

Title 12. Law Enforcement, Emergency Management, and Military Affairs

Chapter XII. Sex Offender Assessment Committee, Department of Corrections, Board of Corrections

Subchapter A. Generally

Part 80. Sex Offender Assessment Committee Guidelines and Procedures, Community Notification Assessment Process

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Historical Background

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

Arkansas Legislation

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

Current code section references for adult offenders and offenders adjudicated delinquent in another state who have moved to Arkansas are A.C.A. §§12-12-901 through 927. Assessment and registration requirements for juveniles adjudicated as a sex offenders in an Arkansas Juvenile Court are governed by A.C.A §9-27-356. The intent of these various Acts is to provide local law enforcement with information that allows them to conduct the appropriate level of community notification, which will allow the people of Arkansas a better opportunity to protect themselves from victimization by individuals who have previously engaged in criminal sexual behavior."

Subpart 1. Generally

12 CAR § 80-101. Sex Offender Assessment Committee.

(a)(1) Arkansas law at Arkansas Code § 12-12-921 establishes a nine-member Sex Offender Assessment Committee.

(2) Subject to confirmation by the Senate, the Governor appoints the following six (6) members:

- (A) A defense attorney;
- (B) A prosecuting attorney;
- (C) A licensed mental health professional;
- (D) A victim's rights advocate;
- (E) A law enforcement officer; and
- (F) A member with expertise in juvenile justice or treatment.

(b) Also serving on the committee are:

- (1) The Director of the Division of Correction, or the director's designee;
- (2) The Director of the Arkansas Crime Information Center (ACIC), or the director's designee; and
- (3) The Director of the Division of Community Correction, or the director's designee.

(c)(1) The committee is charged with promulgating guidelines and procedures for disclosure of relevant and necessary information to the public when the release of the information is necessary for the public's protection.

(2) The committee must also establish qualifications for examiners and qualify examiners to prepare reports in accordance with the assessment protocol.

(d)(1) The requirement to register as a sex offender is determined by the courts and/or local law enforcement.

(2) The committee does not participate in registration requirement determinations.

(e)(1) Adult assessments are completed by the Sex Offender Community Notification Assessment Program (SOCNA).

(2) SOCNA is a unit within the Division of Correction.

(3) Correspondence to the committee and to the staff for SOCNA is to be directed to:

(A) Post Office Box 6209, Pine Bluff, AR, 71611-6209, faxed to (870) 850-8446; or

(B) E-mailed to adc.socna@arkansas.gov.

(4) The office may be reached by phone at (870) 850-8429.

(f) The department, on behalf of the committee, contracts with a provider program to conduct community notification assessments of minors adjudicated delinquent and required to register as a sex offender in Arkansas, according to standards and procedures developed by that organization and approved by the committee.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-102. Arkansas Crime Information Center.

(a)(1) Maintenance of the Arkansas Sex Offender Registry and website and responsibility for tracking sex offenders in the community are vested in the Arkansas Crime Information Center.

(2)(A) Information is available through the internet,
<https://www.dps.arkansas.gov>.

(B) The internet links provide statistical information, as well as individual information, on offenders and Sexually Dangerous Persons as authorized by law.

(3) Correspondence is to be directed to the Arkansas Crime Information Center, 322 South Main St., Suite 615, Little Rock, AR, 72201.

(4) The phone number for the Arkansas Sex Offender Registry at the Arkansas Crime Information Center is (501) 682-2222.

(5) The fax number is (501) 683-5592.

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

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-103. Sex offender registration.

(a)(1) Arkansas Code § 12-12-905 requires that the following persons must

register:

(2) A person who:

(A) Is adjudicated guilty on or after August 1, 1997, of a sex offense, aggravated sex offense, or sexually violent offense;

(B) Is serving a sentence of incarceration, probation, parole, or other form of community supervision as a result of an adjudication of guilt on or after August 1, 1997, for a sex offense, aggravated sex offense, or sexually violent offense;

(C) Is acquitted on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense;

(D) Is serving a commitment as a result of an acquittal on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense; and

(E) Was required to be registered under the Habitual Child Sex Offender Registration Act, formerly Arkansas Code § 12-12-901 et seq., enacted by Acts 1987, No. 587, §§ 1 – 10 and Acts 1997, No. 989, § 23.

(b) Arkansas Code § 12-12-906 requires registration for sex offenders moving to Arkansas.

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

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

(B)(i) Any person living in this state who would be required to register as a sex offender in the jurisdiction in which he or she was adjudicated guilty or delinquent of a sex offense shall register as a sex offender in this state

whether living, working, or attending school or other training in Arkansas.

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

(c) Pursuant to Arkansas Code § 9-27-356, the juvenile division of the circuit court determines whether or not a juvenile adjudicated delinquent in Arkansas is required to register as a sex offender.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-104. Target offenses.

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

- (1) Kidnapping of a minor, except by a parent;
- (2) False imprisonment of a minor, except by a parent;
- (3) Criminal sexual conduct toward a minor;
- (4) Solicitation of a minor to engage in sexual conduct;
- (5) Use of a minor in a sexual performance;
- (6) Solicitation of a minor to practice prostitution;
- (7) Any conduct that by its nature is a sexual offense against a minor;
- (8) Any sexually violent offense regardless of the age of the victim, 18 U.S.C.

§§ 2241 and 2242;

(9) An attempt to commit any of the above offenses if the General Assembly chooses to make such an attempt a criminal offense requiring registration;

(10) Exceptions to the above may be made if:

- (A) The act is criminal based on the age of the victim; and
- (B) The perpetrator is eighteen (18) years of age or younger; and

(11) Any other offense that the General Assembly determines is a sexual

offense or violent offense against a child.

(b)(1) Additionally, the court may require registration of any offense for which there was a sexually motivated component.

(2)(A) If the court determines that there is a sexual component, registration may be required.

(B) For example, some stalking cases are not sexually motivated and others are.

(3) Adults convicted of any of the following offenses must register:

(A) Kidnapping of a minor, not by a parent, Arkansas Code § 5-11-102;

(B) False imprisonment of a minor in the first degree, not by a parent, Arkansas Code § 5-11-103;

(C) False imprisonment of a minor in the second degree, not by a parent, Arkansas Code § 5-11-104;

(D) Permanent detention or restraint of a minor, not by a parent, Arkansas Code § 5-11-106;

(E) Rape, Arkansas Code § 5-14-103;

(F) Sexual indecency with a child, Arkansas Code § 5-14-110;

(G) Indecent exposure, if a felony offense, Arkansas Code § 5-14-112;

(H) Exposing another person to HIV, when ordered by the court to register, Arkansas Code § 5-14-123;

(I) Sexual assault in the first degree, Arkansas Code § 5-14-124;

(J) Sexual assault in the second degree, Arkansas Code § 5-14-125;

(K) Sexual assault in the third degree, Arkansas Code § 5-14-126;

(L) Sexual assault in the fourth degree, Arkansas Code § 5-14-127;

(M) Video voyeurism, if a felony offense, Arkansas Code § 5-16-101;

(N) Voyeurism, if a felony offense, Arkansas Code § 5-16-102;

(O) Incest, Arkansas Code § 5-26-202;

(P) Permitting abuse of a minor, Arkansas Code § 5-27-221;

(Q) Engaging children in sexually explicit conduct for use in visual or print medium, Arkansas Code § 5-27-303;

(R) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, Arkansas Code § 5-27-304;

(S) Transportation of minors for prohibited sexual conduct, Arkansas Code § 5-27-305;

(T) Internet stalking of a child, Arkansas Code § 5-27-306;

(U) Employing or consenting to the use of a child in a sexual performance, Arkansas Code § 5-27-402;

(V) Producing, directing, or promoting a sexual performance, Arkansas Code § 5-27-403;

(W) Distributing, possessing, or viewing matter depicting sexually explicit conduct involving a child, Arkansas Code § 5-27-602;

(X) Computer child pornography, Arkansas Code § 5-27-603;

(Y) Computer exploitation of a child, Arkansas Code § 5-27-605;

(Z) Promoting prostitution in the first degree, Arkansas Code § 5-70-104;

(AA) Stalking when ordered by the court to register, Arkansas Code § 5-71-229; and

(BB) An attempt, solicitation, or conspiracy to commit any of the above offenses.

(c)(1) This list of target offenses is not exclusive.

(2) The registration requirement extends to the requirements of other state laws, tribal laws, military laws, and additional federal laws.

(3) Newly enacted sex offenses or current target offenses subsequently modified by legislation shall be considered target offenses unless otherwise specified by the General Assembly.

(4) The sentencing court has the authority to order the registration of any offender shown in court to have attempted to commit or to have committed a sex offense, even if the offense is not listed as a target offense.

(5) Any individual living in or moving into Arkansas, or entering Arkansas for employment, education, or training, who has been convicted of a target offense, or a differently titled, but equivalent offense by a federal court, tribal court, military court, or

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

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. 42 U.S.C. § 14071 was repealed by Pub. L. No. 109-248.

12 CAR § 80-105. Aggravated sex offenses.

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

(1) The following:

(A) Engaging or attempting to engage in sexual acts involving penetration with victims of any age through the:

(i) Use of force; or

(ii) Threat of serious violence;

(B) Causing or attempting to cause another person to engage in a sexual act either by:

(i) Using or threatening force against that other person; or

(ii) Placing that other person in fear that any person will be subjected

to:

(a) Death;

(b) Serious bodily injury; or

(c) Kidnapping;

(C) Engaging in sexual acts involving the penetration of victims below the age of twelve (12) by:

(i) Knowingly rendering another person unconscious; and

(ii) Then engaging in a sexual act with that other person; or

(D) Administering to another person by force or threat of force, or without

the knowledge or permission of that person, a drug, intoxicant, or similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct and engaging or attempting to engage in a sexual act with that other person;

(2) Crossing a state line with intent to engage or attempt to engage in a sexual act with a person who has not attained the age of twelve (12) years; or

(3) Knowingly engaging or attempting to engage in a sexual act:

(A) With another person who has not attained the age of twelve (12) years; or

(B) Under the circumstances in subdivisions (a)(1) and (2) of this section above with another person who:

(i) Has attained the age of twelve (12) years but has not attained the age of sixteen (16) years; and

(ii) Is at least four (4) years younger than the alleged offender.

(b)(1) Determination as to whether an offense qualifies as an aggravated sex offense may depend on the circumstances surrounding the offense.

(2) The court must indicate on the judgment and commitment or judgment and disposition form whether or not the offense is an aggravated sex offense.

(c) Should there be any confusion regarding whether a sex offense qualifies as an aggravated sex offense, the court will be contacted during the course of the assessment.

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

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-106. Registration of offenders.

(a)(1) A court in which an individual is either adjudicated guilty or acquitted on grounds of mental disease or defect of a sex offense, aggravated sex offense, or sexually violent offense, shall advise the individual that he or she is required to register as a sex offender.

(2) The registration form, the Arkansas Crime Information Center Acknowledgment form, and Sex Offender Community Notification Assessment Disclosure Form shall be:

(A) A part of the paperwork completed at the time of conviction; and

(B) Included with any other paperwork completed by the offender at that time.

(3)(A) The prosecutor is to provide these forms to the center with the packet of information completed by the sex offender.

(B) These forms are available at the Arkansas Crime Information Center website.

(b)(1) The law enforcement agency having jurisdiction will ensure that sex offenders moving into their jurisdiction, whether from within Arkansas or from an out-of-state jurisdiction, register with the Arkansas Sex Offender Registry.

(2) The law enforcement agency with jurisdiction shall:

(A) Complete the registration form and have the offender read and sign the Arkansas Crime Information Center Acknowledgement form; and

(B) Immediately fax those forms to the center or use CENSOR, the electronic system established by the center.

(3)(A) Law enforcement officials shall also fax these forms to SOCNA, (Fax: 870-850-8446) unless the information is entered into eSOMA, the electronic sex offender management system in use by SOCNA.

(B) This will alert SOCNA to the need to begin the assessment process and/or alert SOCNA to the fact that an offender has relocated.

(c)(1) The Division of Correction, the Division of Community Correction, the Department of Human Services, and the Arkansas State Hospital shall complete the registration form for any offender being released from confinement ten (10) days prior to release.

(2) The custodian shall also have the offender read and sign the Arkansas Crime Information Center Acknowledgement form.

(3) These forms shall be faxed to the center and SOCNA.

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

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "CENSOR" means Centralized Electronic Network of Sex Offender Registries.

"eSOMA" means Electronic Sex Offender Management of Arkansas.

"SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-107. Residency.

(a)(1) Residency is defined by Arkansas Code § 12-12-903(10) as the place where a person lives notwithstanding there may be an intent to move or return at some future date to another place.

(2) Residency also includes place of employment, training, or education.

(3)(A) An offender must register in each law enforcement jurisdiction where he or she:

- (i) Lives;
- (ii) Attends school; or
- (iii) Is employed.

(B) For example, a convicted sex offender who is a college student must register with:

- (i) Law enforcement (chief of police or sheriff) in the jurisdiction in which he or she lives;
- (ii) The campus police or safety office; and
- (iii) Possibly a third jurisdiction if working in a different city or county from where he or she resides.

(b) Residence shall include a motor home, vehicle, or boat when that is where the

individual resides.

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

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-108. Verification of residency.

(a)(1) Pursuant to Acts 2011, No. 64, Arkansas Code § 12-12-909, the Arkansas Crime Information Center was directed to provide an electronic format for the law enforcement community to use to register, update, and verify sex offenders in their jurisdiction.

(2) The system created by the center is called Centralized Electronic Network of Sex Offender Registries (CENSOR).

(3) The new legislation eliminated the need to mail certified letters to sex offenders informing them of their next verification date, which is indicated on the Arkansas Crime Information Center Acknowledgement form.

(4) This form shall be printed from CENSOR and given to the offender upon completion of the registration process.

(b)(1) To verify residency, Levels 1, 2, and 3 offenders must present themselves every six (6) months to the law enforcement agency having jurisdiction.

(2) Levels 1, 2, and 3 sex offenders must notify the center and law enforcement of any change of address ten (10) days prior to change.

(3) For an unexpected emergency change of address as in the case of a dwelling fire or natural disaster, changes must be reported within three (3) days, Arkansas Code § 12-12-906.

(c)(1) Sexually Dangerous Persons/Level 4 offenders must present themselves every three (3) months to the law enforcement agency having jurisdiction to verify residency.

(2) According to Arkansas Code § 12-12-923, Sexually Dangerous Persons

(Level 4), released from confinement after April 7, 2006, are subject to electronic monitoring for ten (10) years.

(d) Failure to register or maintain registration is a Class C felony, Arkansas Code § 12-12-904.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-109. Individualized community notification assessment.

(a)(1) SOCNA, under the auspices of the Sex Offender Assessment Committee, must conduct a community notification assessment on each adult sex offender required to register in Arkansas, unless:

(A) The offender was assessed by a law enforcement agency prior to the development of SOCNA; and

(B) That assessment information was entered into the Arkansas Crime Information Center database.

(2) Sex offender community notification assessments are conducted strictly for the purpose of determining the most appropriate level of community notification.

(b)(1) Effective August 16, 2013, pursuant to Acts 2013, No. 172, an offender, adjudicated delinquent in another state of an offense requiring registration in the other state, who lives in the State of Arkansas and has reached the age of eighteen (18), shall be assessed for community notification purposes by SOCNA.

(2) Offenders under the age of eighteen (18) shall be assessed by the committee contractor for juvenile assessments.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-110. Assessment process.

(a) Sex offender community notification assessments may include, but are not limited to, the following:

(1) A review of the sex offender's criminal history, with particular attention given to any offense that was sexual or violent in nature;

(2) An interview of the sex offender completed by SOCNA staff;

(3) A polygraph examination or a Computerized Voice Stress Analysis in cases in which SOCNA staff believe truth verification will help provide a more accurate assessment;

(4) A thorough review of any mental health or treatment records available to SOCNA staff at the time of assessment which may be relevant to the offender's risk to the community;

(5) Psychological testing when deemed necessary by SOCNA psychologists;

(6) Child maltreatment reports, incident reports, disciplinary charges from correctional facilities, and criminal offenses for which the offender was charged but not convicted;

(7) Other information that is relevant to the offender's offense history and/or pattern of behavior; and

(8) Completion of appropriate actuarial instruments designed to assess individuals convicted of sexual offenses.

(b)(1) The assigned community notification level is based on:

(A) A consideration of all of the relevant factors mentioned above; and

(B) Any other information obtained by SOCNA that impacts the community's need to be notified.

(2) All of that information is contained in the SOCNA assessment file.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-111. Referrals.

- (a) Sex offenders are referred to SOCNA for assessment in a number of ways.
- (b) Arkansas Crime Information Center should electronically alert SOCNA of each newly registered sex offender.
- (c)(1) Law enforcement should alert SOCNA of sex offenders living in their jurisdictions.
 - (2) They may notify SOCNA:
 - (A) Electronically;
 - (B) By phone;
 - (C) By fax; or
 - (D) By email.
- (d) A court or prosecutor can refer an offender for assessment and shall include copies of any relevant case files.
- (e) The Parole Board may refer an offender for assessment.
- (f) The Division of Community Correction may refer an offender for assessment.
- (g) An offender may call and alert SOCNA of the need for assessment upon conviction or upon moving, working, or attending school in Arkansas.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-112. Initial information gathering.

- (a) Pursuant to Arkansas Code § 12-12-917, prosecutors shall forward a copy of their file to SOCNA within thirty (30) days of conviction of an offense requiring registration of a sex offender.
- (b) Referrals from law enforcement, a court, and/or a prosecuting attorney should include the following information:
 - (1) Name of caller;

- (2) Date of call;
- (3) Agency of caller;
- (4) Address and phone number of caller;
- (5) Offender name;
- (6) Offender date of birth;
- (7) Offender Social Security number;
- (8) Offender address;
- (9) Offender phone number;
- (10) Sex offense conviction or convictions;
- (11) Date of sex offense conviction or convictions; and
- (12) Jurisdiction of sex offense conviction or convictions.

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

- (1) Arrest report/incident report;
- (2) Number and age of victims;
- (3) Victim statements;
- (4) Offender statements;
- (5) Injury to victim/force used;
- (6) Whether a weapon was used in the commission of the crime; and
- (7) Any medical information.

(d) **Arkansas Crime Information Center referral.** If the referral is received from the Arkansas Crime Information Center, SOCNA will begin the assessment process.

(e) **Division of Community Correction referral.** If the Division of Community Correction is the referring agency, it will forward any information it has pertaining to sex offense conviction or convictions involving the offender.

(f) **Parole Board referral.** If the Parole Board is the referring agency, the board will provide the name, Division of Correction number, and any relevant information about the offender's incarceration history.

(g) **Offender self-referral.** If the offender makes the initial referral, the following

information will be obtained and documented in eSOMA and the paper file:

- (1) Date of call;
- (2) Offender name;
- (3) Offender date of birth;
- (4) Offender Social Security number;
- (5) Offender address;
- (6) Offender phone number;
- (7) Sex offense conviction or convictions;
- (8) Date of sex offense conviction or convictions;
- (9) Jurisdiction of sex offense conviction or convictions; and
- (10) What the offender reports happened that led to his or her convictions.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "eSOMA" means Electronic Sex Offender Management of Arkansas.

"SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-113. General information gathering.

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

(b)(1) Desired information for a complete and accurate assessment is listed below.

(2) The list is not exhaustive, and the staff member is expected to use his or her best judgment as to what further information may be required to complete the assessment:

(A) Judgment and commitment or judgment and disposition order for each sex offense;

(B) Affidavit and warrant for arrest;

(C) Detailed description of sex offense or offenses;

- (D) Detailed description of nonsexual violent offense or offenses;
- (E) Current and complete Arkansas Crime Information Center and National Crime Information Center report or reports;
- (F) Drug and alcohol history and treatment information;
- (G) Community sex offender treatment information;
- (H) RSVP/SOFT treatment information and medical information regarding possible injuries to the victim or victims;
- (I) Relevant incarceration information;
- (J) Relevant probation/parole information; and
- (K) Felony information.

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

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "RSVP/SOFT" means Reduction of Sexual Victimization Program or Sex Offender Female Treatment.

12 CAR § 80-114. Interview.

(a)(1) Arkansas Code § 12-12-917(b)(4)(B) protects any admissions to SOCNA made by the offender during the assessment interview from use in a criminal proceeding.

(2) Therefore, the offender may not avoid answering any questions by claiming protection under the Fifth Amendment right to avoid self-incrimination.

(3) This protection does not relieve SOCNA staff of mandated reporting obligations.

(b)(1) Upon receipt of the necessary information, the record will be assigned to and reviewed by a SOCNA interviewer in preparation for an interview.

(2) The interviewer may gather additional information.

(c)(1)(A) Offenders residing in the community are required to travel to the SOCNA Offices at 2403 E. Harding Avenue in Pine Bluff, unless they are hospitalized or have a medical condition that would prevent them from traveling.

(B) In such cases, offenders must provide written documentation from a physician that the medical condition currently prevents them from traveling.

(2) In rare instances, if local law enforcement or a probation/parole officer is able to confirm the existence of a condition preventing an offender from traveling, SOCNA will work with that agency to ensure an assessment is conducted in the most appropriate setting.

(d)(1) Offenders will be given two (2) opportunities to appear for an interview.

(2)(A) The first notice will be sent first-class mail.

(B) If the offender fails to appear, a second notice will be mailed by first-class mail and by certified mail.

(3)(A) SOCNA will send the letter scheduling the interview to the address registered with Arkansas Crime Information Center, unless the offender, law enforcement agency with jurisdiction, or the Division of Community Correction provides SOCNA with a more recent address.

(B) Provision of a new address to SOCNA does not relieve the offender of the obligation to provide the current address directly to law enforcement.

(4) The offender shall have the burden of establishing evidence that he or she failed to receive both notices.

(e)(1)(A) Interviews will be recorded.

(B) Video recording will be used if possible.

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

(A) Number of sex offense convictions;

(B) Number of offenses that were sexual in nature, but pled to another offense;

(C) Number of violent convictions/incidents;

(D) Manner in which the offender gains access to victims;

(E) Number of victims;

- (F) Age and sex of victims;
- (G) Relationship of offender to victims;
- (H) How the offender gained compliance;
- (I) Whether the offender has caused physical injury to victim or victims;
- (J) Deviant sexual interests;
- (K) Any sadistic behavior/interest on the part of the offender; and
- (L) Any other information deemed necessary for the accurate completion

of actuarial instruments and/or to accurately assess the offender.

(f)(1) The SOCNA psychologist will determine whether enough information exists within the SOCNA file to find the offender fits the criteria of a Sexually Dangerous Person.

(2) A SOCNA psychologist may participate in or conduct a supplemental interview of any offender who may fit the criteria for a Sexually Dangerous Person.

(3) The psychologist will document his or her participation in the file, including any diagnoses made as a part of the assessment.

(g)(1) The salient aspects of the interview will be documented in a typed assessment report.

(2) The assessment report should include the official version of all known sex offenses and violent offenses, as well as the offender's version of these events.

(3)(A) The information listed above and any other relevant information used to determine a community notification level should also be included.

(B) However, not all information in the case file can be written into the profile report.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-115. Actuarial instruments.

(a) The interviewer will complete the actuarial instruments deemed appropriate in accordance with the scoring guidelines for each instrument.

(b) The actuarial instruments are:

(1) Only one (1) component of the assessment process; and

(2) Considered in conjunction with other relevant information to determine the appropriate level of community notification.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-116. Default assessment determination.

(a)(1) If an offender living in the community fails to appear for his or her first scheduled interview, he or she will be sent another letter scheduling a second interview.

(2) If the offender fails to appear for the second appointment, refuses to cooperate in the assessment process (where the offender's aggressive, threatening, or disruptive behavior prevents an assessment), or the offender voluntarily terminates the assessment after having been advised of the consequences, he or she will:

(A) Be assigned a default Level 3; or

(B) Have information reviewed for consideration of a Sexually Dangerous Persons status.

(3) If a SOCNA psychologist determines that there is adequate information available to indicate that the offender fits the criteria of a Sexually Dangerous Person, the offender will be referred to the Sex Offender Assessment Committee for consideration.

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

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SOCNA" means Sex Offender Community Notification

Assessment.

12 CAR § 80-117. Paperwork — DNA — Digital photographs.

(a)(1) While conducting the assessment, a SOCNA staff person will be assigned to:

(A) Monitor offenders;

(B) Complete the SOCNA Sex Offender Community Notification Disclosure Form and the Arkansas Crime Information Center Acknowledgement form; and

(C) Instruct them about basic assessment information.

(2)(A) If the offender refuses to sign the forms, the SOCNA staff person will attempt to obtain a witness to document the offender's refusal.

(B) Both witnesses will sign and date the form.

(b)(1) SOCNA will make attempts to ascertain whether or not an offender's DNA has been obtained prior to an interview at the SOCNA offices.

(2) If evidence does not exist that DNA has been gathered, SOCNA will obtain a DNA sample.

(c)(1) Whenever possible, a digital photograph will be taken of each offender during the assessment process.

(2) The offender will be identified at the time the photographs are taken.

(3) The photos will be transferred to the offender fact sheet.

(4) In the event that an offender is not photographed at the time of his or her interview, a photograph will be obtained from another source, such as the:

(A) eOMIS system;

(B) Local law enforcement;

(C) Division of Community Correction; or

(D) Arkansas Crime Information Center.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "DNA" means deoxyribonucleic acid.

"eOMIS" means Electric Offender Management Information System.

"SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-118. Truth verification techniques.

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

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

(c)(1) Offenders will be given one (1) opportunity to present themselves and submit to a truth verification examination.

(2) Failure to appear for the scheduled examination as part of the assessment process will result in the offender being:

(A) Assessed a default Level 3; or

(B) Referred to the Sex Offender Assessment Committee for a determination of Level 4 if appropriate.

(d)(1) Any behavior by the offender to influence the results of a truth verification examination will result in the offender being:

(A) Assessed as a Level 3; or

(B) Referred to the committee for a Level 4 consideration.

(2) The offender may be referred for prosecution for failing to cooperate with the assessment process, a Class C felony, see Arkansas Code § 12-12-904(a).

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-119. Sexually Dangerous Person (SDP).

(a)(1) Sexually Dangerous Person refers to a person who:

(A) Has been adjudicated guilty of a sex offense or acquitted on the grounds of mental disease or defect of a sex offense; and

(B) Suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sex offenses.

(2) The designation indicates that the highest and most visible means of community notification should be conducted on these offenders.

(3) Sexually Dangerous Person status should be considered for the following:

(A) Offenses involving multiple instances with multiple victims;

(B) The offender caused or threatened serious harm to the victim or victims;

(C) The offense or offenses involved bizarre, ritualistic, or sadistic behaviors;

(D) The offense or offenses involved attempts on the part of the offender to manipulate himself or herself into a position of power or authority over, or establish a relationship with, the victim for the primary purpose of:

(i) Violation;

(ii) Exploitation; or

(iii) Victimization; and/or

(E) Evidence of sexual deviancy or psychopathy exists.

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

(1)(A) Pursuant to Arkansas Code § 12-12-918, a prosecutor may allege SDP status and upon conviction, the court shall enter an order for an assessment by an examiner qualified by the Sex Offender Assessment Committee.

(B) SOCNA will prepare a report to be sent to the court with copies to the prosecuting attorney and the defense attorney.

(C) Upon receipt of a report, the court shall determine if SDP status is appropriate; or

(2)(A) Pursuant to Arkansas Code § 12-12-922, if during the course of a SOCNA assessment, grounds are found for believing that an individual may be an SDP,

that information will be presented to the committee by SOCNA.

(B) The committee will determine whether the offender meets the criteria for SDP by a majority vote.

(c)(1) Sex offenders moving into the State of Arkansas from other states will be considered Sexually Dangerous Persons, if that or an equivalent determination has been made by the sending state.

(2) If terminologies or criteria differ, SOCNA will request the offender's assessment file.

(3) SOCNA may make a determination based on that file or may require the offender to submit to assessment in Arkansas.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-120. Community notification levels.

(a) After completing the assessment process, each offender will be assigned one (1) of the following community notification levels.

(1) **Level 1.**

(A) Typically, offenders in this category have no prior history of sexual offending and the community can be protected:

- (i) With notification inside the home; and
- (ii) To local law enforcement authorities.

(B) Level 1 would not generally be appropriate with:

- (i) Prepubescent victim or victims;
- (ii) Predatory behavior;
- (iii) Sexual interest in children;
- (iv) A history of working with children or around children if the victim was a child; and

(v) Allegations of force or threats of physical harm were used in the offense.

(2) **Level 2.**

(A) Typically, offenders in this category have a history of sexual offending where notification inside the home is insufficient.

(B) Community notification requires notice to:

- (i) The offenders' known victim preference; and
- (ii) Those likely to come into contact with the offender.

(3) **Level 3.**

(A) Typically, offenders in this category have a history of repeat sexual offending, and/or strong antisocial, violent, or predatory personality characteristics.

(B) These are individuals whose offense and criminal history require notification throughout the community.

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

- (1) Classified as being a Level 3; or
- (2) Referred to the Sex Offender Assessment Committee for Sexually Dangerous Person status.

(c) **Level 4.**

- (1) Sexually Dangerous Person refers to a person who:
 - (A) Has been adjudicated guilty of a sex offense or acquitted on the grounds of mental disease or defect of a sex offense; and
 - (B) Suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sex offenses.

(2) The designation indicates that the highest and most visible means of community notification is required.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-121. Overrides and departures.

(a) The actuarial tools used during the assessment are only one (1) component of a community notification assessment.

(b) The other components of the assessment have been previously described in these guidelines.

(c) The following additional information will be used in connection with the results of actuarial tools and the other components of the assessment previously discussed.

(d) In instances where an actuarial instrument is used, the following are nonexclusive and non-binding descriptions of when an increase or decrease from the actuarial score may be appropriate in determining the notification level.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-122. Considerations for increased community notification.

(a)(1) If the offender has committed previous juvenile or adult sexual offenses, has multiple offenses, or has multiple victims, whether or not there are convictions, the community notification level may go beyond the recidivism risk suggested by the actuarial instruments.

(2) This may extend to:

(A) Known or self-admitted molestations;

(B) Offenses that were reported and reliably investigated even if not prosecuted; and

(C) Offenses primarily sexual in nature but pled down to non-sexual offenses.

(b) If statements made by the offender during the interview, or relevant historical data suggest there are psychological abnormalities that may predispose the offender to sexual offending, a physical condition, addiction, or other psychological impairment that decreases his or her ability to control sexual impulses, or increases his or her potential for sexual violence, or other data that suggest higher risk than the actuarial model predicts, the community notification level should go beyond the recidivism risk suggested by the actuarial instruments.

(c) If the offense involved extreme physical injury, death, or other heinous actions, the offender should be assigned no lower than a Level 3.

(d) If the offender has provided information on record or during the interview that he or she is likely to commit subsequent sex offenses, the offender may be:

(1) Assigned Level 3; or

(2) Referred to the Sex Offender Assessment Committee for a determination of Level 4, if appropriate.

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

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-123. Considerations for decreased notification.

(a) If after treatment (behavioral, anti-androgen, or other), the offender is able to show evidence that the treatment has significantly enhanced the offender's impulse control ability and decreased the predisposition to re-offend, the community notification level assigned may be lower than the recidivism risk suggested by the actuarial instruments, unless the offender has been classified at Level 4, Sexually Dangerous Person.

(b) If there is evidence to show that the offense was a temporary aberration unlikely to recur, or the nature and pattern of the offense is such that it poses less of a

risk to the community at large, the community notification level assigned may be lower than the recidivism risk suggested by the actuarial instruments.

(c) If the offender's current risk assessment data is at such variance with aspects of the official record (e.g., the alleged victim recanted, or the spouse or other witness admitted that the allegations were fabricated out of spite), the community notification level assigned may be lower than the recidivism risk suggested by the actuarial instruments.

(d) If the official documentation of the sex offense indicates that it was a statutory offense, without evidence of violence, coercion, or a deviant attraction, and if there is not a pattern of illegal sexual behavior, the community notification level assigned may be lower than the recidivism risk suggested by the actuarial instruments.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-124. Sex offender assessment report.

(a) A sex offender assessment report may be written:

(1) Summarizing the important aspects of each record completed, indicating the level of community notification level assigned the offender; and

(2) Providing recommendations for purposes of notification and monitoring.

(b) The report may include:

(1) Identifying demographic information;

(2) Sexual offense conviction and date;

(3) Brief synopsis (overview) of the sex crime;

(4) Prior (other) criminal convictions of a violent or sexual nature for which SOCNA has a judgment;

(5) Interview synopsis;

(6) A history of learning or intellectual problems;

(7) A history of mental illness or mental health treatment;

(8) Additional factors affecting community notification level;

(9) The assessed community notification level;

- (10) High risk behaviors impacting supervision; and
- (11) Signature line.
- (c) A disclaimer should be placed at the end of the report:
 - (1) Identifying those individuals who have access to this information; and
 - (2) Requiring them to delete any identifying victim information if given to anyone other than law enforcement.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-125. Offender fact sheet.

- (a) The offender fact sheet will include the following information.
- (b) Pursuant to Arkansas Code § 12-12-917(f)(4)(B), the offender fact sheet will include the following information, as applicable:
 - (1) Registration information as required in Arkansas Code § 12-12-908;
 - (2) Risk level;
 - (3) Date of deoxyribonucleic acid (DNA) sample;
 - (4) Psychological factors likely to affect sexual control;
 - (4) Victim age and gender preference;
 - (5) Treatment history and recommendations; and
 - (6) Other relevant information deemed necessary by the Sex Offender Assessment Committee or by professional staff performing sex offender assessments including, as available:
 - (A) A recent photo of the offender/date of photo, if known;
 - (B) Offender name;
 - (C) Known aliases;
 - (D) Social Security number;
 - (E) Automated fingerprint ID class/code;
 - (F) System identification number;
 - (G) CSN#;
 - (H) Division of Correction number;

- (I) Driver's license number;
- (J) Date of birth;
- (K) Height;
- (L) Weight;
- (M) Race;
- (N) Identifying marks or scars;
- (O) Hair color;
- (P) Eye color;
- (Q) Community notification level;
- (R) Date of DNA sample;
- (S) Anticipated legal address/date last verified;
- (T) Temporary address, if applicable;
- (U) Probation/parole office;
- (V) Place of employment;
- (W) Brief description of crime;
- (X) Criminal history/sexual violence;
- (Y) Victim preference; and
- (Z) Treatment history.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "CSN#" means Central System Number.

"ID" means identification.

12 CAR § 80-126. Notification of community notification assessment level to the offender.

(a) The offender will be notified by both certified mail and first-class mail of the assessed community notification level and the rights and procedures for administrative review.

(b) The notification will include a copy of the assessment report and the offender fact sheet.

(c) The notification will be mailed to the address provided to the Arkansas Crime Information Center for purposes of registration, unless there is a valid reason to deviate from this policy, i.e., the offender has just updated his or her address, but the address has not been updated on the center registry.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-127. Administrative review.

(a)(1) The offender's request for an administrative review must be made, in writing, within fifteen (15) days of receipt of the advisement of the assessment level notification sent to the offender by certified mail and first-class mail.

(2) Receipt of the advisement of the risk level notification will be presumed within five (5) days of postmark.

(3)(A) The offender is responsible for delivery of the request for administrative review to SOCNA.

(B) The offender should send a written request for administrative review to P.O. Box 6209, Pine Bluff, AR, 71611-6209.

(b)(1) The offender must clearly state and support, with documentary evidence attached to the request, his or her basis for the administrative review.

(2) The following shall be considered as a basis for administrative review:

(A) The rules and procedures of the SOCNA were not properly followed in reaching a decision of the community notification level of the sex offender;

(B) Documents or information not available at the time of assessment have a bearing on the risk that the sex offender poses to the community; or

(C) The assessment is not supported by substantial evidence.

(c)(1) The administrative review is a review of the record only and is conducted by a member of the Sex Offender Assessment Committee.

(2) The offender has no right to a hearing in which he or she will appear

and/or call witnesses.

(d)(1) Upon receipt of a request for an administrative review, SOCNA will forward the request and the record to the reviewing official.

(2) The reviewing official will review the record and determine whether to:

(A) Uphold the assessment; or

(B) Submit the review to the committee for modification consideration.

(3) A majority vote of the committee will be required to modify the notification level based upon the administrative review.

(4) If an administrative review cannot be completed within thirty (30) days of receipt of the request for administrative review, the reviewing official shall notify the offender of the delay by regular mail.

(e)(1) Upon completion of the administrative review, the results will be documented and forwarded to the offender by certified mail.

(2) For those incarcerated, service shall be as provided in the Arkansas Rules of Civil Procedure or by personal delivery to the offender.

(3) Community notification at the risk level assigned in the administrative review will commence five (5) days after the postmark of the administrative review decision to the offender.

(f)(1) During the administrative review, the local law enforcement agency having jurisdiction may make community notification at the initial level of assessment, Arkansas Code § 12-12-922(b)(5).

(2) SOCNA will notify law enforcement of the conclusion and results of the administrative review and community notification will be adjusted pursuant to any change in the level assigned.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-128. Judicial review.

(a) Upon receipt of the findings of the administrative review, the offender has thirty (30) days to file a petition under the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., in Pulaski County Circuit Court or in the circuit court of the county in which the offender resides, requesting judicial review of the community notification level.

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

(c)(1) Community notification will continue at the level determined by the administrative review during the pendency of a judicial review.

(2) The community notification level will be adjusted pursuant to any change ordered by the court as a result of the judicial review process.

(d) When notice of a judicial review is received, SOCNA will fax copies of the notice to the:

- (1) Office of the Attorney General; and
- (2) Division of Correction's Compliance Office.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-129. Preparing the record.

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

- (1) Copy information contained in the record;
- (2) Remove duplicates, unless the duplicates have notes written on them or contain information not on the original document;
- (3) Retain any duplicate documents in a manila folder marked "duplicates" in

the original file;

- (4) Bind copies in a four-part folder;
- (5) Certify each copy as true and correct; and
- (6) Provide one (1) copy of the file to the Office of the Attorney General.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-130. Notification.

(a)(1) If a request for administrative review is not received within twenty (20) days of the postmark of the advisement of the community notification level, the notification process will proceed.

(2) A copy of the sex offender assessment and offender fact sheet will be mailed to the:

- (A) Local police department;
- (B) Local sheriff's department;
- (C) Prosecuting attorney;
- (D) Division of Community Correction;
- (E) Arkansas Crime Information Center; and
- (F) Parole Board.

(b)(1) The law enforcement officer having jurisdiction over an offender shall review the:

- (A) Notification guidelines and procedures; and
- (B) Offender fact sheet.

(2) Prior to notification, the law enforcement agency should confirm the offender's location.

(3) Any discrepancies on the offender fact sheet should be immediately brought to the attention of the SOCNA by:

- (A) Phone (870) 850-8429; or
- (B) Fax (870) 850-8446.

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

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-131. Notification guidelines.

(a)(1) The notification guidelines indicate which segments of the community must be notified.

(2) Notification given to any individual or agency does not authorize that individual or agency to disseminate information beyond those residing with the individual, or beyond those who have a need to know within the agency.

(b)(1) The higher the community notification level assigned, the broader the notification that must be given.

(2) These notification guidelines apply to adult offenders.

(3) It is the responsibility of the chief law enforcement officer to interpret these guidelines and prepare a notification plan.

(4) Should circumstances change that may increase the offender's threat to the community, it is the responsibility of the chief law enforcement officer to modify the existing notification plan or request a reassessment.

(c)(1) Discretion must be used in applying the guidelines to any offender.

(2) The harm that may be caused by a particular notification must be weighed against the protection that would be afforded the public.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-132. Level 1 – Low community notification.

(a)(1) The law enforcement agency having jurisdiction, and other law enforcement agencies likely to encounter the offender.

(2) This may include state and federal law enforcement agencies, campus police, school safety officers, and the like.

(b)(1) All adult members of the household where the offender is residing or intends to reside, unless the offender is residing or intends to reside in a residential treatment facility, group home, foster home, halfway house, or other supervised living arrangement, in which case only the residence supervisor or foster parent should be notified.

(c)(1) Victims or guardians of victims of adult offenders are notified through the VINE system operated by the Division of Correction.

(2) Victims or guardians of victims of juvenile offenders should be notified by law enforcement.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "VINE" means Victim Information and Notification Everyday.

12 CAR § 80-133. Level 2 – Moderate community notification.

(a) All parties specified in Level 1 must be notified.

(b)(1) The heads of agencies and organizations that serve individuals in the offender's target group must be notified.

(2) This may include, but is not limited to:

- (A) Schools;
- (B) Day care centers;
- (C) Community and youth groups;
- (D) Religious organizations;
- (E) Libraries;
- (F) The Department of Human Services;
- (G) Women's organizations and shelters;
- (H) Park security; and
- (I) Businesses frequented by children.

(c) Employers must be notified.

(d) State licensing boards will be notified as deemed appropriate by local law enforcement, when the person is licensed by the board.

(e) Individuals or heads of families with members within the offender's target group who are likely to encounter the offender, or live in the same neighborhood as the offender, must be notified.

(f) Offender fact sheet information on adult offenders rated at Level 2 with a victim who is fourteen (14) years of age or younger will be available to the public on the Arkansas Crime Information Center website, <http://www.acic.org/>.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-134. Level 3 – High community notification including default Level 3.

(a) All of the entities and individuals listed for Levels 1 and 2 must be notified, unless to do so would cause harm to the victim or victims.

(b) Notification must be made to any member of the community whom the offender is likely to encounter, based on the:

- (1) Offender's prior history;
- (2) Recreational or religious interests;
- (3) Employment; or
- (4) Characteristics of the offender's victims.

(c)(1) Notification should be conducted face-to-face between law enforcement and citizens to the extent possible.

- (2) Those likely to encounter the offender, including all neighbors, are to be:
 - (A) Given an offender fact sheet; and
 - (B) Cautioned about the appropriate use of the information.

(d) Offender fact sheet information on offenders rated at Level 3 (high) or Level 4 (Sexually Dangerous Person) will be available to the public on the Arkansas Crime Information Center website, <http://www.acic.org/>.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-135. Level 4/Sexually Dangerous Person.

(a) All of the entities and individuals listed for Levels 1 through 3 must be notified.

(b)(1) Notification of members of the general public in the vicinity of where the offender lives, travels, and works should be done.

(2) It is preferable to:

(A) Notify these individuals in a face-to-face meeting; and

(B) Encourage assistance in monitoring the offender rather than instigating harassment, fear, or hatred.

(3) However, open community meetings or meetings with neighborhood watch groups are also acceptable.

(c)(1) Any individual having good reason may request an offender fact sheet from the chief law enforcement officer.

(2) Each individual given an offender fact sheet must be advised that it is not for publication, but may only be used in accordance with the law and these guidelines.

(d) The media may also be used to conduct Level 4 notification if the chief law enforcement officer having jurisdiction deems it necessary to protect the community.

(e) Printed material, posters, and electronic media may be used to notify and inform the public in the most necessary and potentially dangerous situations.

(f) The offender fact sheets of all Sexually Dangerous Persons will be available to the public on the center website.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-136. Reassessment.

(a)(1) Adult offenders may request reassessment five (5) years after the date of the most recent assessment.

(2) Reassessments will include a polygraph, or voice stress analysis, as

deemed appropriate by the SOCNA.

(3) The cost of polygraph and/or computerized voice stress analysis will be billed to the person being reassessed.

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

(c) Reassessment may be requested by the Division of Community Correction, the law enforcement agency having jurisdiction, or the Parole Board to the Sex Offender Assessment Committee at any time, by:

- (1) Submission of the Sex Offender Reassessment form; or
- (2) A statement of reason to SOCNA program.

(d)(1) The cost of any polygraph or voice stress analysis examinations on referrals by law enforcement will be borne by the SOCNA.

(2) Forms for requesting reassessment are available from the Arkansas Crime Information Center website or may be obtained from the SOCNA.

(e) Refusal of, or noncompliance with, reassessment will result in a written notification to law enforcement in the area in which the offender resides, and to any supervising agency.

(f) Refusal or noncompliance will also result in the offender being assigned a default Level 3 or a Level 4, if enough information exists to determine that he or she fits the SDP criteria.

(g)(1) Offenders who are reassessed based upon their request will be given one (1) opportunity to appear for reassessment.

(2) If the offender provides advanced notice of an inability to make the scheduled appointment, he or she will be allowed one (1) additional opportunity to appear.

(3) If the reassessment is at the request of a state or local agency, the offender will have two (2) opportunities to appear.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SDP" means Sexually Dangerous Person.

"SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-137. Termination of requirement to register.

(a) Termination of the registration requirements are found in Arkansas Code § 12-12-919.

(b)(1) Expungement of criminal convictions under the provisions of Arkansas Code §§ 16-93-301 – 16-93-303 does not relieve an individual of the duty to register or reregister.

(2) The requirement to register due to a criminal conviction is relieved if the:

(A) Underlying conviction of the offender is reversed, vacated, or set aside; or

(B) Offender is pardoned.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-138. Records.

(a)(1) The SOCNA will maintain all documentation gathered and all assessments administered.

(2) Original documents will be maintained for at least one (1) year, after which time:

(A) Case files may be stored electronically; and

(B) The original documents can be destroyed.

(3) If there is ongoing litigation that would necessitate the hard copy being maintained beyond one (1) year, the files will not be digitally imaged until the resolution of the court proceedings.

(b) Access to documents generated by the SOCNA may be granted to:

(1) Arkansas Crime Information Center; and

(2) Any law enforcement agency or court of competent jurisdiction.

(c)(1) The offender may request copies of all reports generated and a list of all documents obtained from other agencies from the SOCNA.

(2) A copy of the tape or video of the interview may also be requested.

(d)(1) The SOCNA will not provide copies of:

(A) Working notes; or

(B) Copyrighted psychological tests that are restricted to licensed professionals.

(2) Copies of records generated by other agencies will not be released except under court order.

(e) These documents are not subject to the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

Codification Notes. "SOCNA" means Sex Offender Community Notification Assessment.

12 CAR § 80-139. Research.

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

(b) Access for the purpose of research must be requested in writing and is subject to approval by the Division of Correction with recommendation by the Sex Offender Assessment Committee.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-140. Immunity.

(a) Public officials, public employees, public agencies, and members of the Sex Offender Assessment Committee are immune from civil liability for good faith conduct

under Acts 1997, No. 989, as amended.

(b) Nothing in Acts 1997, No. 989, Arkansas Code § 12-12-920, shall be deemed to impose any liability upon, or give rise to a cause of action against, any public official, public employee, public agency, or member of the committee for any discretionary decision to release relevant and necessary information, unless it is shown that the official, employee, agency or committee member acted:

- (1) With gross negligence; or
- (2) In bad faith.

Authority. Arkansas Code §§ 12-12-913, 12-12-915.

12 CAR § 80-141. Resources.

(a) Adult assessments.

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

(b) Sex offender registration.

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

(c) Juvenile assessment.

Family Treatment Program
Mailing address:
1 Children's Way, Slot 512-24B
Little Rock, AR 72202

Physical address:
1210 Wolfe Street
Little Rock, AR 72202

Phone: (501) 364-3815
Fax: (501) 364-3816

(d) **Child abuse hotline.**

Arkansas State Police (800) 482-5964

(e) **Information about abuse.**

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

(f) **Victim assistance.**

Arkansas Crime Reparation
1 State Police Plaza Drive
Little Rock, AR 72209
Phone: (501) 682-1020
(800) 448-3014
Fax: (501) 682-5313

Authority. Arkansas Code §§ 12-12-913, 12-12-915.