements assigned to an individual who has been convicted of a sex-offense. The assigned requirements will be determined using actuarial, data-based, individual risk assessment developed and administered by credentialed subject-matter-expert professionals.
- (2) The SMART office will work to synthesize proven best-practices among jurisdictions and assist in implementing best-practices to create parity between each jurisdiction while continually evaluating scientific methods and researching data provided by each jurisdiction to discover and pilot-test more cost effective and positive-outcome schemes that support constitutional, narrowly-tailored monitoring, management and enforcement of any requirements imposed upon an individual who was convinced of a sex-offense.

Benefits Over Existing SORNA

- 1) Preventative oriented instead of punitive reactionary;
- 2) Resources focused on continuous improvement instead of status-quo stagnation;
- 3) Eliminates variances and incentive for sub-optimizations caused by arbitrary, dynamic imposed federal requirements;
- 4) Eliminates constitutionality concerns;
- 5) Based on science and data instead of political and pop-culture anecdote;
- 6) Simplifies the overall purpose of SORNA.

Alternative 2- Same as Alternative 1 but remove SMART office component

Benefits/Detriment Over Alternative# 1

- 1) Eliminates overhead cost of the SMART office (Benefit).
- 2) May impede speed at which best-practices are evaluated and implemented amongst jurisdictions; this could be mitigated by requiring jurisdictions to hold roundtable socializations of means and methods as part of SORNA; Benefit or Detriment Unknown

SORNA 72.4-72.7 (and related USC), Where sex offenders must register, information required and frequency

Purpose and Objective: To provide a specific location where sex offenders must provide the required information (per jurisdiction registry scheme) that will serve as their sex-offender registration entry. All registrants will know where they are required to report and register.

Why? (1): Exact locations for registry entries must be defined.

Why? (2): Registrants are responsible to appear in-person to register.

Why? (3): There is no registrant portal that allows for remote online registry entry.

Why? (4):	In-person registration is more effective in assuring public safety.
Why? (5):	A sex offender will witness, in-person, the number of law enforcement personnel and resources surrounding them during the registration process and will thereby feel less tempted to sexually offend again.
Value-Add:	Ensures that registrants are aware of and know where they must travel to register.
Method:	Registration requirement is triggered by conviction of a sex offense that is broadcast to local registry and/or probation/parole resources who then inform the new registrant of location details.
Variance:	High-Conflicts between federal requirements and jurisdiction registration requirements regarding the number of locations a registrant must register in person. Some jurisdictions are migrating to an on line registration portal.
Metrics and Measurements:	Same as above
Analysis Disposition:	Needs Improvement, sub-optimal

Qualitative Analysis

Other than an initial in-person registry entry in the residence jurisdiction, all additional in-person requirements imposed by federal regulations provide only to impose an undue burden on the registrant to become a road warrior to visit the numerous registration locations to avoid criminal sanctions. This poses and, more accurately, punishes a registrant who has a job that requires travel between and within jurisdictions. The point here is that an employer who is burdened by an employee who must take time off from his work to register will seek to stop such

current and/or future employments. This constitutes forced under-employment, which is unconstitutional.

The multiple, in-person, requirement is based upon the anecdotal fallacy that by seeing numerous law enforcement agents throughout the registration process, a convicted sex-offender will be magically spooked enough to resist the temptation to reoffend. This, again, is based on yet another anecdotal fallacy that all sex-offenders will definitely attempt to reoffend. Real-world data refutes this. The DOJ's own assessment system (Pattern) used for all federal prisons refutes this. This SORNA requirement is based on fantasy.

Bias for sub-optimization and cost inefficiency is favored. There is no incentive for jurisdictions to streamline their own registration schemes, and so costs to maintain legacy processes remain. The jurisdictions that do attempt to leverage technology and promote cost effectiveness risk becoming "not in compliance" and forfeiting federal funding. Competition for this federal funding forces the pursuit of least-worst processes. There is no opportunity to create an end-to-end, seamless registration process that propagates instantaneously across multiple jurisdictions of concern.

The "escape routes" this multiple touch-point SORNA process seeks to eliminate still exists. No matter how many in-person, multiple jurisdiction registration visits are required, the ability to "skip out" remains. In fact, it is as if this requirement exists solely for the purpose of increasing the likelihood of a "failure to register" flag that provides another opportunity for incarceration of a registrant. Revisiting the example of a registrant that travels for work; for each business stop across multiple jurisdictions, the registrant must go, in-person, to the registration location of each jurisdiction for initial registration, abiding by that location's business hours and queue time. If this falls outside of the realm of possibility due to customer site visits, meetings and related business transactions the registrant is responsible for in order to make a living, too bad. Yet, the requirements of SORNA are engineered for the exceptions; just not those exceptions that would assist a registrant who is trying to earn a living. Here again,

a class of citizens is created subject to undue hardships and underemployment, all unconstitutional.

These undue burdens again violate liberty interest of the majority by applying characteristics attributed to only an infinitesimal minority across 100% of a created class of individuals. This additional ingredient to SORNA is, again, based on anecdote and opinion with no scientific or data-backed evidence. In fact, real data will refute the baseless foundation of this requirement.

Alternative 1: Utilize a Registry Portal that Satisfies Multi-Jurisdiction Registry Entry and Notification

1) Each Jurisdiction shall develop, maintain and revise an online/remote registration entry and update portal to allow registrants to populate information as required as defined by each respective jurisdiction's registry scheme that will populate any concerned jurisdiction's scheme instantaneously. Upon initial, in-person, registration at the jurisdiction of residence, the registration office will supply credentials to the registrant to access the portal. Each jurisdiction shall maintain a secure, encrypted registrant access profile database to store these credentials.

2) The SMART office will work with data transaction architects to assign a code to all fields of each jurisdiction's scheme; common fields will share the same code. These fields will be shared with any non-residence jurisdiction instantaneously when and as required by residence jurisdiction registry scheme. Any vacant unpopulated field in the receiving, non-residence jurisdiction, will be flagged as "information not collected and required by residence jurisdiction," or similar messaging.

3) The smart office will work with data analytics engineers to measure the effect and validity of each field's impact on public safety within and without each jurisdiction and will publish results and make recommendations as to the highest positive correlations that should be in use, and those with low, negative or random correlations to be discontinued and removed from each jurisdiction's registry scheme. The goal of this data analysis is to minimize the amount of data

fields (registrant information) to the lowest as possible that produces the highest validity.

Benefits over

Existing SORNA:

- 1) Increases cost effectiveness of information sharing, monitoring, managing and enforcing requirements by leveraging technology instead of manual in-person redundancies.
- 2) Promotes data-driven and supported public safety metrics instead of anecdotal metric creation.
- 3) Eliminates variance imposed by additional federal requirements and minimizes variance between jurisdictions instead of adding to capricious and arbitrary information gathering.
- 4) Ensures requirements of each jurisdiction concerned are provided by the registrant with data field dispositions instead of relying on multiple, in-person redundancies requiring registration office resources to be versed and knowledgeable in every other jurisdiction's schemes.
- 5) Reduces the amount of information registration schemes collect to a scientifically correlated set of metrics instead of allowing jurisdictions to bloat requirements based on politically motivated, emotional, snap-judgements.
- 6) Promotes preventative action based on science and data instead of enlarging policy to address the actions of very few individuals.
- 7) Promotes societal integration of registrants instead of perpetuating a patchwork of criminally punitive arbitrary requirements.

Alternative 2: Registry Council

Same as Alternative 1 but remove SMART office component. In its place add the following:

- 1) Each jurisdiction will work to create a registry council comprised of members from registration authorities, other law enforcement (parole/probation), an elected member from the jurisdiction's

congressional body, a representative class of the registrant body and their family members.

- 2) The registry council will partner with a third party data analytics provider to measure and quantify the impact of each piece of information required by their respective jurisdiction's registry scheme and will work to minimize the amount of constitutionally allowable data points that maximizes public safety metrics through correlation. Each jurisdiction's registry council will partner regularly with every other jurisdiction's registry council to standardize the required data collection profile and will partner with a third party data analytic and exchange provider to implement the standardized data profile throughout each jurisdiction.

Benefits/Detriment Over Alternative 1

- 1) Eliminates overhead cost of SMART office. (benefit)
- 2) Fosters empowerment of jurisdictions' management of findings/issues unique to respective jurisdiction.
- 3) May increase inter-jurisdiction registration requirements knowledge for registrants.

SMART office Re-Engineering

In its current state, the SMART office consists of only law enforcement agents and is thereby deficient in the ability to interpret, analyze and modify data. Further, it has no interest nor perspective regarding the impact of various registration schemes on actual public safety metrics and the constitutionality of any imposed registry requirements. The SMART office is currently a punishment driven entity based on the fallacy that every registrant will certainly reoffend unless massive deterrents are in place. Real-world data contradicts this presumption. The Smart office must be evolved and transformed into a cross-functional cooperative team with the goals of maximizing public safety and maximizing a registrant's re-integration into society. Unless this occurs, resources (tax allocations, law enforcement agents and judicial processing) will continue to be wasted with little or no productive output. A glaring fact that proves change is needed is that each year, in every jurisdiction, there are numerous suits filed, for a litany of reasons. All are challenging various aspects of various registration schemes. The SMART office's greatest deficiency is this lack of the voice from individuals, their friends

and family impacted by the requirements created by agents who are so far removed from the real-world implications.

Transforming the SMART office into a registry council begins with the body of the council itself. Instead of a stagnant, one sided bureaucracy, the new registry council will be comprised of members from congress, law enforcement, third party data analytics organizations, psychology and therapist professionals, victim advocates and representative class (men, women, all races, etc.) of registrants along with their families, and registry activist/advocate organizations. This council will data-mine, discuss, develop and deploy constitutional, scientifically correlated requirements that are proven to produce positive outcomes in public safety, rehabilitation, and re-integration for all registrants, instead of laying a minefield of criminally sanctionable, highly varied, arbitrary and capricious requirements focused on continuous punishment.

