Office of Missouri State Auditor

Nicole Galloway, CPA

Sex Offender Registration

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Nicole Galloway, CPA
Missouri State Auditor

CITIZENS SUMMARY

Findings in the Audit of Sex Offender Registration

Weaknesses Exist in the Enforcement of Registry Requirements	Chief Law Enforcement Officials (CLEOs) have not adequately pursued noncompliant offenders, resulting in CLEOs being unable to locate more than 1,200 noncompliant sex offenders. In addition, the CLEOs have not adequately updated the next registration dates for sex offenders in accordance with state law.
Missouri State Highway Patrol (MSHP) Procedures	MSHP procedures for maintaining the sex offender registration (SOR) database and supporting CLEO's efforts to enforce SOR requirements need improvement. The MSHP does not always update the compliance status of offenders within the SOR management system in accordance with internal policies. The MSHP has not established agreements with other state agencies to perform batch data matches in order to assist CLEO's enforcement of SOR requirements. The SOR management system does not utilize adequate edit checks to identify inaccurate or inappropriate information entered by the CLEOs.
Weakness in State Laws	Revision to state law is necessary regarding the SAO's access to certain court records. Information requested from the Office of State Court Administrators to evaluate the completeness of the SOR was denied. In addition, state law does not require background checks for school volunteers.

Due to the nature of this report no rating is provided.

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NICOLE GALLOWAY, CPA
Missouri State Auditor

Honorable Michael L. Parson, Governor
and
Members of the General Assembly
and
Anne L. Precythe, Director
Department of Corrections
and
Julie Kempker, Chief State Supervisor
Division of Probation and Parole
and
Sandra K. Karsten, Director
Department of Public Safety
and
Lieutenant Colonel Eric T. Olson, Acting Superintendent
Missouri State Highway Patrol
Jefferson City, Missouri

We have audited certain operations of Missouri's sex offender registration (SOR) program. Due to the importance of public safety and the nature of the offenses committed, the state's SOR program is a significant issue for Missouri residents. The program was established under Sections 589.400 through 589.425, RSMo. Offenders who have committed sexual offenses and certain other offenses are required to register as sexual offenders with the chief law enforcement officer in their county of residence. The objectives of our audit were to:

1. Evaluate the effectiveness of law enforcement in enforcing sex offender registration requirements.

2. Evaluate the economy and efficiency of certain management practices and operations related to sex offender registration.

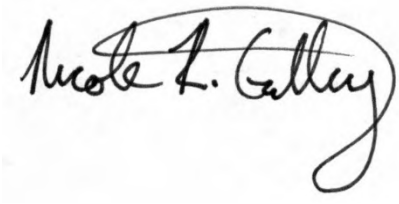
3. Evaluate compliance with certain legal provisions related to sex offender registration.

4. Compare Missouri's sex offender registration laws with those of other states.

Except as discussed in the following paragraph, we conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides such a basis.

Government Auditing Standards require us to obtain and report the views of responsible officials of the audited entity concerning the findings, conclusions, and recommendations included in the audit report. Since there is no central agency charged with oversight of the SOR program, we were unable to obtain views of responsible officials for the findings, conclusions, and recommendations outlined in findings 1 and 3 of the Management Advisory Report. The views of responsible law enforcement officials were obtained and included where appropriate.

The accompanying Management Advisory Report presents our findings arising from our audit of the state's sex offender registration program.



Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

Director of Audits:	Robert E. Showers, CPA, CGAP
Audit Manager:	Joshua Allen, CPA, CFE
In-Charge Auditor:	Steven J. Barton
Data Support:	Jeffrey Roberts, CISA
Audit Staff:	Scott Davis, M. Acct, CPA
	Joel Stuckey

Sex Offender Registration
Introduction

Background

The federal Violent Crime Control and Law Enforcement Act of 1994 established the sexual offender registration program. That act set forth minimum requirements states must meet regarding sexual offender registration or face the loss of some federal funding. Subsequently, the state of Missouri passed legislation in 1994 creating the Missouri Sex Offender Registry, which was implemented in January 1995. All convictions/pleas related to sexual offenses under Chapter 566 RSMo, dating from January 1, 1979, were offenses requiring registration.

The purpose of the sexual offender registration law is to require persons found guilty of sexual and certain other offenses to register their name, address, and other information with local law enforcement officials and to make a listing of those offenders available to the public. This information can then be utilized by citizens to monitor offenders and make informed decisions towards the protection of their families.

Sex offender registration in Missouri is primarily managed by the Criminal Justice Information Services Division of the Missouri State Highway Patrol (MSHP) at the state level and by the chief law enforcement officials (CLEOs) at the local level. The CLEOs represent county sheriffs and the St. Louis Metropolitan Police Department. These law enforcement agencies are assisted by the criminal court system, and the Department of Corrections (DOC) and its Division of Probation and Parole (DPP).

Sex offender registration provisions

Missouri's sex offender registration law requires all individuals who have been convicted of, pleaded guilty to, or conspired to commit crimes of a sexual nature along with certain non-sexual crimes, to register with the CLEO within the offender's county of residence every 6 months.[1] In addition, certain offenses such as those involving victims under the age of 18 require offenders to register every 90 days. Registration information obtained from offenders includes their name, Social Security Number (SSN), phone number, residence address, place of employment, vehicle information, any online identifiers, and crime specific information including the victim's age and gender. [2]

After initial registration, subsequent registrations with CLEOs consist of offenders verifying the accuracy of their reported information. If an offender changes his or her residence within the county of registration, the offender is required to notify the CLEO within 3 business days. If an offender changes their residence to another county, the offender is required to notify the CLEO of last registration and the CLEO of the new residence within 3 business days.

[1] Sections 589.400 to 589.425, RSMo. State statute references refer to state laws prior to the passage of Senate Bill (SB) 655 in 2018, unless otherwise noted. A summary of changes to sex offender registration requirements as a result of the bill is discussed on page 8.

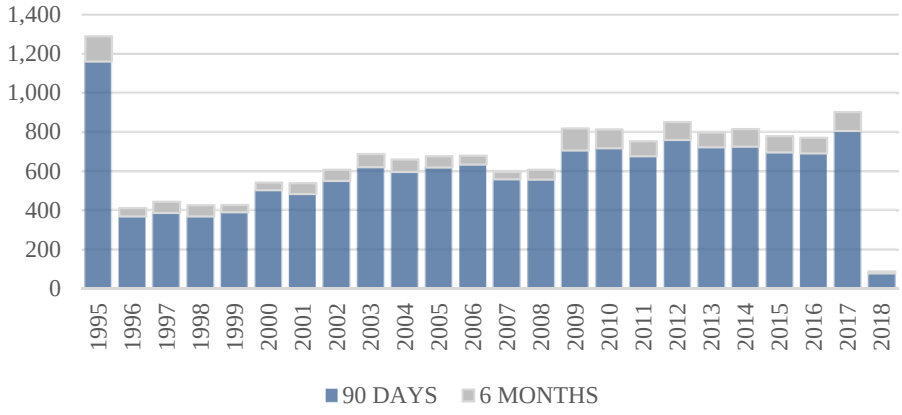
[2] Per Section 43.651.1(4), RSMo, online identifiers include email addresses, screen names, user identifications, cell phone numbers, and other similar identifiers.

The failure to meet all registration requirements is a felony offense and state law mandates that a third conviction of noncompliance with registration requirements is punishable by a minimum of 10 years imprisonment.[3]

The MSHP maintains a central database of sex offenders required to register and an Internet website available to the public. CLEOs are responsible for maintaining sex offender registry information for their jurisdictions, ensuring offenders register or verify their information at the appropriate intervals, and providing updated registration and offender status change information to the MSHP. When courts place sexual offenders on probation for offenses committed, they are notified of their responsibility to register at that time and/or by a DPP officer. The DOC is responsible for notifying all applicable offenders of their duty to register as sex offenders upon release from incarceration from a correctional facility.[4] When releasing an offender, the DOC is also responsible for completing the initial registration and notifying the MSHP and the CLEO of the county where the offender will be residing by forwarding the initial registration to the CLEO. If the offenders are under DPP supervision after release from prison, the supervising parole officers are responsible for ensuring they comply with the terms of their parole, including meeting the sex offender registration and verification requirements.

Figure 1 depicts the number of offenders actively registered as of February 14, 2018, by the offender's initial registration year, and their statutorily required registration interval of 6 months or 90 days. Approximately 90 percent of all registered offenders are required to register every 90 days.

Figure 1: Number of offenders registered per calendar year, by registration interval, 1995 to 2018

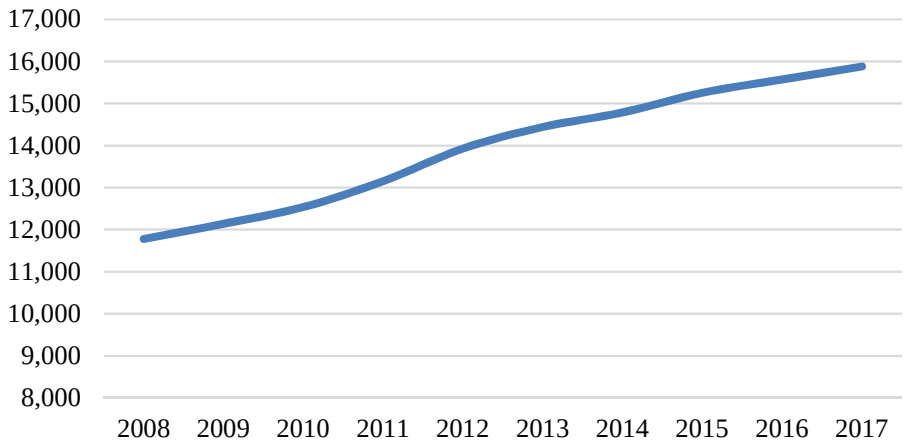


Source: MSHP's SOR database

[3] Section 589.425, RSMo.
[4] Section 589.403, RSMo.

Figure 2 depicts the number of registered sex offenders as of December 31 for the last 10 years according to statistics maintained by the MSHP. The number of registered offenders has increased from 11,779 as of December 31, 2008, to 15,882 as of December 31, 2017. This represents a total increase of 34.8 percent. The average annual growth rate has been 3.4 percent over this 10-year period and 2.7 percent for the most recent 5 year period. In addition to new Missouri convictions requiring registry, the total number of registered sex offenders is also impacted by sex offenders moving either into or out of the state.

Figure 2: Total offenders registered as of December 31, 2008 to 2017



Source: MSHP records

Prior audits

The State Auditor's Office (SAO) issued an audit report of this program and compliance with its requirements in 2002.[5] That audit reported, based on a review of records in certain counties, approximately 36 percent of sexual offenders in Missouri had failed to meet their most recent registration/verification requirement. There were about 8,000 known sexual offenders at that time. The audit recommended the General Assembly revise or establish various state laws to help improve the effectiveness of the sexual offender registration program. In addition, recommendations were made to the DOC and the MSHP for improving the registration program. We issued a follow-up audit of the program in 2010.[6] That audit reported significant improvement had been made, but additional improvements, such as the need to obtain compliance with the federal Sex Offender Registration and Notification Act (SORNA) and improvements to data matching capabilities, were necessary to help improve the effectiveness of the program.

[5] SAO, Report No. 2002-41, *Missouri Sexual Offender Registration Program*, issued in May 2002.

[6] SAO, Report No. 2010-094, *Missouri Sexual Offender Registration Program Follow-Up*, issued in August 2010.

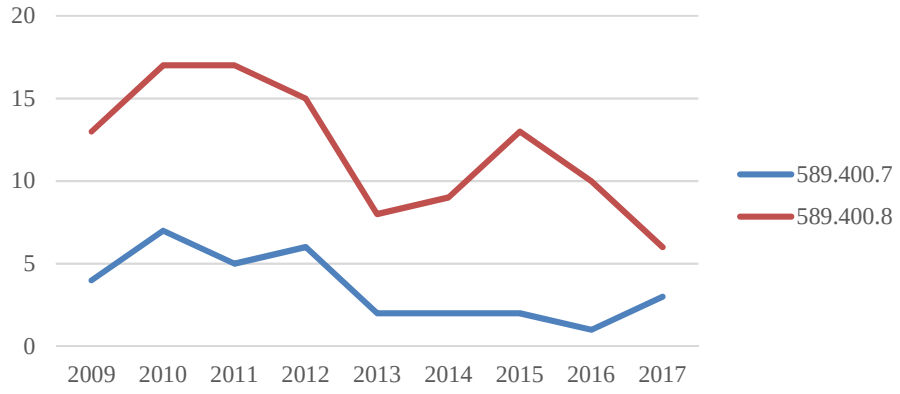
Comparison with other states

Missouri was one of 18 states that initially required lifetime registration for all sex offenders, regardless of the offense committed. The remaining 32 states have implemented laws that initially place a set number of years offenders are required to register depending on the severity of their crimes. Many of these states utilize a three-tiered approach that align with federal SORNA guidelines. These guidelines classify sex offenders into three tiers depending on the severity of the offense(s) committed and generally require minimum registration periods of 15 years for tier I offenders, 25 years for tier II offenders, and lifetime registration for tier III offenders.

Of the 18 states that initially required lifetime registration for all offenders, 16 states, including Missouri, provided a petition process allowing certain registered offenders to petition for removal from the registry. Prior to the passage of SB 655 in 2018, Missouri's petition requirements were highly restrictive and the number of petitioners that successfully petitioned to be removed from the registry was minimal. Section 589.400.7, RSMo, provided that offenders of certain crimes where no physical force or threat of physical force was used in the commission of the crime may petition for removal after 10 years. In addition, Section 589.400.8 RSMo, provided that offenders who were 19 years of age or younger and whose victims were 13 years or older and no physical force or threat of physical force was involved may petition for removal after 2 years.

Figure 3 illustrates the number of individuals removed from the registry through the petition process based on MSHP records. Missouri's legislation has undergone recent changes due to the passage of SB 655 and the number of petitioners is expected to significantly increase in the future.

Figure 3: Number of removals by petition, by statutory provision, by year, 2009 to 2017



Source: MSHP records

Court rulings

Since the establishment of Missouri's sex offender registration program in 1995, various legislation and court cases have impacted the program. Since our 2010 report, three significant court rulings have further clarified sex offender registration requirements. On April 26, 2011, the Missouri Western

District Court of Appeals heard a case regarding suspended imposition of sentences (SIS). Defendants argued their SIS did not constitute a "conviction," which triggers SORNA's registration requirements. The District Court ruled that an SIS does not exempt offenders from registration requirements.[7] On December 6, 2011, the Missouri Western District Court of Appeals determined, the requirement for sexual offenders to report a change in employment status does not violate the constitutional prohibition against retrospective laws.[8] On April 24, 2012, the Missouri Eastern District Court of Appeals, ruled that a sexual offender leaving a residence with no intent to return is considered a "change" in residence, regardless of having a new permanent residence.[9]

SORNA compliance

On July 26, 2011, the United States Department of Justice's (DOJ) Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) determined that Missouri had substantially implemented the provisions of the Sex Offender Registration and Notification Act (SORNA), Title I of the Adam Walsh Child Protection and Safety Act of 2006. The report determined Missouri exceeded SORNA's registration duration requirements of 15 years, 25 years, or the offender's lifetime depending on the offense committed due to Missouri requiring lifetime registration for all offenders.

Senate Bill 655

Senate Bill (SB) 655 was passed by the General Assembly and signed by the governor on July 13, 2018. The legislation became effective on August 28, 2018. SB 655 dramatically alters existing requirements regarding the registration of sexual offenders in Missouri. For example, the bill provides for a three-tiered system that more closely aligns with SORNA guidelines. The three tiers are based on the severity of the offense committed with Tier I sex offenders requiring a registration period of 15 years with the ability to petition the court for early removal after 10 years. Tier II offenders would require a registration period of 25 years, and Tier III offenders would continue to require lifetime registration. Tier III offenders adjudicated as a delinquent would be able to petition the court for removal from the registry after 25 years.

In addition, the bill also reduces the registration frequency for Tier I and Tier II offenders. Tier I offenders would be required to register with CLEOs annually while Tier II offenders would register every 6 months. The registration frequency for Tier III offenders remains unchanged from current requirements of every 90 days. The bill also removes registration requirements for some offenses that previously required registry as a sex offender.

[7] *Doe v. Replogle*, 344 S.W.3d 757 (Mo. App. W.D. 2011)

[8] *State v. Guyer*, 353 S.W.3d 458 (Mo. App. W.D. 2011)

[9] *State v. Kelly*, 367 S.W.3d 629 (Mo. App. E.D. 2012)

Scope and Methodology

The scope of our audit included, but was not limited to, the year ended December 31, 2017. Our methodology included obtaining the sex offender database maintained by the MSHP. Due to system limitations, the MSHP could not provide the complete database as of December 31, 2017; therefore, we obtained the database as of February 14, 2018. We then analyzed the data and performed tests to determine if certain elements were accurate and in accordance with statutory requirements. We also obtained subsequent registry data as of May 23, 2018 for analysis purposes. Data on the number of registered offenders, noncompliant offenders, and the percent of noncompliant offenders are included at Appendix A, and are depicted in map form at Appendix B, C, and D.

To gain an understanding of the legal requirements governing Missouri's sex offender registration program, we reviewed relevant state statutes. We then compared Missouri's sex offender registration requirements with those of other states by reviewing relevant websites and applicable statutes pertaining to sex offender registries in other states. To gain an understanding of Missouri's laws in comparison to SORNA guidelines, we reviewed documentation from the DOJ's most recent SORNA compliance review.

To gain an understanding of the MSHP's and the DOC's policies and procedures regarding sex offender registration, we met with applicable officials from those agencies and reviewed each agency's relevant written policies and procedures. We then performed tests to determine compliance with certain policies and procedures.

To gain an understanding of certain enforcement and prosecution issues, we discussed with officials from six CLEO offices and six prosecuting attorney offices[10] representing political subdivisions with both large and small sex offender registry populations. We also requested input from the Missouri Sheriff's Association regarding the issues noted in our report; however, the association declined to provide any responses.

To determine whether local law enforcement officials could use available wage information to pursue noncompliant offenders, we matched available state wage information for the first quarter of 2018 and the previous 3 quarters with noncompliant offender information from the MSHP database for all noncompliant offenders. Similarly, we also matched noncompliant offenders with driver license records maintained by the Department of Revenue.

We also obtained a listing of deaths recorded in the state for the period of 1995 to 2017 from the Missouri Department of Health and Senior Services

[10] We interviewed personnel in the offices of the Sheriff and Prosecuting Attorney from Butler, Cedar, Jackson, St. Francois, and Stoddard counties and the City of St. Louis, including the Prosecuting Attorney for Butler and Stoddard counties.

(DHSS). We matched these records to SOR database records to determine if any registered sex offenders were deceased.[11] Although we used computer-processed data from other state agencies for our audit work, we did not rely on the results of any processes performed by these agencies in arriving at our conclusions. Our conclusions were based on our review of the issues specific to the audit objectives.

The General Assembly and applicable law enforcement agencies have generally implemented the recommendations in the prior report and the state has implemented the federal SORNA requirements.

[11] Acknowledgement: The data used in this document/presentation was acquired from the Missouri DHSS. The contents of this document including data analysis, interpretation or conclusions are solely the responsibility of the authors and do not represent the official views of the DHSS. This acknowledgement is a requirement of the data sharing MOU between the SAO and DHSS.

1. Weaknesses Exist in the Enforcement of Registry Requirements

Chief Law Enforcement Officials (CLEOs) have not adequately pursued noncompliant offenders.[12] As a result, approximately 1,300 sex offenders, including approximately 800 of the most dangerous classification of sex offenders, are currently not in compliance with SOR reporting requirements and their locations are unknown. Arrest warrants have not been issued for the majority of these noncompliant sex offenders. In addition, CLEOs do not always require sex offenders to register in intervals required by state law and CLEOs do not always properly update the SOR registration system to identify absconding offenders. These issues have resulted in some sex offenders being incorrectly identified as compliant within the SOR management system and the MSHP's public website.

1.1 Inadequate enforcement of sex offender requirements

The enforcement of sex offender registration requirements by CLEOs is not adequate. According to the SOR database maintained by the MSHP, 1,259 (7.9 percent) registered sex offenders were noncompliant with SOR requirements as of February 14, 2018.[13] This rate is based on information recorded in the SOR management system and does not take into account noncompliant offenders who were determined by auditors to be improperly identified as compliant (see MAR finding number 2.1).

The noncompliance rate of 7.9 percent is higher than the 7.1 percent noncompliance rate reported in our 2010 audit report.[14] Our review determined many noncompliant sex offenders have been noncompliant for several years without adequate enforcement actions being taken by local law enforcement officials. Of the 1,259 sex offenders identified as noncompliant, 678 offenders (54 percent) have exceeded their scheduled registration dates by more than a year.

Noncompliant Tier III offenders

As noted in the background section, Senate Bill (SB) 655 dramatically revises the state law pertaining to the registration of sexual offenders. These changes include the use of three tiers to classify offenders based on the severity of the offenses committed. Tier III offenders have committed the most serious offenses such as rape, sodomy, child molestation, sexual trafficking, incest, and the use or promotion of a child in a sexual performance. Other offenses can also lead to a Tier III classification depending upon specific case information such as the age of the victim, whether the offense was of a sexual nature, or the length of the offender's imprisonment term. These offenses include sexual abuse, promoting prostitution, child molestation in third and

[12] This audit report uses the term "compliant" to refer to offenders who register with CLEOs at the intervals established by state law.
[13] The MSHP SOR database is updated daily. Most CLEOs enter updated sex offender information directly into the SOR database while others submit paper registration forms to be entered into the SOR database by the MSHP.
[14] SAO, Report No. 2010-94, *Missouri Sexual Offender Registration Program Follow-Up*, issued in August 2010.

fourth degrees, sexual misconduct, and child abuse of a sexual nature. Tier III offenders must register with CLEOs every 90 days for their lifetime.

Based on our analysis of noncompliant offenders in the SOR, at least 794 of the 1,259 noncompliant offenders (63 percent) met the criteria for Tier III classification (see Appendix E).[15] Of these 794 offenders, 568 (72 percent) had committed the offenses of rape, sodomy, and/or child molestation in the first or second degree.[16] Given the substantial number of noncompliant offenders who meet the SB 655 criteria for Tier III classification, the passage of SB 655 will not significantly reduce the obligation of CLEOs to pursue offenders who were identified as noncompliant with SOR requirements prior to the bill's implementation.

CLEOs are responsible for the enforcement of SOR requirements and enforcement actions are conducted at their discretion. According to law enforcement officials interviewed, if offenders do not register on their scheduled registration dates, CLEOs will typically try to follow up with the offenders to notify them of the need to register. Follow-up actions may include contacting an offender by telephone or letter and/or sending an officer to an offender's registered address in an attempt to locate him/her. After any follow-up actions are conducted, CLEOs may decide to forward evidence of noncompliance to county prosecutors for the consideration of filing criminal charges and obtaining arrest warrants from the court.

Arrest warrants not being issued

Approximately 91 percent of noncompliant sex offenders do not have warrants outstanding for their arrest due to noncompliance with registry requirements. We obtained a listing of outstanding warrants in April 2018 from the MSHP's Missouri Uniform Law Enforcement System (MULES) and noted that only approximately 9 percent of offenders identified as noncompliant as of the data extraction date had an active arrest warrant for noncompliance with registry requirements.[17]

According to law enforcement officials interviewed, various reasons can contribute to warrants not being obtained for noncompliant sex offenders. Such reasons can include the prioritization of other law enforcement concerns, jail overcrowding, prosecutorial discretion to not pursue charges, and concerns

[15] The number of estimated Tier III offenders is determined from offense and victim data within the SOR management system and the Tier III criteria established by SB 655. The figure presented is a minimum amount because classification for some offenders could not be determined without a review of case-specific details.

[16] Offender count includes the statutory rape and statutory sodomy offenses.

[17] MSHP officials indicated warrant data in MULES might not be complete because some warrants may not be correctly entered and/or updated timely by local law enforcement agencies. MULES data indicated 255 individuals with active warrants for failure to register regardless of whether the individuals could be matched with SOR records.

regarding the proper jurisdiction when offenders move to other counties without properly notifying law enforcement officials. We also inquired with the Missouri Sheriff's Association regarding factors that could influence the low totals of outstanding warrants for noncompliant sex offenders. However, the association declined to provide a response.

The failure to obtain arrest warrants prevents other law enforcement agencies from taking enforcement actions when interacting with noncompliant sex offenders. Data for how many of the noncompliant offenders were in contact with local law enforcement officers after being deemed noncompliant cannot be determined. However, we obtained MSHP issued traffic citation information and determined that during the 2016 and 2017 calendar years the MSHP issued 27 traffic tickets to noncompliant sex offenders who were listed as noncompliant with registry requirements and remained noncompliant with registration requirements through our data collection date of February 14, 2018. Of these 27 individuals, 11 were listed as absconders in the SOR database, indicating the CLEO had confirmed the individual no longer resided at his or her registered address. For 26 out of the 27 individuals, no arrest warrants were outstanding at the time the citations were issued by MSHP officers. For one offender, an arrest warrant had been recently issued and was outstanding; however, the local law enforcement agency had not entered it into MULES to inform the MSHP and other law enforcement agencies. If arrest warrants had been obtained by CLEOs and properly entered into MULES, these sex offenders could have been arrested and charged with noncompliance with registration requirements.

When CLEOs do not obtain arrest warrants for noncompliant sex offenders after appropriate follow-up actions have been taken, sex offenders who commit the felony offense of noncompliance with registry requirements are able to reside in locations unknown to law enforcement officials and the public, sometimes for several years, with little risk they will be apprehended and prosecuted for their noncompliance.

Absconder status

CLEOs do not adequately update the status of noncompliant offenders as absconders in the SOR management system. Of the 1,259 noncompliant offenders, only 239 (19 percent) are classified as absconders. However, many of these offenders have been listed as noncompliant for an extended period of time without their status being updated to absconder and/or an arrest warrant being obtained for their arrest. We noted that of the 1,020 noncompliant offenders not classified as an absconder, the average length of time indicated by local law enforcement officials since the offender's most recent registration date was 3.12 years and 202 offenders (20 percent) had not registered with a CLEO in more than 5 years.

In some cases, an offender may not report to the CLEO on the scheduled registration date but remain at his or her registered residence. In these

circumstances, the offender is considered noncompliant with registry requirements but not an absconder. In other cases, an offender may miss the scheduled registration date because the offender has changed residences without properly notifying the CLEO within 3 business days, as required by state law.[18] After confirming the location of the offender is unknown, CLEOs are to update the offender's status in the SOR management system to "absconder." This classification notifies other law enforcement officials and the public, through the MSHP's notification website, that the location of these offenders is unknown and the previously registered address cannot be relied upon. In accordance with SORNA guidelines, the MSHP also notifies the US Marshals Service when CLEOs identify an offender as an absconder in the SOR management system. Local law enforcement officials we spoke with indicated this delay in updating the absconder status was due to inadequate resources necessary to effectively verify whether noncompliant offenders remain at their registered addresses.

SORNA guidelines states that if information is received indicating a sex offender may have absconded, an effort to determine whether the sex offender actually absconded must be made. If follow-up actions indicate the offender has absconded or cannot be located, the registry is to be updated to reflect this status. In addition, a warrant must be sought for the sex offender's arrest, if the legal requirements for doing so are satisfied.

While all law enforcement officials must balance available resources with a wide variety of law enforcement obligations, local law enforcement officials should work to ensure SOR requirements are effectively enforced. If sex offenders laws are not effectively enforced, law enforcement is unable to track the location of registered sex offenders and citizens are not able to effectively use the sex offender registry when making decisions to protect themselves and their families.

1.2 Registration dates

CLEOs do not always schedule the next registration dates for sex offenders in accordance with state law. In addition, due to errors entered by CLEOs in the next registration date field, some sex offenders have avoided registration requirements while being identified as compliant within the SOR management system and the MSHP's public notification website.

Data entry errors

The next scheduled registration date for each offender is entered in the SOR management system by CLEOs during each offender's registration. While the MSHP reviews and accepts data submitted by CLEOs as part of maintaining the SOR management system, MSHP officials indicated their reviews of information submitted by CLEOs are limited to fields that are made public through the MSHP's sex offender website such as offender addresses, vehicle

[18] Section 589.414, RSMo.

information, and offenses committed by offenders and they do not review other database fields such as the offender's most recent registration date and the next scheduled registration date.

We reviewed the next scheduled registration dates and the most recent registration dates for offenders identified as compliant within the SOR management system and noted 266 offenders had a scheduled next registration date 30 days greater than the applicable 6 month or 90 day interval required by state law. We discussed this issue with local law enforcement agencies and no consensus as to why the next scheduled registration date would exceed the statutorily mandated intervals could be identified. Some officials indicated that law enforcement personnel at CLEOs might be aware of future local incarceration or hospitalization dates that would prompt officials to extend the registration dates of some offenders. We noted that for some offenders, either the most recent registration date or the next scheduled registration date were erroneously entered by local law enforcement officials. However, in other cases, an explanation regarding why the scheduled date exceeded the interval required by state law was not readily apparent.

The MSHP's normal procedures for maintaining the SOR management system include running a system process once per day that changes the compliance status of offenders from compliant to noncompliant if the CLEO has not reported their registration within 7 days of the offender's next registration date. However, this system process is only effective if the next scheduled registration dates are accurate and in accordance with statutory requirements. For instance, we noted 18 offenders whose next registration dates were in calendar years 2019 or later as of the data extraction date of February 14, 2018. Given that registration intervals are either every 6 months or 90 days, no offender should have had a next scheduled registration date in year 2019 or later. Table 1 identifies 3 of the 18 offenders with a 'next registration' date in 2019 or later.

Table 1: Sample of Offenders with 'Next Registration' Date of 2019 or Later

Example Number	Last Registration Date	Required Registration Interval	Next Scheduled Registration Date	Published Compliance Status	Actual Compliant Status	Days Noncompliant as of 2/14/18
1	07/01/2015	90 days	09/28/**2105**	Compliant	Noncompliant	869
2	06/23/2017	90 days	09/20/**2107**	Compliant	Noncompliant	146
3	11/10/2017	90 days	02/09/**2019**	Compliant	Noncompliant	6

For these examples, the CLEOs likely mistyped the year when entering the next scheduled registration field. These errors were not identified by the CLEO or the MSHP and resulted in the offender being improperly classified as compliant within the SOR management system and the MSHP's public notification website. For example 1, the offender was able to not register with the CLEO for approximately 2.5 years while still being classified as compliant

within the SOR management system and the MSHP's public notification website. For example 3, the offender had only been noncompliant for 6 days as of the data extraction date. However, the offender continued to be improperly listed as compliant on the MSHP's public notification website until April 2018 when we notified MSHP about the problem. For all three examples, we notified the MSHP of the errors once identified. The MSHP subsequently notified the corresponding CLEOs who corrected the dates and compliance statuses within the SOR management system.

As noted in the background section, state laws requires sex offenders to register with CLEOs every 6 months or 90 days depending on the offense committed. In order to ensure sex offenders are held accountable for registry obligations and offender compliance statuses with the SOR management system are accurate, CLEOs should ensure registration dates are in accordance with statutory requirements.

Recommendations

To the Chief Law Enforcement Officials of counties and the City of St. Louis:

1.1 Ensure follow-up actions are taken when noncompliant sex offenders violate registration requirements and properly update the SOR management system. In addition, when follow-up actions are not successful, pursue arrest warrants to help apprehend noncompliant offenders.

1.2 Ensure sex offenders are scheduled for registration dates in accordance with statutorily required intervals.

Auditee's Response

Due to no central state or local entity having oversight or management responsibilities over the Sex Offender Registration program on a statewide basis, no management response can be obtained.

2. Missouri State Highway Patrol Procedures

MSHP procedures for maintaining the SOR database and supporting CLEO's efforts to enforce SOR requirements need improvement.

2.1 MSHP database not updated timely

The MSHP does not always update the compliance status of offenders within the SOR management system in accordance with internal policies. The MSHP maintains the SOR management system and MSHP procedures indicate the system is to run a batch job once per day that updates the compliance status of an offender. This change of status is to occur if the offender has not registered within 7 days of the offender's next scheduled registration date entered by CLEOs.

After receiving the SOR database from the MSHP as of February 14, 2018, we determined the compliance statuses of offenders had not been updated in accordance with MSHP's internal policy. As a result, the database contained 342 individuals classified as compliant when they should have been listed as noncompliant. The database indicated no offenders marked as noncompliant had a registration due date after January 9, 2018. For these 342 individuals, the numbers of days each individual had been noncompliant ranged from 8 to 35 days. When these individuals are added to those already identified as noncompliant, the noncompliance rate was approximately 10 percent as of February 14, 2018.

Updating the compliance status of offenders daily in conformity with internal policy will help ensure the SOR database and public notification website accurately reflect the compliance status of offenders.

2.2 Data matches

The MSHP has not established agreements with other state agencies to perform batch data matches to assist CLEO's enforcement of SOR requirements. Such data matches would help CLEOs locate noncompliant offenders and identify deceased offenders.

State wage matches

Similar to the prior audit, the MSHP has access to perform single inquiry data matches with state wage records maintained by the Department of Labor and Industrial Relations (DLIR). These single inquiry matches are performed by MSHP personnel when requested by CLEOs; however, the MSHP's agreement with DLIR does not provide the capability to perform batch cross-matches against the entire SOR database or a list of noncompliant offenders within a particular county. As a result, such information is not readily available to the MSHP to assist CLEOs in the pursuit of noncompliant offenders.

To determine if registry cross-matches continue to be relevant to law enforcement in the pursuit of noncompliant offenders, we performed a batch cross-match between the 1,259 noncompliant/absconder offenders in the SOR management system and state wage data reported to the Department of Labor and Industrial Relations (DLIR) for the first quarter of 2018 and the last 3 quarters in 2017. The results of our data match indicated 350 of the 1,259 (27.8 percent) noncompliant offenders had earnings reported in Missouri during the 4 quarters reviewed.

Driver license matches

Similarly, the MSHP is able to perform single query data matches with driver license records maintained by the Department of Revenue (DOR) but the MSHP's agreement with DOR does not provide the capability to perform batch cross-matches. We performed a batch cross-match between the 1,259 noncompliant/absconder offenders as of February 14, 2018, and driver license records maintained by the DOR. Based on our cross-match, during the period of January 1, 2016, through February 14, 2018, approximately 200 noncompliant offenders received a new or renewed a Missouri driver license.

For the approximately 200 offenders identified, 46 (23 percent) were classified by CLEOs as absconders whose location was unknown. For those offenders, the average time period since they had last registered with a CLEO was approximately 5 years.

Both the issuance of a new driver license or the renewal of a driver's license requires proof of a Missouri residential address and such information is recorded by the DOR.

The use of batch cross-matches of both state wage information and driver license records would assist law enforcement in identifying the location of noncompliant sex offenders. MSHP personnel indicated that in order to keep data matching results accurate and compliant with privacy laws, the MSHP only obtains and distributes data matching results when specifically requested by CLEOs. However, it is unclear what privacy laws would be violated if batch data matches were proactively sent to CLEOs if proper confidentiality agreements were obtained.

Death matches

We also performed a cross-match between the SOR database and death records reported by the Department of Health and Senior Services (DHSS) in order to determine if some sex offenders were deceased.

We determined that 122 sex offenders, not identified as deceased in the SOR management system, matched with death records maintained by the DHSS.[19] This match was performed based on a match of SSNs between the two databases. For 26 of the 122 matches, we determined the names and date of births recorded between the two databases did not match, which suggests that either the SSNs had been inaccurately recorded on the death records maintained by DHSS and/or the SSNs provided by the offenders and entered by the CLEOs were inaccurate. A listing of the offenders identified was provided to the MSHP.

While the MSHP currently submits requests on an individual basis to verify the status of offenders identified by CLEOs as deceased, a match against the entire SOR database could assist CLEOs by identifying deceased offenders who no longer need to be tracked and improving the accuracy of the public database.

2.3 SOR management system edit checks

The SOR management system maintained by the MSHP does not utilize adequate edit checks to identify inaccurate or inappropriate information

[19] The data used in this document/presentation was acquired from the Missouri DHSS. The contents of this document including data analysis, interpretation or conclusions are solely the responsibility of the authors and do not represent the official views of the DHSS. This acknowledgement is a requirement of the data sharing MOU between the SAO and DHSS.

entered by the CLEOs. The lack of adequate edit checks contributed to the following errors within the SOR database:

- As identified in MAR finding number 1.2, the next required registry date entered by CLEOs can exceed intervals required by state law. For example, we identified one sex offender was able to avoid registration requirements for approximately 2.5 years while being incorrectly identified in the SOR database and the MSHP's public notification website as compliant. The CLEO mistakenly entered the offender's next registration date with the year "2105" rather than "2015". Other errors by CLEOs included the use of the following years when scheduling offenders' next registration dates: 2104, 2022, 2048, 2108, and 2107.

- The offender's most recent registration date is not always accurately entered by CLEOs. We reviewed the most recent registration date fields for 25 offenders identified as compliant in the SOR database but who appeared to be noncompliant based on the most recent registration date entered by CLEOs. Our review noted that 16 of the 25 (64 percent) registration dates reviewed were incorrect based on documentation provided by the MSHP. In some cases, the date was not updated or the CLEO entered a date using a year prior to the actual registration date. For example, a CLEO entered a registration date of February 7, 2017 when the actual registration date was February 7, 2018.

- Edit checks are not in place to prevent duplicate or invalid SSN sequences from being submitted by offenders and then entered by CLEOs into the SOR database. We noted two offenders were registered using the same SSN while six other offenders were registered with invalid SSN sequences, including two offenders registered with the invalid sequence of "999-99-9999."

In addition, prior to the current audit, MSHP officials identified deficiencies with the SOR management system's ability to accurately upload Missouri's SOR database to the National Sex Offender Registry File maintained by the FBI's National Crime Information Center. MSHP personnel correct inaccurately uploaded SOR data when such information is identified. MSHP personnel indicated the exact cause of the problem has not been identified but believe the age of the current system is a contributing factor. The MSHP requested and was provided additional funding in its fiscal year 2019 budget to replace the current system and is in the process of procuring a new system. To help ensure the integrity of the data within the SOR database, the MSHP should ensure the next SOR management system includes adequate edit checks for key fields within the database. This control is especially necessary considering the nature of the SOR system and due to the reliance on the high number of CLEO users inputting data into the system.

Recommendations

To the Highway Patrol:

2.1 Ensure the SOR database is updated in accordance with internal policy to accurately reflect the compliance status of sex offenders.

2.2 Obtain agreements with other state agencies that allow for batch data-matching to assist CLEOs pursue noncompliant offenders.

2.3 Ensure the new sex offender system includes adequate edit-checks to limit the input of incorrect and/or inappropriate data.

To the Chief Law Enforcement Officials of counties and the City of St. Louis:

2.2 Consider requesting periodic batch data-matching reports from the MSHP to assist with the enforcement of sex offender registry requirements.

Auditee's Response

The MSHP's written response is included at Appendix G.

3. Weaknesses in State Laws

Revision to state law is necessary regarding the SAO's access to certain court records. In addition, state law does not require background checks for school volunteers.

3.1 SAO access to court records

Information requested from the Office of State Courts Administrator to evaluate the completeness of the SOR was denied. The State Judicial Records Committee (SJRC) denied the SAO access to certain closed court records including records for cases disposed as a Suspended Imposition of Sentence (SIS) after the probationary period has been completed. As noted in the background section, Missouri courts have ruled that individuals who have committed crimes requiring sex offender registration and have received a SIS must still register as a sex offender.

In order to perform audit procedures to test whether individuals who committed crimes requiring registry actually registered, we requested case information for all individuals requiring registration as a sex offender from when the last circuit court went on the Judicial Information System in 2008 through December 31, 2017 (see Appendix F). The SJRC refused to provide closed court records regarding individuals who had committed offenses requiring registry as a sex offender, closed records for individuals who had committed the offense of noncompliance with SOR requirements, and identification information necessary to match individuals from court data with individuals in the SOR database. The SJRC provided no legal basis for the denial. See all correspondence with the SJRC at Appendix F.

Without information from the court regarding individuals committing offenses requiring registration as a sex offender, the completeness of the registry cannot be determined. A clarification in state law to clearly provide the SAO access to the information requested would allow the SAO to evaluate the completeness of the registry.

3.2 School volunteer background checks

State law does not require background checks for school volunteers. Section 168.133, RSMo, requires background checks for school employees, but does not require background checks for school volunteers. Department of Elementary and Secondary Education (DESE) officials indicated most school districts maintain policies requiring background checks for certain school volunteers based on sample policies developed by the Missouri School Board Association (MSBA).

The MSBA's sample policy regarding background checks recommends school districts perform a basic background check for school volunteers who will be left alone with students. The results from the basic background check through the MSHP's website would include results from the SOR database. The use of more thorough fingerprint background checks is left to the discretion of school superintendents. In addition, MSBA policy recommends that school sponsors, advisors, and coaches, who are not otherwise employed by a district, receive the same background checks as school employees. Sample policies from the MSBA are not required to be used and school districts may adopt either less or more stringent policies.

Within the last 5 years, other states such as Pennsylvania, Rhode Island, Nevada, and Oregon have passed legislation requiring schools to obtain background checks on certain school volunteers. Without a legal requirement, school officials may not conduct background checks for all school volunteers with contact with children and/or background checks that are performed may not include a check against the SOR database.

Recommendations

The General Assembly consider amending state law to:

3.1 Provide the SAO clear statutory authority to review court records.

3.2 Require school volunteers with access to students to receive backgrounds checks that include a check against the sex offender registry database.

Auditee's Response

Due to no central state or local entity having oversight or management responsibilities over the Sex Offender Registration program on a statewide basis, no management response can be obtained.

This data is from the sex offender registry as of May 23, 2018. See Appendices B, C, and D for depictions of it in map form.

County	Number of Offenders	Number Compliant	Number Noncompliant	Percent Noncompliant
Adair	65	64	1	1.5%
Andrew	35	35	0	0.0%
Atchison	13	12	1	7.7%
Audrain	93	93	0	0.0%
Barry	121	116	5	4.1%
Barton	35	32	3	8.6%
Bates	63	61	2	3.2%
Benton	72	69	3	4.2%
Bollinger	48	47	1	2.1%
Boone	325	317	8	2.5%
Buchanan	280	270	10	3.6%
Butler	215	172	43	20.0%
Caldwell	31	31	0	0.0%
Callaway	156	151	5	3.2%
Camden	129	127	2	1.6%
Cape Girardeau	182	170	12	6.6%
Carroll	35	33	2	5.7%
Carter	24	24	0	0.0%
Cass	167	144	23	13.8%
Cedar	51	45	6	11.8%
Chariton	17	16	1	5.9%
Christian	128	122	6	4.7%
Clark	17	16	1	5.9%
Clay	356	348	8	2.2%
Clinton	58	57	1	1.7%
Cole	141	140	1	0.7%
Cooper	51	47	4	7.8%
Crawford	96	91	5	5.2%
Dade	27	26	1	3.7%
Dallas	64	56	8	12.5%
Daviess	27	25	2	7.4%
DeKalb	25	25	0	0.0%
Dent	63	61	2	3.2%
Douglas	42	35	7	16.7%
Dunklin	137	120	17	12.4%
Franklin	282	272	10	3.5%
Gasconade	38	36	2	5.3%
Gentry	13	13	0	0.0%

Appendix A
Sex Offender Registration
Sex Offender Data by County

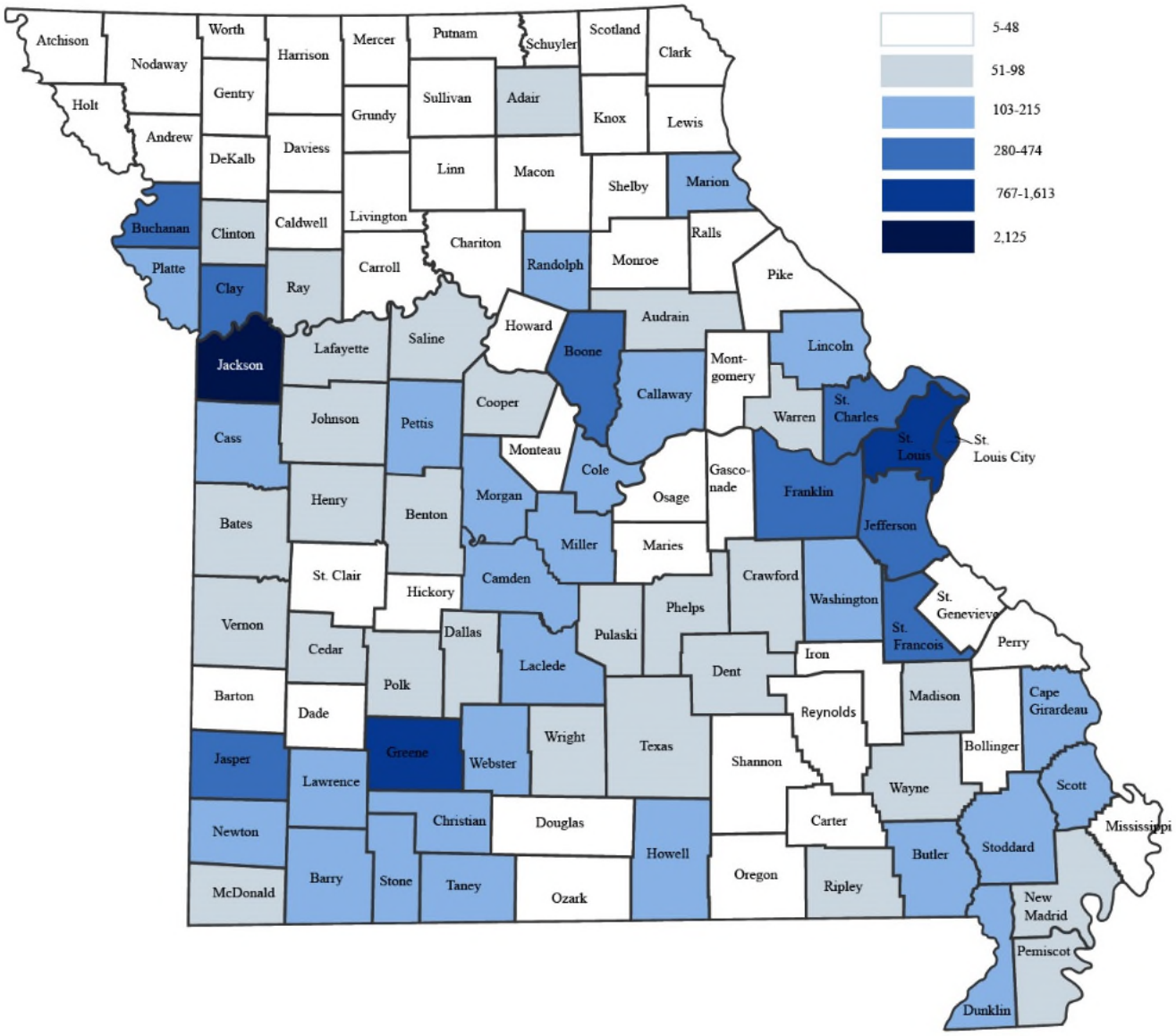
County	Number of Offenders	Number Compliant	Number Noncompliant	Percent Noncompliant
Greene	767	747	20	2.6%
Grundy	28	25	3	10.7%
Harrison	25	25	0	0.0%
Henry	82	71	11	13.4%
Hickory	40	40	0	0.0%
Holt	15	15	0	0.0%
Howard	37	34	3	8.1%
Howell	132	129	3	2.3%
Iron	38	38	0	0.0%
Jackson	2,125	1,686	439	20.7%
Jasper	291	285	6	2.1%
Jefferson	474	459	15	3.2%
Johnson	94	93	1	1.1%
Knox	15	15	0	0.0%
Laclede	173	170	3	1.7%
Lafayette	71	70	1	1.4%
Lawrence	119	105	14	11.8%
Lewis	30	28	2	6.7%
Lincoln	179	177	2	1.1%
Linn	37	36	1	2.7%
Livingston	34	34	0	0.0%
Macon	45	45	0	0.0%
Madison	57	55	2	3.5%
Maries	20	19	1	5.0%
Marion	114	110	4	3.5%
McDonald	83	80	3	3.6%
Mercer	13	12	1	7.7%
Miller	103	98	5	4.9%
Mississippi	47	41	6	12.8%
Moniteau	33	31	2	6.1%
Monroe	36	34	2	5.6%
Montgomery	39	36	3	7.7%
Morgan	126	124	2	1.6%
New Madrid	71	70	1	1.4%
Newton	177	176	1	0.6%
Nodaway	38	37	1	2.6%
Oregon	34	33	1	2.9%
Osage	26	24	2	7.7%
Ozark	22	21	1	4.5%
Pemiscot	95	82	13	13.7%
Perry	29	29	0	0.0%
Pettis	160	146	14	8.8%
Phelps	95	94	1	1.1%

Appendix A
Sex Offender Registration
Sex Offender Data by County

County	Number of Offenders	Number Compliant	Number Noncompliant	Percent Noncompliant
Pike	41	40	1	2.4%
Platte	120	108	12	10.0%
Polk	98	96	2	2.0%
Pulaski	96	95	1	1.0%
Putnam	15	14	1	6.7%
Ralls	28	27	1	3.6%
Randolph	129	125	4	3.1%
Ray	74	67	7	9.5%
Reynolds	21	20	1	4.8%
Ripley	51	49	2	3.9%
St. Charles	377	371	6	1.6%
St. Clair	32	31	1	3.1%
St. Francois	301	292	9	3.0%
St. Louis	1,613	1,596	17	1.1%
Ste. Genevieve	48	47	1	2.1%
Saline	94	94	0	0.0%
Schuyler	15	15	0	0.0%
Scotland	6	6	0	0.0%
Scott	151	139	12	7.9%
Shannon	26	24	2	7.7%
Shelby	27	25	2	7.4%
Stoddard	115	86	29	25.2%
Stone	105	102	3	2.9%
Sullivan	26	25	1	3.8%
Taney	172	164	8	4.7%
Texas	76	69	7	9.2%
Vernon	75	72	3	4.0%
Warren	85	83	2	2.4%
Washington	104	96	8	7.7%
Wayne	51	46	5	9.8%
Webster	119	103	16	13.4%
Worth	5	5	0	0.0%
Wright	70	68	2	2.9%
St. Louis City	1,265	1,021	244	19.3%
Totals	15,622	14,419	1,203	7.7%

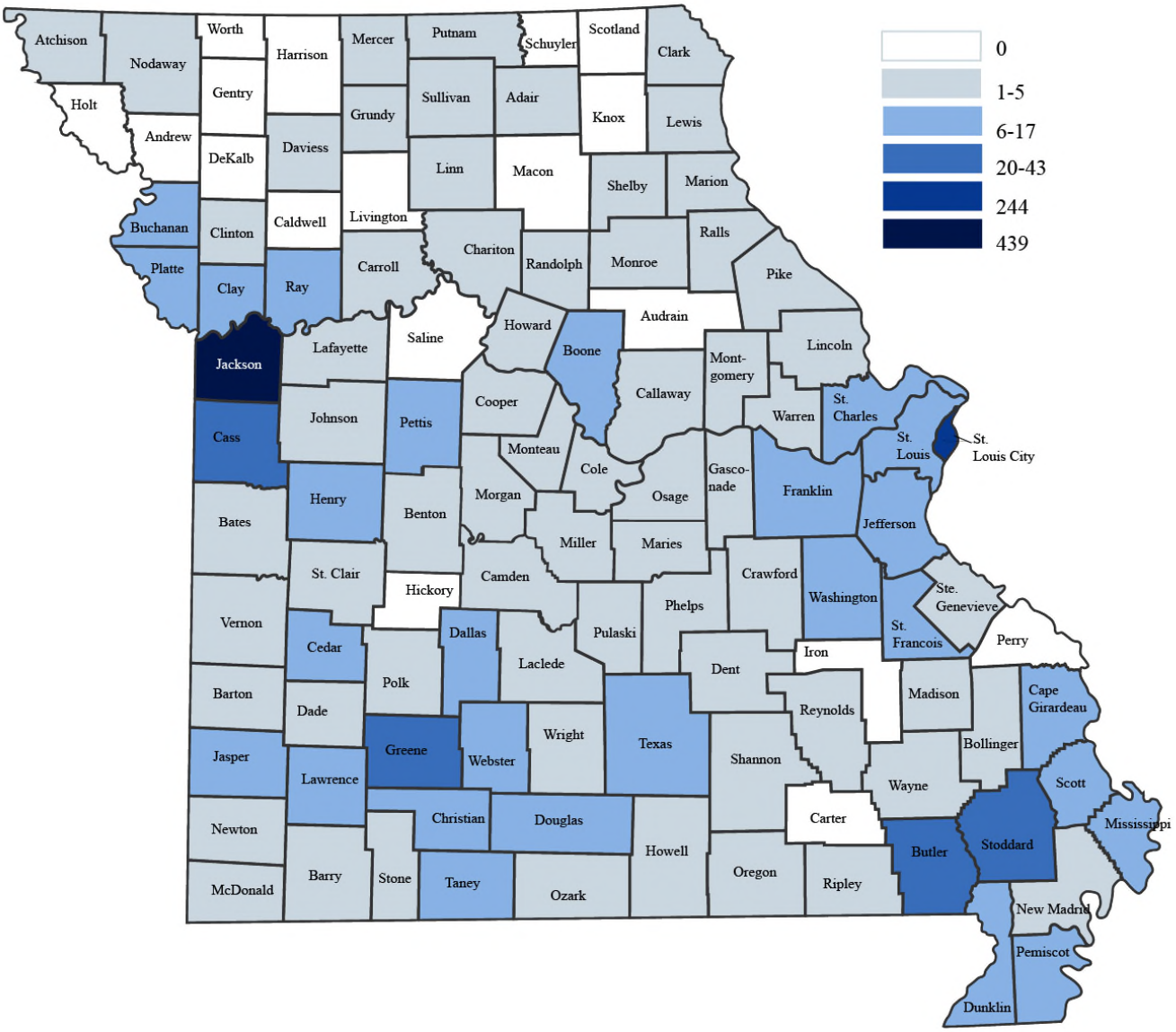
Appendix B
Sex Offender Registration
Map of Registered Offenders by County

The map depicts the total number of registered sex offenders for each county and St. Louis City, based on MSHP data as of May 23, 2018.



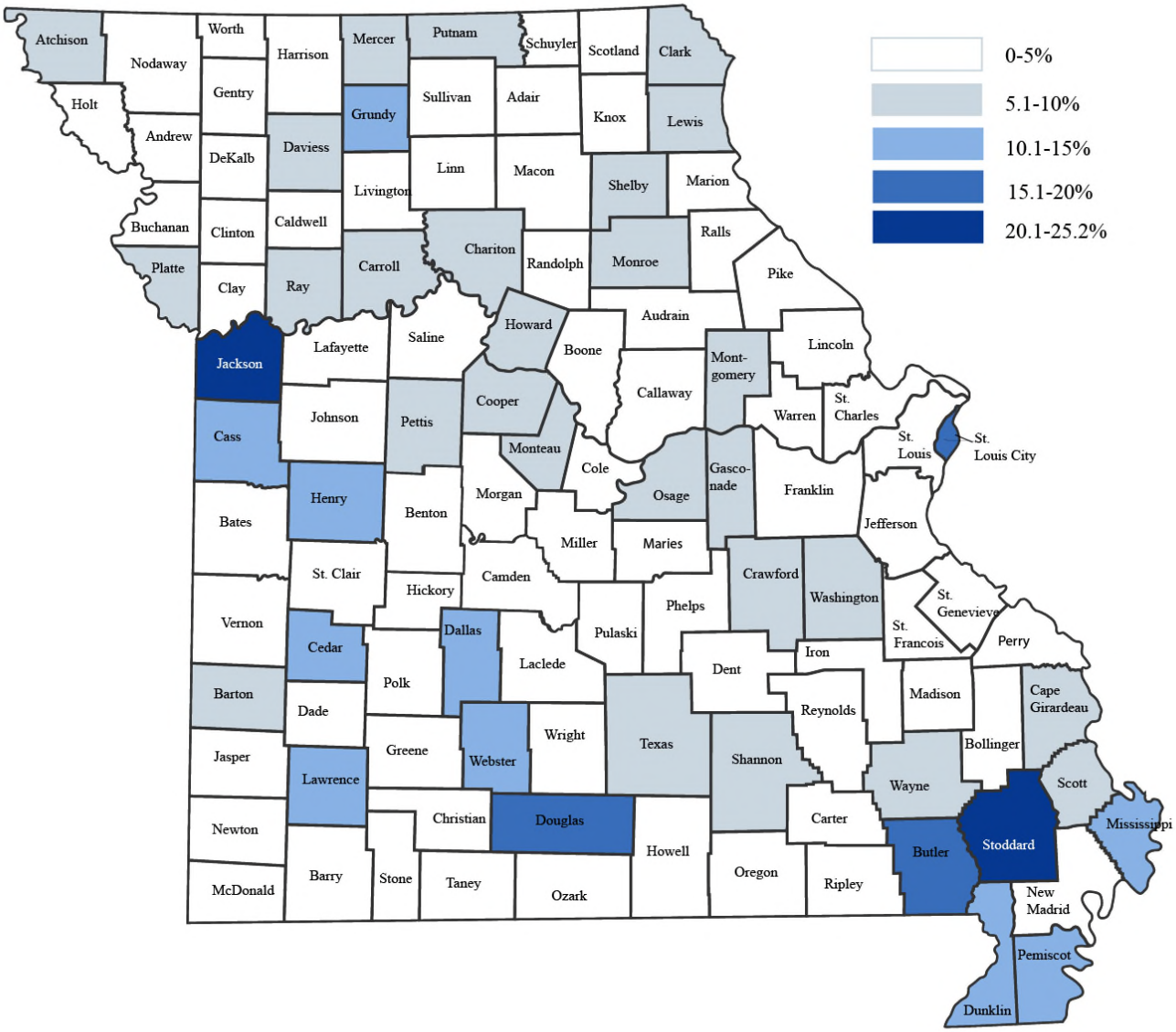
Appendix C
Sex Offender Registration
Map of Noncompliant Offenders by County

The map depicts the number of noncompliant sex offenders for each county and St. Louis City, based on MSHP data as of May 23, 2018.

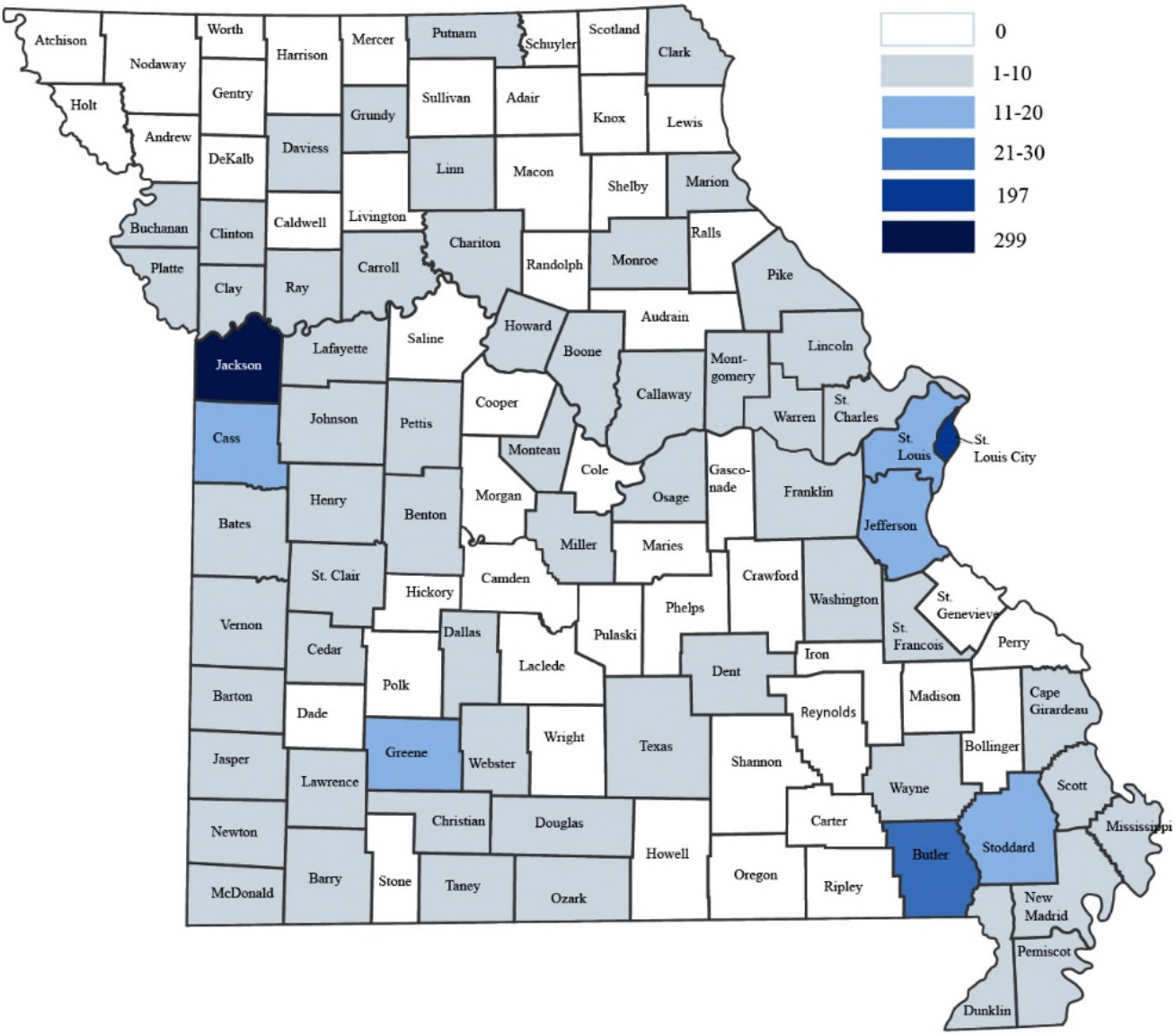


Appendix D
Sex Offender Registration
Map of Noncompliant Offenders as a Percentage of Registered Offenders by County

The map depicts the number of noncompliant offenders as a percentage of total registered sex offenders for each county and St. Louis City, based on MSHP data as of May 23, 2018.



The map depicts the number of estimated Tier III offenders per SB 655 identified as noncompliant based on MSHP data as of February 14, 2018.



State Judicial Records Committee

2112 INDUSTRIAL DRIVE
P. O. BOX 104480
JEFFERSON CITY, MISSOURI
65110

PHONE - (573)751-4377
FAX - (573)522-5961

May 7, 2018

Jeff Roberts
Information Systems Senior Auditor
Missouri State Auditor's Office
P.O. Box 869
Jefferson City, MO 65102

Sent via email to: Jeff Roberts <Jeff.Roberts@auditor.mo.gov>

Dear Mr. Roberts:

The auditor's request to the State Judicial Records Committee (SJRC) for data was considered by committee at their April 20, 2018 meeting. Specifically, the auditor's office has requested:

1. All charges (all years) filed for failure to register as a sex offender (currently under RSMo 589.425) as of December 31, 2017.
2. All convictions (all years and including SIS's) for failure to register as a sex offender as of December 31, 2017.
3. All convictions (including SIS's) during the 10 years ended December 31, 2017 for offenses requiring registration as a sex offender.
4. The auditors informed me they are also interested in providing OSCA a list of people (State ID number, name, and/or SSN) to obtain a report of current outstanding warrants for each person.

The committee approved the request for a report for cases that were charged or disposed for failure to register as a sex offender (see charge codes below) for the years FY2009 –FY2017, excluding cases given an SIS. The data elements approved are listed below.

Charge Codes for Failure to Register as a Sex Offender

589.425-001Y200836__	22361__	FAIL TO REGISTER AS A SEX OFFENDER PURSUANT TO SECTIONS 589.400 - 589.425 - 1ST OFFENSE	F / D
589.425-002Y200836__0	22366__0	FAIL TO REGISTER AS A SEX OFFENDER PURSUANT TO SECTIONS 589.400 - 589.425 UNDERLYING OFFENSE IS AN UNCLASSIFIED FELONY UNDER CHAPTER 566, A OR B FELONY OR FELONY INVOLVING A CHILD UNDER THE AGE OF 14 - 1ST OFFENSE	F / C
589.425-003Y200636__0	22370__0	FAIL TO REGISTER AS A SEX OFFENDER PURSUANT TO SECTIONS 589.400-425 - 2ND OFFENSE	F / D

MEMBERS OF THE COMMITTEE

JUDGE KENNETH R. GARRETT, III, CHAIR
JUDGE KARL DEMARCE
JUDGE JOHN LEPAGE
JUDGE W. DOUGLAS THOMSON
JUDGE JEFFREY BATES
JUDGE CAROL ENGLAND
JUDGE BEN LEWIS
JUDGE JOHN WARNER JR.
JUDGE PAULA P. BRYANT
JUDGE DANIEL KELLOGG
JUDGE KURT S. ODENWALD

Jeff Roberts
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589.425-004Y200636__0	22375__0	FAIL TO REGISTER AS A SEX OFFENDER PURSUANT TO SECTIONS 589.400-425 - UNDERLYING OFFENSE IS AN UNCLASSIFIED FELONY UNDER CHAPTER 566, A OR B FELONY OR FELONY INVOLVING A CHILD UNDER THE AGE OF 14 - 2ND OFFENSE	F / C
589.425-005Y200636__0	22380__0	FAIL TO REGISTER AS A SEX OFFENDER PURSUANT TO SECTIONS 589.400-425 - 3RD OFFENSE	F / UN
589.425-001Y201736__._		FAIL TO REGISTER AS A SEX OFFENDER PURSUANT TO 589.400-425	F / E
589.425-002Y201736__._		FAILURE TO REGISTER AS SEX OFFENDER - 589.400-425 UNDERLYING OFFENSE UNCLASSIFIED FELONY PER RSMO 566 - A/B FELONY OR FELONY INVOLVING CHILD <14	F / D
589.425-003Y201736__._		FAILURE TO REGISTER AS A SEX OFFENDER PURSUANT TO SEC 589.400-425 - 2ND OFFENSE	F / E
589.425-004Y201736__._		FAIL TO REGISTER AS SEX OFFENDER UNDER 589.400-425-UNDERLYING OFFENSE UNCLASSIFIED FELONY RSMO 566 - A/B FELONY OR FELONY INVOLVING CHILD <14 - 2ND OFFENSE	F / D

In addition, the committee approved the request for a report for offenses requiring registration as a sex offender (see charge codes listed on appendix A) for the years FY2009 –FY2017, excluding cases given an SIS. The data elements approved are listed below.

Approved Data Elements

- Case ID
- Name of defendant
- Charge code
- Offense description
- Circuit court identification
- Date of conviction (including SIS's)
- Date of filing of charges
- Type and Class of crime

The committee denied the request for a list outstanding warrants for a list of names that the auditor would submit. There is not an existing report or process in which to do the comparison that you have requested.

The Research Unit at the Office of State Courts Administrator will prepare the data that have been approved. Please contact Catherine Zacharias at 573-526-8857 if you have any further questions.

Sincerely,

Kenneth R. Garrett III

Kenneth R. Garrett, III
Chair, State Judicial Records Committee

KRG/cnz
Cc: Anne Janku

NICOLE GALLOWAY, CPA
Missouri State Auditor

May 24, 2017

Kathy S. Lloyd, State Courts Administrator
Office of State Courts Administrator
2112 Industrial Drive
P.O. Box 104480
Jefferson City, MO 65110

Dear Ms. Lloyd:

As we discussed, the State Auditor's Office (SAO) currently has four outstanding requests related to the audit of the state sex offender registry (SOR). Our requests are as follows:

First, all charges filed for failure to register as a sex offender (currently under RSMo 589.425) for the period beginning when the last judicial circuit went on JIS through the year ended December 31, 2017. This request is necessary to compare the number of charges for SOR noncompliance to the number of individuals listed as noncompliant in the SOR. Based on information available, there are a high number of offenders that are not compliant with SOR requirements, but are not being charged. Without this data the SAO has no way of verifying this information. Our understanding is that your agency has agreed to this request as long as the data requested does not cover any pre-JIS activity.

Second, all individuals found or plead guilty for failure to register as a sex offender for the period beginning when the last judicial circuit went on JIS through the year ended December 31, 2017. This request is an extension of the first, but will provide additional context on how many individuals actually have been convicted for noncompliance.

Third, all individuals found or pleaded guilty during the period beginning when the last judicial circuit went on JIS through the year ended December 31, 2017 for offenses requiring registration as a sex offender. The requirement to register is Sections 589.400 to 589.429, RSMo, includes those that have been "convicted of, been found guilty of, or pled guilty or nolo contendere." This request is to verify that all individuals who should be on the registry are actually on the registry. Because it is up to the local law enforcement agencies to populate the registry, the SAO has no assurance that all individuals who were convicted or pled guilty to crimes that should result in being put on the registry actually ended up there. We have not had this third request in the past because there was no way to obtain the information in a usable form. The 2002 SOR audit was pre-JIS; therefore, auditors at that time did not have a means of determining the completeness of the SOR, and the 2010 report was primarily a follow-up to the issues noted in the 2002 report.

P.O. Box 869 • Jefferson City, MO 65102 • (573) 751-4213 • FAX (573) 751-7984

Finally, the fourth request is a list of people with current outstanding warrants for SOR noncompliance. This request is also related to #1 and #2. The SAO will provide the information for individuals who are shown as noncompliant in the SOR to determine how many of them have warrants out for their arrest. According to discussions with Highway Patrol, OSCA may have knowledge of more outstanding warrants than what we identified by looking at the MULES system.

For all requests, it is important to have identifiers such as social security or state identification numbers. OSCA has indicated they will only send a limited number of data fields. The approved data elements are not adequate to properly match individuals identified by OSCA to the sex offender registry data provided by the MSHP. Name-only matches are insufficient to determine whether the list is complete because names are not placed in the systems consistently, unlike the identification numbers.

We believe that the SAO has the legal authority to obtain this information. The SAO is performing this audit under its constitutional and statutory authority as provided by the Missouri Constitution, Article IV, Section 13, and Chapter 29, RSMo. Under Section 29.130, RSMo, the state auditor shall have free access to all offices of this state for the inspection of such books, accounts and papers as concern any of her duties. Additionally, under Section 29.235, RSMo, the auditor's authorized agents are authorized to examine all books, accounts, records, reports, vouchers of any state agency or entity subject to audit, insofar as they are necessary to conduct an audit.

These statutes are specific to the auditor and her specific duties.[1] Because of these statutory and constitutional duties, the law only limits the SAO access in specific circumstances. For example, Section 105.955.17, RSMo, limits the SAO access to Ethics Commission documents related to documents pertaining to particular investigations. And Section 32.057.4, RSMo, limits the SAO on its use of tax data. In our review, no similar provisions exist as to the court records this office is requesting as a part of the sex offender registry audit.

Furthermore, under these statutory provisions and court operating rules, the State Auditor's Office is permitted access to more access than the general public. Under Court Operating Rule 2.05, "Dissemination of social security numbers and personal information appearing in court databases shall be restricted to court personnel and to those state or federal agencies to which the court has a statutory or constitutional duty to disclose." As such, the court operating rules allow OSCA to make available social security numbers and state identification numbers to the SAO.

With regard to the information obtained, the information remains confidential and cannot be discriminated outside of the Office of the State Auditor. Section 29.080, RSMo, makes it a

[1] The well-settled principle of statutory construction that a more specific statute controls over a general one should be noted here. *E.g., Dieser v. St. Anthony's Med. Ctr.*, 498 S.W.3d 419, 431 n.5 (Mo. banc 2016); *State ex rel. Taylor v. Russell*, 449 S.W.3d 380, 382 (Mo. banc 2014); *Turner v. Sch. Dist. of Clayton*, 318 S.W.3d 660, 668 (Mo. banc 2010). The State Auditor's authority is specific to her office and should control over general provisions related to other offices.

felony for any examiner to disclose information they obtain during an audit to anyone other than the State Auditor. Only the final audit report is an open record. As provided by Section 29.200.17, all audit workpapers and other related supportive material are confidential and the SAO is only permitting to release information in the final report.

Sincerely,

Robert E. Showers, CPA, CGAP
State Audit Director

BS/dd

State Judicial Records Committee

2112 INDUSTRIAL DRIVE
P. O. BOX 104480
JEFFERSON CITY, MISSOURI
65110

PHONE - (573)751-4377
FAX - (573)522-5961

August 3, 2018

Robert E. Showers, CPA, CGAP
State Audit Director
Missouri State Auditor's Office
P.O. Box 869
Jefferson City, MO 65102

Dear Mr. Showers:

The auditor's request to the State Judicial Records Committee (SJRC) to reconsider the committee's denial of release of confidential cases information was considered by committee at their July 27, 2018 meeting.

After careful consideration of your letter, the committee did not find the arguments persuasive. The decision to deny confidential cases still stands.

Please contact Catherine Zacharias at 573-526-8857 if you have any further questions.

Sincerely,

Kenneth R. Garrett III

Kenneth R. Garrett, III
Chair, State Judicial Records Committee

KRG/cnz
Cc: Rick McElfresh

MEMBERS OF THE COMMITTEE

JUDGE KENNETH R. GARRETT, III, CHAIR
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JUDGE W. DOUGLAS THOMSON
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JUDGE KURT S. ODENWALD

Department of Public Safety
MISSOURI STATE HIGHWAY PATROL
Lt. Colonel Eric T. Olson, Acting Superintendent

An Internationally Accredited Agency

Michael L. Parson
Governor

Sandra K. Karsten
Acting Director

September 5, 2018

Honorable Nicole R. Galloway
Missouri State Auditor
P.O. Box 869
Jefferson City, MO 65102

Dear Auditor Galloway:

The Patrol submits the following responses to the Sex Offender Registry (SOR) audit:

2.1 Ensure the SOR database is updated in accordance with internal policy to accurately reflect the compliance status of sex offenders.

Response:
2.1 The overall scope of this audit was focused mainly on the compliance of the registered offenders with the in-person registration requirements; more specifically, whether the offender reported to the Chief Law Enforcement Officer (CLEO) on the date scheduled to meet the statutorily required reporting timeframes. This is only one piece of the compliance requirements found in sections 589.400 to 589.425. An offender is technically non-compliant if a change occurs and the offender fails to report in-person within three days to the CLEO for any of the required reporting fields found in these statutory sections. Some of the examples that require this in-person reporting are change in residence, vehicles, employment, school, online identifiers, etc.

Current procedures provide for an automatic update of compliance status based on two separate registering provisions:

- For those offenders that are reported to the Missouri State Highway Patrol (MSHP) electronically, the automated process allows seven days past their regularly scheduled registration date before the compliance flag is switched to non-compliant to allow the CLEO to meet with the offender, review and submit the documents.

- For those offenders that are reported to the MSHP with manual reporting, the process allows thirty days past their regularly scheduled registration date before the compliance flag is switched to non-compliant to allow the CLEO to meet with the offender and review and submit the documents. Since it takes additional time for the MSHP to receive the records through the mail, the grace period is extended. This procedure prevents offenders from being labeled as non-compliant unfairly when they have met their statutory obligations. The Patrol realizes this process is not up-to-date in its procedure manual, but it is currently being updated.

GENERAL HEADQUARTERS
P.O. Box 568, Jefferson City, MO 65102-0568
Telephone: 573-751-3313 - FAX: 573-751-9419
Dedicated to Service and Protection
www.mshp.dps.missouri.gov - V/TDD: 573-751-3313

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The process of systematically updating the compliance status remains a high priority, as well as a requirement of any new software procurement. This recommendation falls in line with the Patrol's ongoing goal of consistency in maintaining accurate information.

2.2 Obtain agreements with other state agencies that allow for batch data-matching to assist CLEOs to pursue noncompliant offenders.

Response:
2.2 The MSHP has established agreements with DLIR, DOR, and DHSS to utilize their data in a safe and secure manner as provided by statute and applicable security policies. As the data from any of these sources is only accurate for the time it is obtained, the usefulness of the information passed on to the CLEO without it being requested quickly dwindles. The need to ensure the protection of an individual's personal identifying information is a primary focus of the Patrol. Creating and sending batch files without a specific need or request would be a concern, but the Patrol is able and willing to respond to any requests that are made.

The Patrol worked diligently on securing an agreement with DHSS to allow batch data matches against the death records file which was approved on June 22, 2018. This batch file process is only utilized internally by MSHP staff to see if death certificates exist for those offenders who have been reported as deceased. While this batch process provides a faster response for potential matches against the registry, the true comparison must be completed manually by MSHP personnel to ensure exact matches.

Batch data matches may appear to be a useful tool, but there are limitations to their usefulness in the criminal justice field. The MSHP provides information to the CLEOs, upon request, on non-compliant and/or absconder offenders from DLIR and DOR, along with several other sources. If a CLEO requests the information on one or all of their offenders, it is promptly provided.

2.3 Ensure the new sex offender system is capable of providing data edit checks to limit the input of incorrect and/or inappropriate data.

Response:
The audit report indicated a lack of "adequate edit checks" with the current SOR database. The current software system does have edits that will not allow an incorrect date format or a non-numeric social security number (SSN). It should be noted that current procedures require the CLEO and offender to review the registration information before submission to the MSHP. The registration requires an offender to verify the information by way of a signature (electronic or manual reporting). Missouri statute requires a timeline for submission to the MSHP, some of which is still a manual process by a number of CLEOs. Until the manual information is received and entered electronically by MSHP staff, no edits can be applied.

The MSHP will ensure the technical requirements included in the procurement process for the new SOR system have the highest level of edit checks possible for all entry fields based on currently available commercial off-the-shelf software. Specifically related to this recommendation:

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Honorable Nicole R. Galloway
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- The MSHP will request specific edits to ensure a properly formatted SSN on electronic submissions.

- The MSHP will require specific edits on the electronic submission of future registration dates. These edits will limit the entry of dates exceeding thirty days outside the statutory registration intervals.

The addition of these automated edits will help reduce but may never be able to identify all the "human error" entries, either by the registering offender or the CLEO. Therefore, an emphasis on the identified accuracy issues will be addressed in future training sessions for personnel responsible for registering offenders.

Sincerely,

Eric T. Olson

ERIC T. OLSON, Lieutenant Colonel
Acting Superintendent

Auditor's Comment

2.1 The MSHP's response states the discrepancies in compliance status are due to current procedures not being aligned with internal policy. However, our analysis of registry data shows the difference in policy does not account for all deviations identified.