Research on Information Sharing Under the Sex Offender Registration & Notification Act

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Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

Building Solutions | Supporting Communities | Advancing Justice

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Thanks and Acknowledgements

- SMART Office and the National Institute of Justice

- State registry officials and agencies

- County and local registration personnel

- U.S. Marshals Service region chiefs, sex offender investigations coordinator, sex offender program coordinators, National Sex Offender Targeting Center

- Institute for Intergovernmental Research (IIR) staff

Goals

- Present an overview of "Information Sharing and the Sex Offender Registration and Notification Act" project

- Present key project findings related to information sharing practices since SORNA passed

- Elicit and capture feedback on key findings

Presentation Overview

- Project background: policy context, goals, methods and approach
- Key findings
  - State implementation of SORNA standards
    - Implementation elements, state variation, challenges and barriers, costs
  - Federal systems of support: USMS, SORNA grant programs
  - Information sharing practices and issues
  - Role of information technology
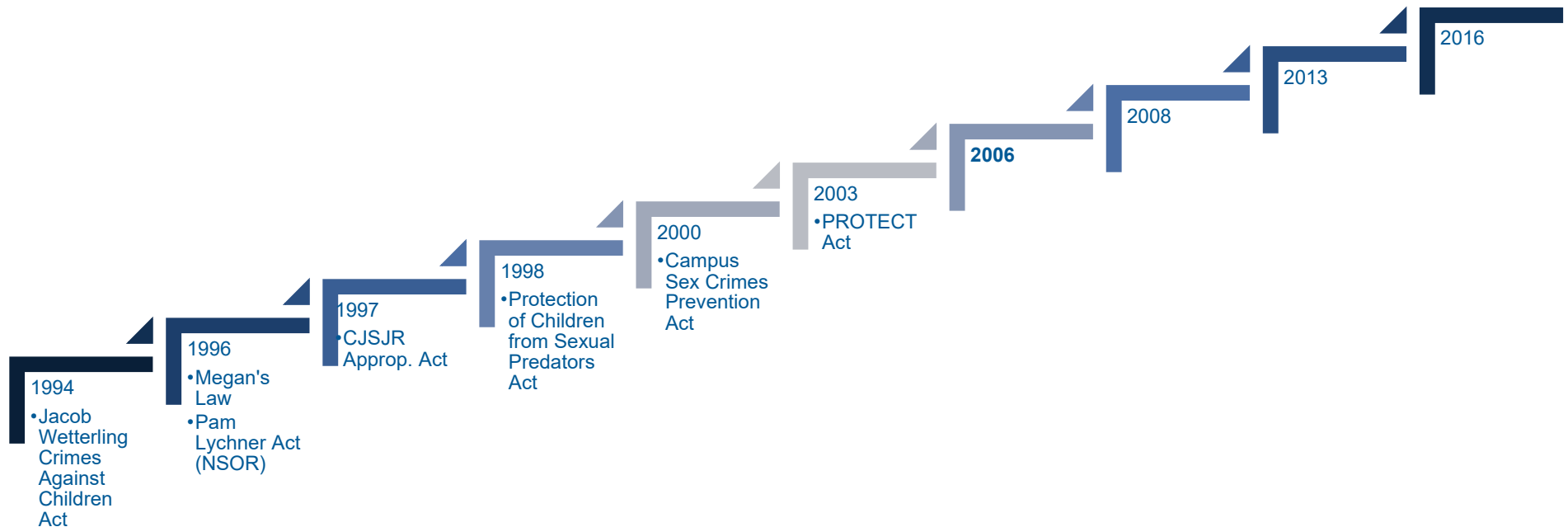- Questions, feedback and discussion

Project Background and Context

Evolution of Federal Sex Offender Registration And Notification Legislation

1994
- Jacob Wetterling Crimes Against Children Act

1996
- Megan's Law
- Pam Lychner Act (NSOR)

1997
- CJSJR Approp. Act

1998
- Protection of Children from Sexual Predators Act

2000
- Campus Sex Crimes Prevention Act

2003
- PROTECT Act

2006

2008

2013

2016

Expansion of State Sex Offender Registries (1990-99)

Evolution of Federal Sex Offender Registration And Notification Legislation

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2000
- Campus Sex Crimes Prevention Act

2003
- PROTECT Act

2006
- Adam Walsh Child Protection & Safety Act (including SORNA)

2008
- KIDS Act

2013
- Military Sex Offender Reporting Act

2016
- Int'l Megan's Law

SORNA Policy Context

Policy Problems

Inter-jurisdictional Gaps
- Incompatible information
- Insufficient coordination
- Uncovered jurisdictions (tribes, military)
- Lax standards in some states

Exploitable Loopholes
- "Under the radar"
- "Slipping through cracks"
- "Jurisdiction shopping"

Policy Strategies

1. Expansion of covered jurisdictions
2. Minimum standards for covered jurisdictions
3. Enhanced Enforcement via USMS
4. Federal Information Technology
5. SMART Office as coordinating entity
6. Funding & resources for covered jurisdictions

Policy Goals

1. Greater consistency of requirements across jurisdictions
2. Improved coordination when sex offenders move between jurisdictions
3. Streamlined access to sex offender information for law enforcement and the public
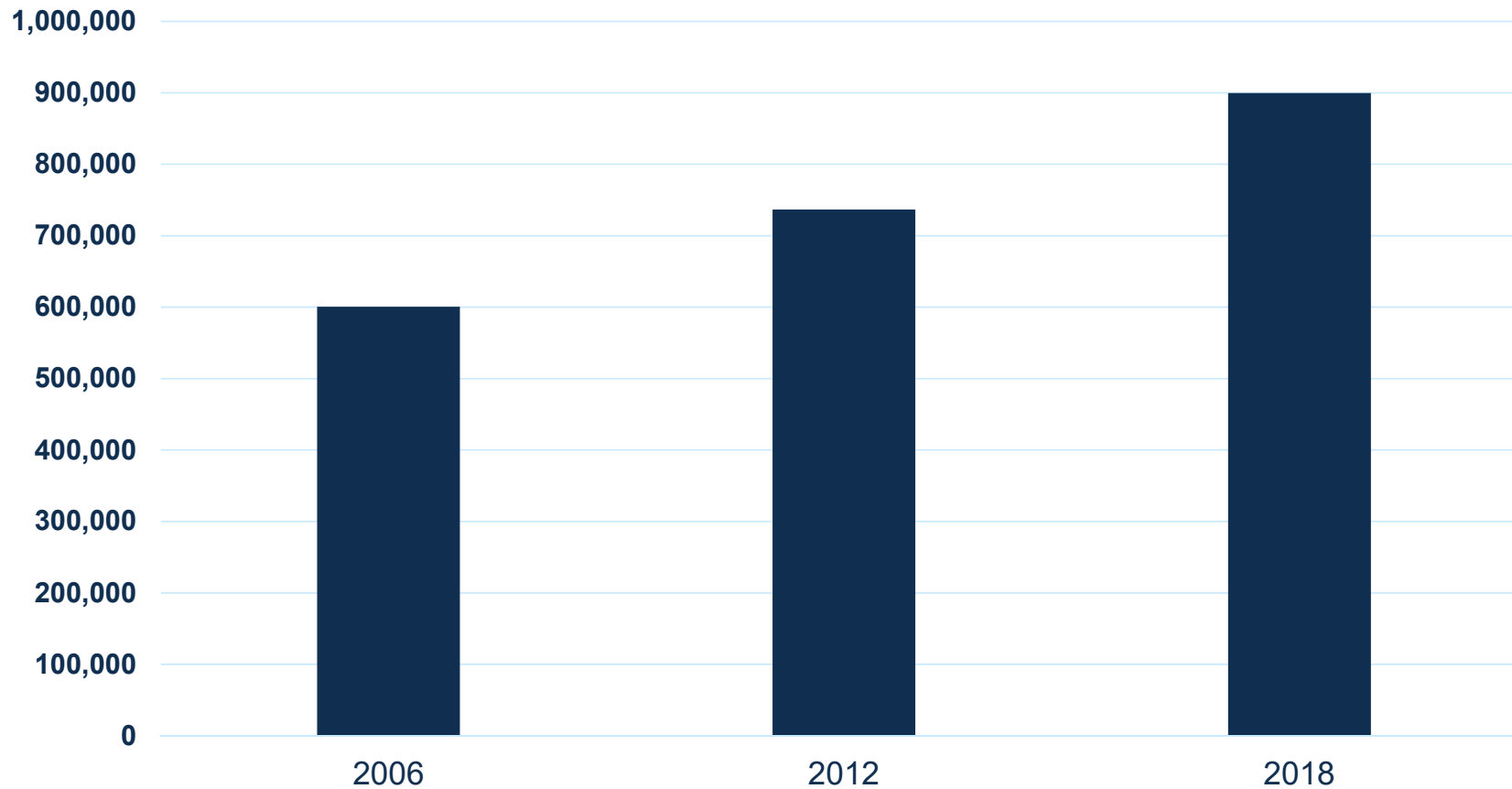4. Enhanced compliance enforcement and apprehension of absconders

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What Has Happened Since SORNA Passed?

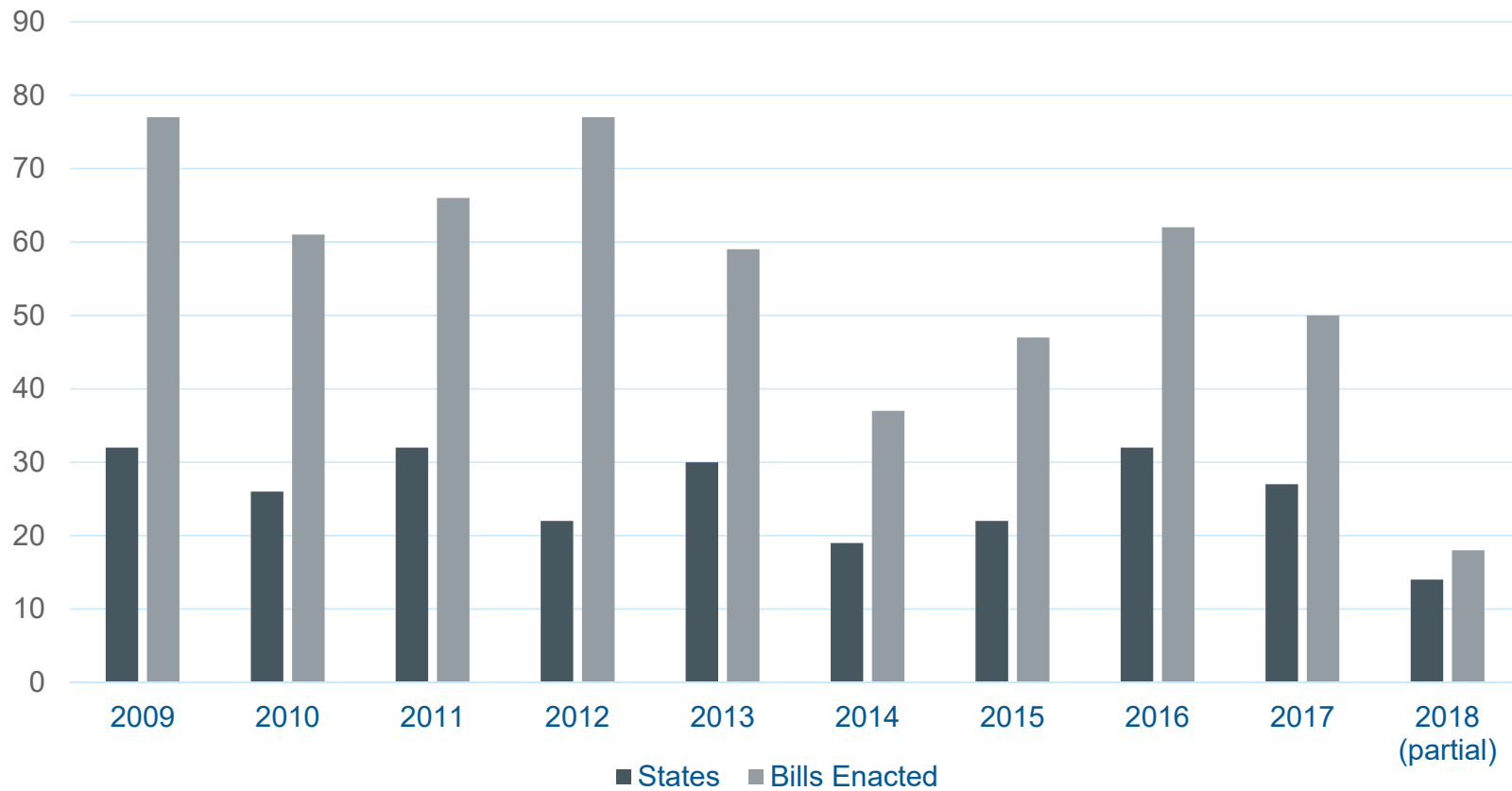# Growth in Estimated RSO Population Since SORNA

Estimated 20,000–25,000 net new registrants per year

Sustained Legislative Activity

Bar chart legend: ■ States ■ Bills Enacted

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Emergent Questions

I. Broad-based questions

- Where have we seen improvement in addressing the key issues identified when SORNA passed? Where have we seen continued challenges, and why?

- How, and to what extent, have federal initiatives — including investment in information system infrastructure, technical support, and grant funding to states — helped to advance SORNA's broader goals?

II. Questions specifically focused on information sharing

- What is the connection between a state's implementation of SORNA standards and the effectiveness of its systems for exchange and sharing of information?

- What factors, independent of SORNA standards, either promote or impede the effective exchange and flow of information within and across jurisdictions?

"Big Picture" Project Goals

1. Produce **analyses** that respond to the aforementioned questions.

2. Provide **policy-relevant data** that can inform refinements to federal policy, particularly surrounding improving the utility and functionality of the nation's systems of sex offender registration and notification.

3. Identify **promising information sharing practices** from the states that might serve as templates for informing both federal and state policy.

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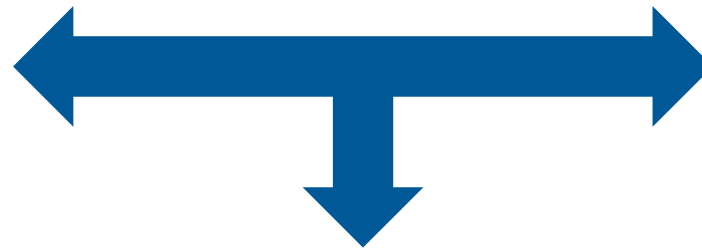
Project Design and Process

Study Framework

Nationwide Picture
- Contours of federal systems, resources and modes of support
- SORNA standard implementation

State Experiences
- Information sharing practices and challenges
- Experience with federal policies and resources

Synthesis
- What's working as intended?
- Lingering issues and challenges

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Primary Data Sources

Nationwide Picture

- Background interviews with federal stakeholders
  - SMART, USMS/NSOTC
  - National Center for Missing & Exploited Children, IIR
- Supporting data review and analysis
  - Coded state compliance letters
  - NSOPW.gov and Exchange Portal utilization
  - National Sex Offender Registry (NSOR) functionality (via USMS)
  - Coded SORNA Implementation Grants
- Probation and parole agency survey and focus groups (via American Probation and Parole Assoc.)

State Experiences

- **10 state-based case studies**
- Site-based interviews (N ~ 139)
  - State registering agencies (management, technical staff, field agents, analysts)
  - Supporting state agencies (e.g., corrections, probation, parole, attorneys general offices)
  - County/local agencies
- Supplemental data and documentation
  - Policy and training manuals
  - Legislative/case law histories
  - Registry data (registered sex offender profiles, trends, utilization)
  - Cost data where available

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Diverse Cross-section of States
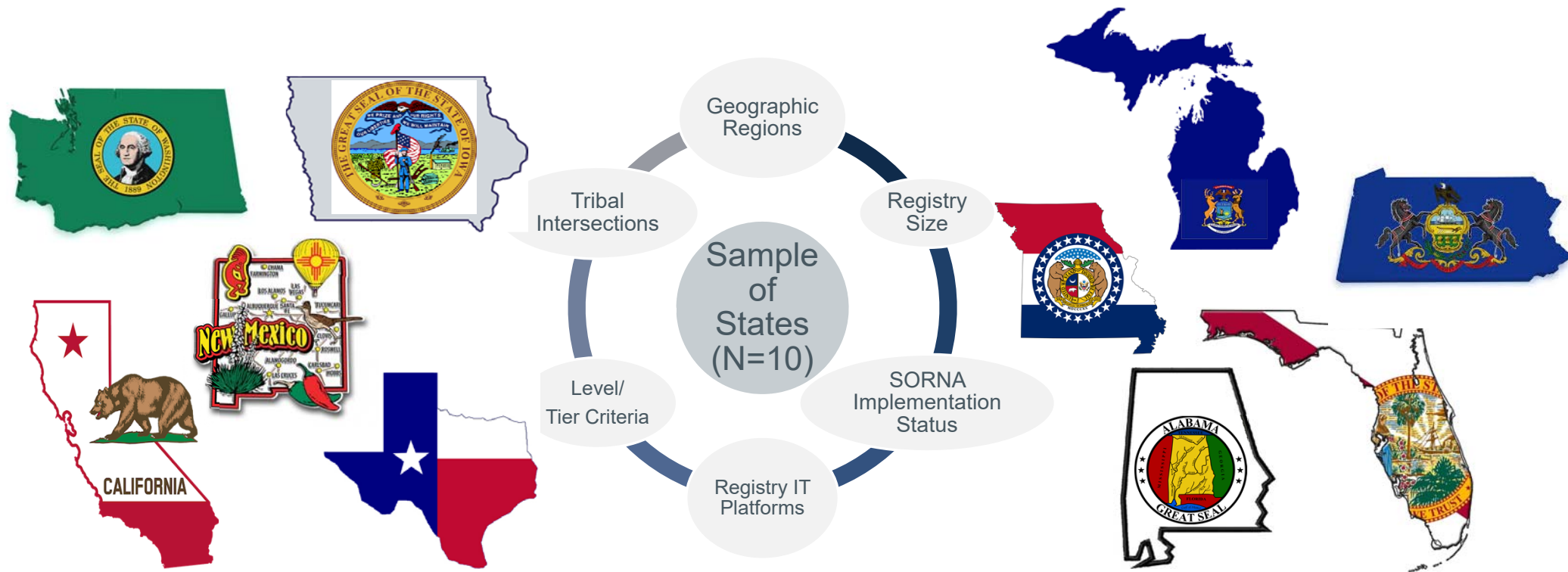
Summary of Findings

Organization of Results

State Implementation of SORNA Standards	Federal Resources and Support	Information Sharing Practice	Information Technology

• Overall substantial implementation picture
• Implementation in context of state experiences
• Barriers to implementation
	• Roles of U.S. Marshals Service
	• Impacts of SORNA grants and Byrne Justice Assistance Grant reinvestment
		• Parameters of effective information sharing
		• Relationship to SORNA implementation
		• Sharing public information
		• Challenges and promising practices
			• Sex offender registry technology ecosystem
			• Roles of federal systems
			  • Exchange Portal
			  • NSOR
			  • NSOPW
			• Identified gaps and issues

State Implementation of SORNA Standards

SORNA Substantial Implementation Designations

2009
Ohio

2010
Delaware*
Florida
South Dakota

2011
Alabama
Kansas
Louisiana
Maryland
Michigan
Missouri
Mississippi
Nevada
South Carolina
Tennessee
Wyoming

2012
Pennsylvania*

2013
Colorado

2017
Oklahoma
Virginia

2019
Delaware

*Substantial implementation designation subsequently withdrawn.

# Defining SORNA Implementation: Not a Binary

- 14 standard areas
- Three possible designations for each standard area:
  - Meets standard
  - Does not substantially disserve standard
  - Does not meet standard
- Substantial Implementation
  - Meets **or** does not substantially disserve all 14 standards

Immediate Transfer of Information	Included offenses	Tiering of Offenses	Required Registration Information
Where Registration Is Required	Initial Registration (General)	Initial Registration (Retroactive)	Keeping Registration Current
Verification Requirements	Public Website Requirements	Community Notification	Failure to Register Penalty
	Failure to Appear provisions	Absconder Provisions	
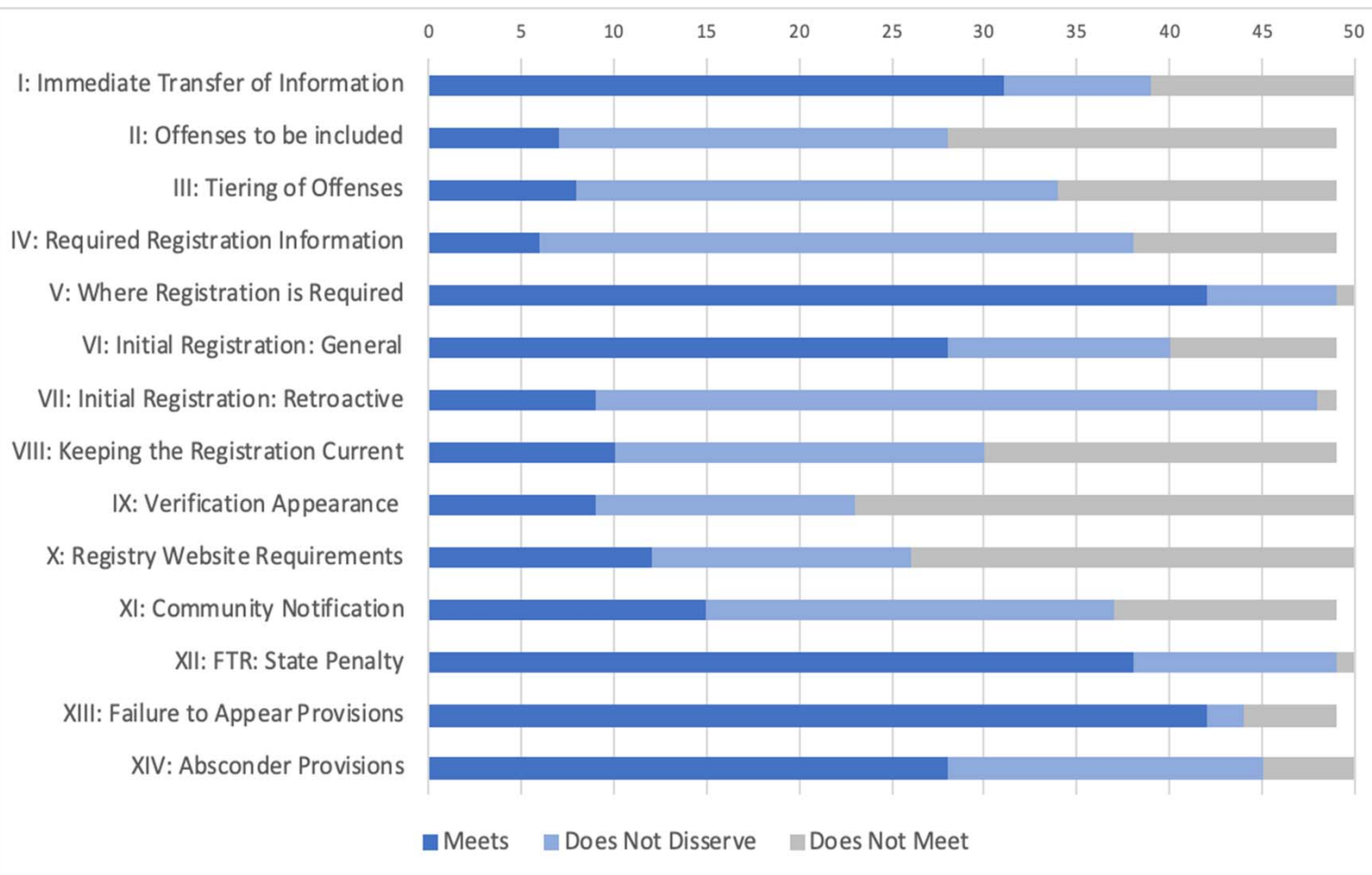
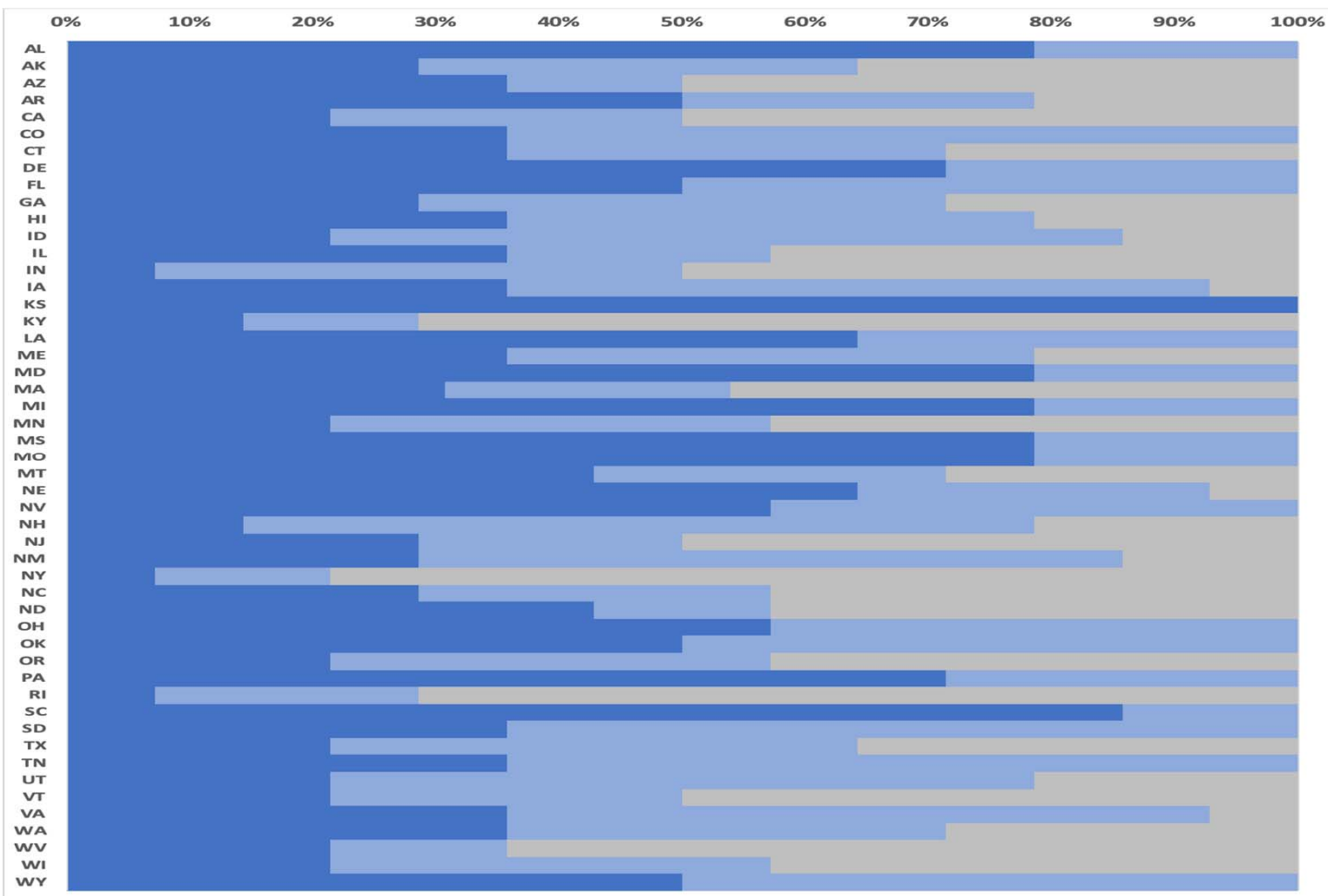Most standards are met, or not disserved, by a majority of states.

"Does not disserve" is common for some standards, suggesting possible need for policy adjustments.

"Does not meet" designations generally linked to limited cluster of sub-issues.

Most states meet (or do not disserve) a majority of standards.

All states but one (Kansas) deviate from standards in some way, including those substantially implemented.

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State Experiences with SORNA Implementation: Insights From Case Studies

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Typology of State SORNA Implementation Journeys

Implemented
more significant
change

Michigan
Pennsylvania
(no longer implemented)

Washington
California
Texas

Not
implemented
more significant
divergence

Implemented
limited change

Florida
Alabama
Missouri

New
Mexico
Iowa

Not
implemented
limited divergence

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Typology of State SORNA Implementation Journeys

Implemented
more significant
change

Michigan
Pennsylvania
(no longer implemented)

MORE DIFFICULT
- Significant net-widening impacts
- Major legal rulings in response
- Operational and resource challenges
- Pennsylvania lost designation in 2018

Implemented
limited change

Florida
Alabama
Missouri

LESS DIFFICULT
- More uniform requirements (i.e., fewer registered sex offender distinctions)
- Varied organizational structures, dynamics and levels of resource investment

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Typology of State SORNA Implementation Journeys

MORE DIVERGENCE FROM SORNA
- Deeply invested in systems predating federal mandates
- Varied ideas on registry core purposes
- Significant county/local control

Washington
California
Texas

Not implemented
more significant divergence

CLOSER SORNA ALIGNMENT
- Post-SORNA changes modest and incremental
- Legislative barriers to meeting limited remaining standards

New Mexico
Iowa

Not implemented
limited divergence

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Factors Affecting State Progress Toward SORNA Standards

Pre-SORNA Conditions	Legal/Political	Organizational

• System investment and "distance to travel"
• Historical goals and orientation of registry system
• State approach to criminal justice policy
	• Legislative dynamics
	• Intergovernmental dynamics (state, county, local relations)
	• Judicial culture and climate
	• Role of policy boards and coalitions
		• Levels of (and priorities for) resource investment
		  • System design and management
		  • Enforcement
		  • Quality assurance
		• Agency culture and locus of control

Summary

- SORNA implementation is multi-faceted, not binary.
- Implementation picture looks different in every state.
- Significant progress has been made:
  - Most standards met by majority of states.
  - Most states meet majority of standards.
- Most departures concentrated among limited group of standards and sub-standards:
  - Some modest and incremental
  - Others more foundational (e.g., risk classification, juveniles, retroactivity)

Evaluating the Costs of SORNA Implementation

- **Myth: SORNA implementation is uniformly costly.**
  - Commonly cited 2009 Justice Policy Institute analysis
    - SORNA implementation costs far exceed lost Byrne JAG funding across every state
    - Simplistic and deeply flawed methodology

- **Finding: Costs of SORNA implementation varies greatly from state to state.**

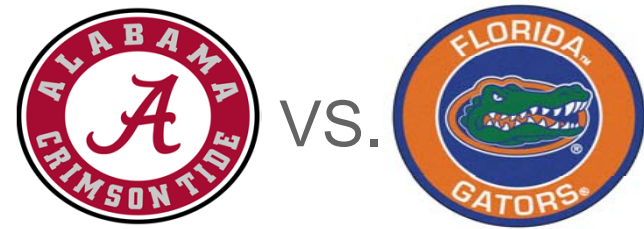**SMART** Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

Variation in SORNA Costs

Varied Implementation Pathways

- "Distance to travel"
- Political, organizational and legal conditions

Varied Choices And Priorities

- **Field-based** verification
- Risk assessment systems and training

- Investment in robust investigatory functions
- Significant field training emphasis

Role of Federal Support and Resources

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United States Marshals Service

SOIB Field Operations

- Regional Sex Offender Investigations Branch Operations
- District-based SOICs

Central Support

- NSOTC
- Behavioral Analysis Unit
- NCMEC/SOTT

United States Marshals Service

SORNA Mandate

"The Attorney General shall use the resources of Federal law enforcement, including the United States Marshals Service, to assist jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements."

Broad Range of Functions

Enforcement operations

| Bridge-building and cross-jurisdictional collaboration | Information brokers | Intelligence and analytic expertise | Training | Funding support for local operations |

United States Marshals Service

Widely viewed by stakeholders as a supportive and collaborative agency facilitating development and maintenance of state and tribal registration activities.

Federal Support for State System Improvement

BS5

SORNA Grants (2008-2017)	JAG Reinvestment (2012-2017)
• 250 awards • $57.8 million	• 177 reallocations • $31.1 million

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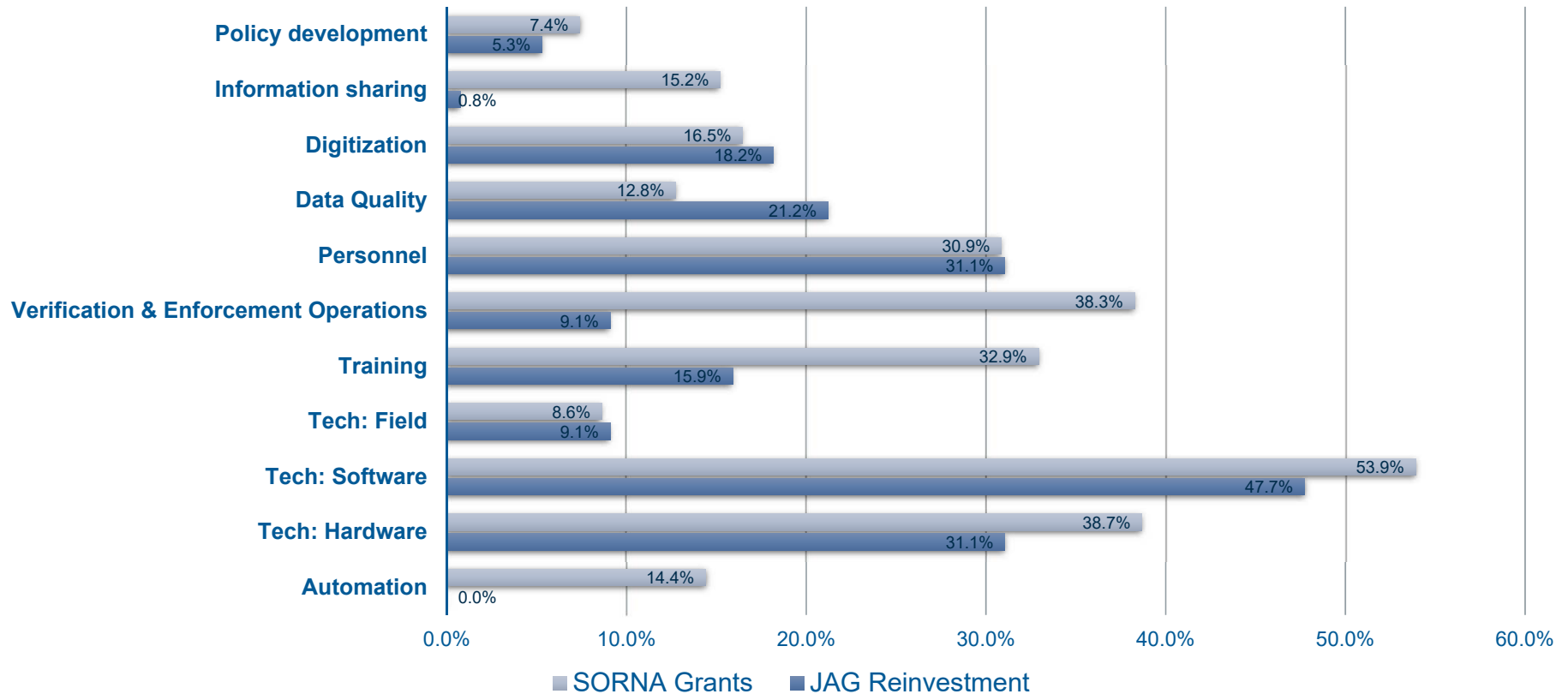**BS5**   Will they make sure to note that the time frames are different? SORNA is a 10 year period, while the JAG is 5
years?

Blazucki, Sarah, 7/9/2019

State Uses of SORNA Grant and JAG Reinvestment Funds (through 2017)

State Information Sharing Practices

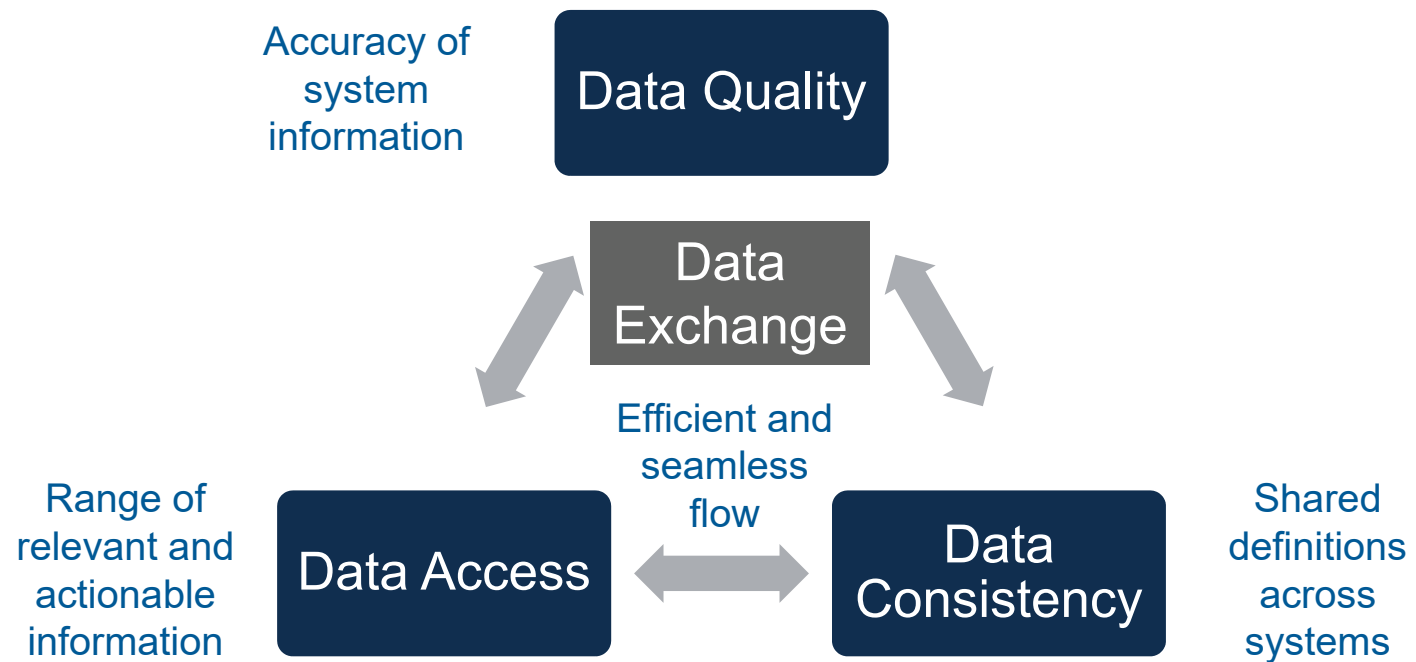# Evolution of State Information Sharing Practices Since SORNA

- **Culture of information-sharing:** Significant attunement to interjurisdictional transfer issues across sample of states — **noted improvement since SORNA.**

- **Relationship with SORNA standards:** No evidence of relationship between SORNA implementation status and effectiveness of information sharing practices.

  - States supportive of and working toward enhanced information sharing practices regardless of SORNA implementation status.

Concerns Related to Information Sharing

Accuracy of system information

Data Quality

Data Exchange

Efficient and seamless flow

Range of relevant and actionable information

Data Access

Data Consistency

Shared definitions across systems

Data Quality

- **Data quality assurance (DQA)** is major area of focus for state registry agencies, yet largely independent of SORNA.

- **Prominent Challenges**
  - Decentralized processes/range of local users
  - Resource-intensity of effective DQA

- **Diffuse range of methods for achieving DQA goals:** training, technical/analytic staff, automated interfaces, field-based verification, local law enforcement staff resources, model policies, audit functions

- **SORNA grant programs and USMS financial support highly instrumental.**

Data Access

- Demand for **richer data and information** for range of uses across range of stakeholder groups:
  - Registry enforcement (federal, state, local), investigative tools, local registered sex offender monitoring and risk management, planning and resource deployment

- **Prominent needs and challenges**
  - Reporting and decision support capacity
  - Unmet data needs: court records, arrests/charges, offense details beyond conviction offense of record (e.g., victim age)

- Most needs independent of SORNA

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Data Consistency

- Need for **comparability of information** across jurisdictions

- Key area of SORNA emphasis

- **Prominent Challenges**
  - Differences in state criminal codes (statutory cross-walk resources)
  - Persistent differences in state laws governing registry requirements
  - Broad and diverse universe of users and systems
  - Limits of NSOR data fields and definitions

Data Exchange

- SORNA call for immediate transfer of information

- Use of both analog and technology-focused systems

- Disparate practices across jurisdictions

- **Prominent issues**
  - Varied methods of communication
  - NSOR and Exchange Portal limitations
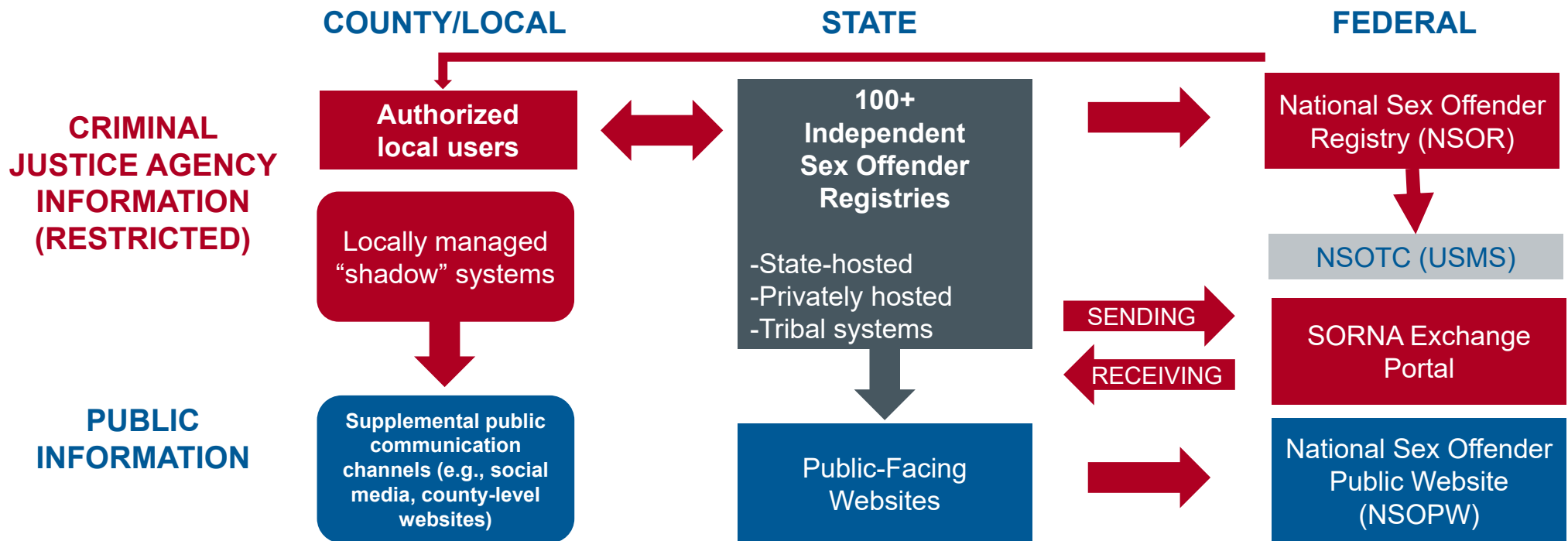 - "Ownership" problem

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Information Systems: Data Integration and Interoperability

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Sex Offender Registration and Notification IT Ecosystem

SORNA Vision

1. Capacity to seamlessly link systems for law enforcement use

2. Capacity to seamlessly link systems for public information

3. Efficient methods of exchanging information when offenders relocate
   - **Timely, meaningful and accurate** exchange of information between sending and receiving jurisdictions
   - Centralized methods of tracking interjurisdictional transfers and identifying absconders

4. Improved compatibility of information across states, based on standardized data definitions
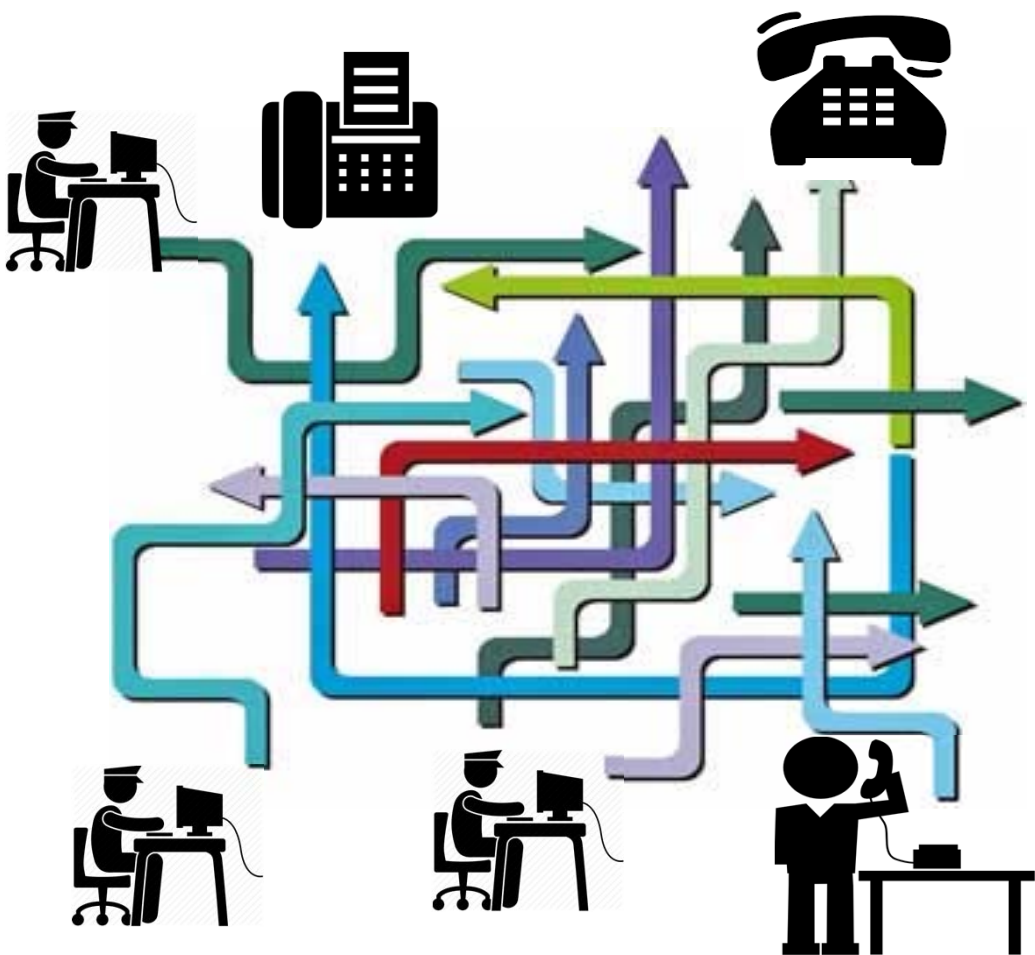
SORNA and Information Exchange

"The Attorney General shall ensure (through the National Sex Offender Registry or otherwise) that updated information about a sex offender is immediately transmitted by electronic forwarding to all relevant jurisdictions."

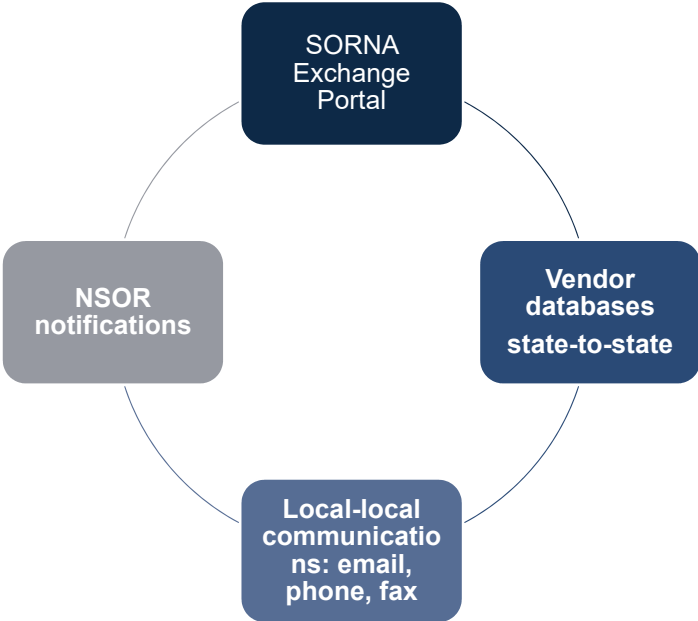—*Pub. L. 109–248, title I, § 119, July 27, 2006, 120 Stat. 596.*

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Communication Mechanisms RE: RSO Relocations

- SORNA Exchange Portal
- Vendor databases state-to-state
- Local-local communications: email, phone, fax
- NSOR notifications
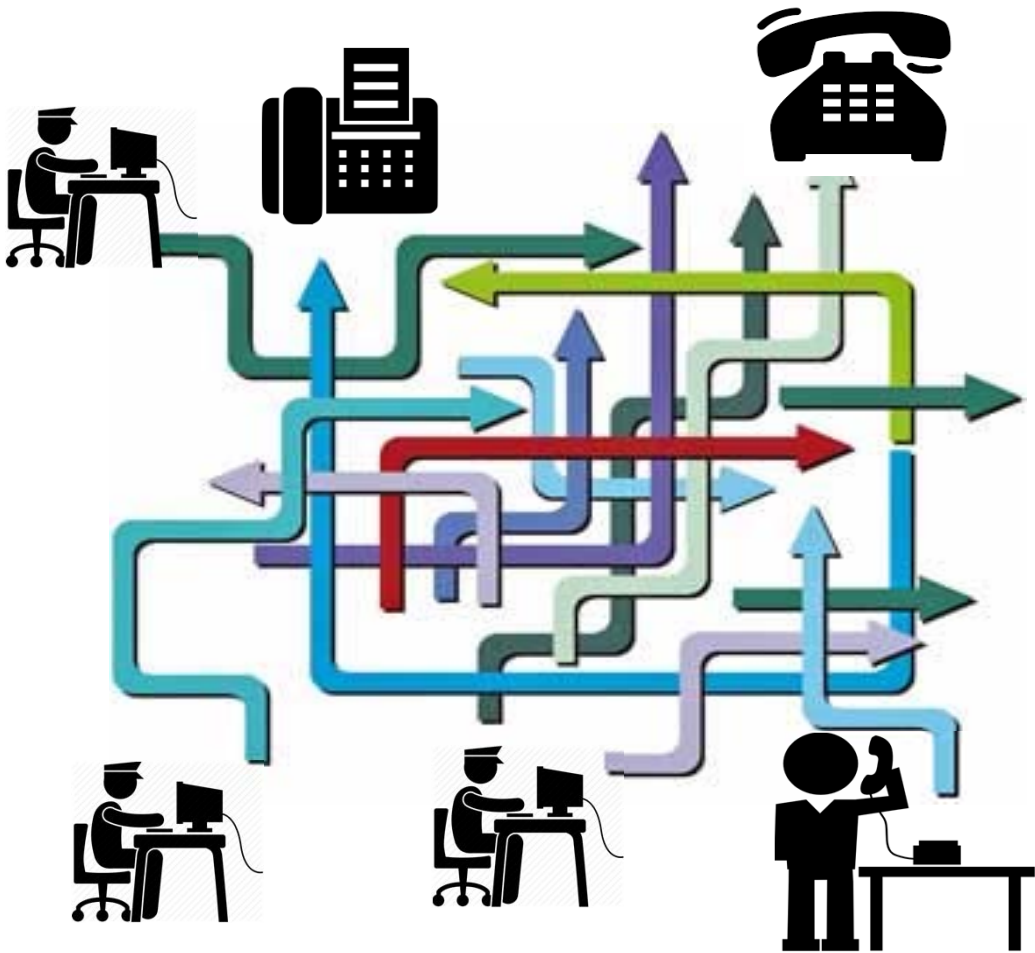
Communication Mechanisms RE: RSO Relocations

- Extensive variation across jurisdictions.
- To date, no commonly shared and trackable method.

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National Sex Offender Registry (NSOR)

- One of 21 NCIC files/14 NCIC "person files"

- "Point in time" system (i.e., fields overwritten when updated)

- ~1.4 million records, covering ~900,000 individuals
  - ~850,000 *active* records and ~550,000 *cleared* records
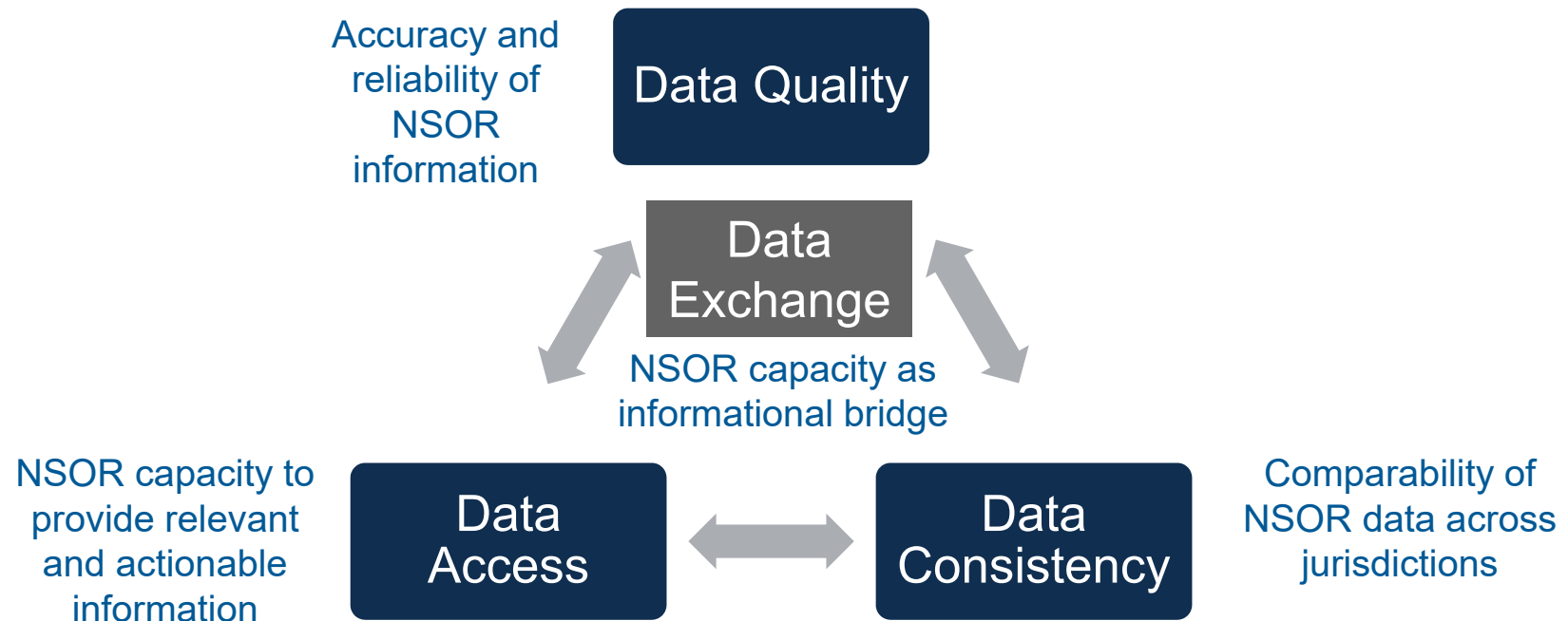 - 27% of registered sex offenders with 2+ records

- State processes to populate and update NSOR vary.

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Evaluating NSOR as Information Sharing Tool

Accuracy and reliability of NSOR information

Data Quality

Data Exchange

NSOR capacity as informational bridge

NSOR capacity to provide relevant and actionable information

Data Access

Data Consistency

Comparability of NSOR data across jurisdictions

SORNA Exchange Portal

- 2008 roll-out, 2014 update

- Functionality

  - Relocation tasks (core function)

  - Statutory history database

  - Document repository (e.g., USMS, International Megan's Law)

  - Discussion board

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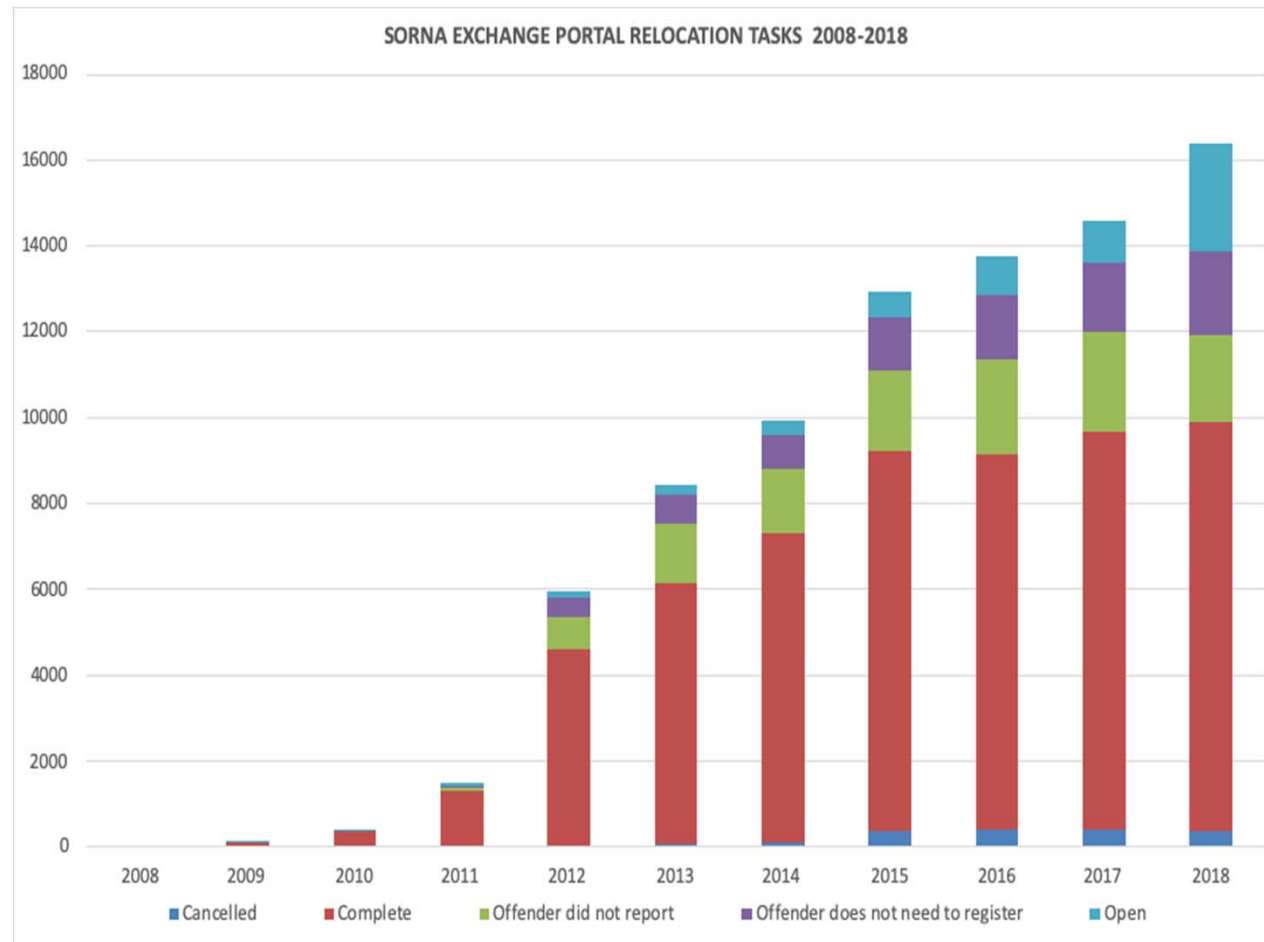Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

Portal Use

- 88,000 tasks to date
- Use increasing, but likely capturing limited subset of relocations
- High variation in —
  - State usage
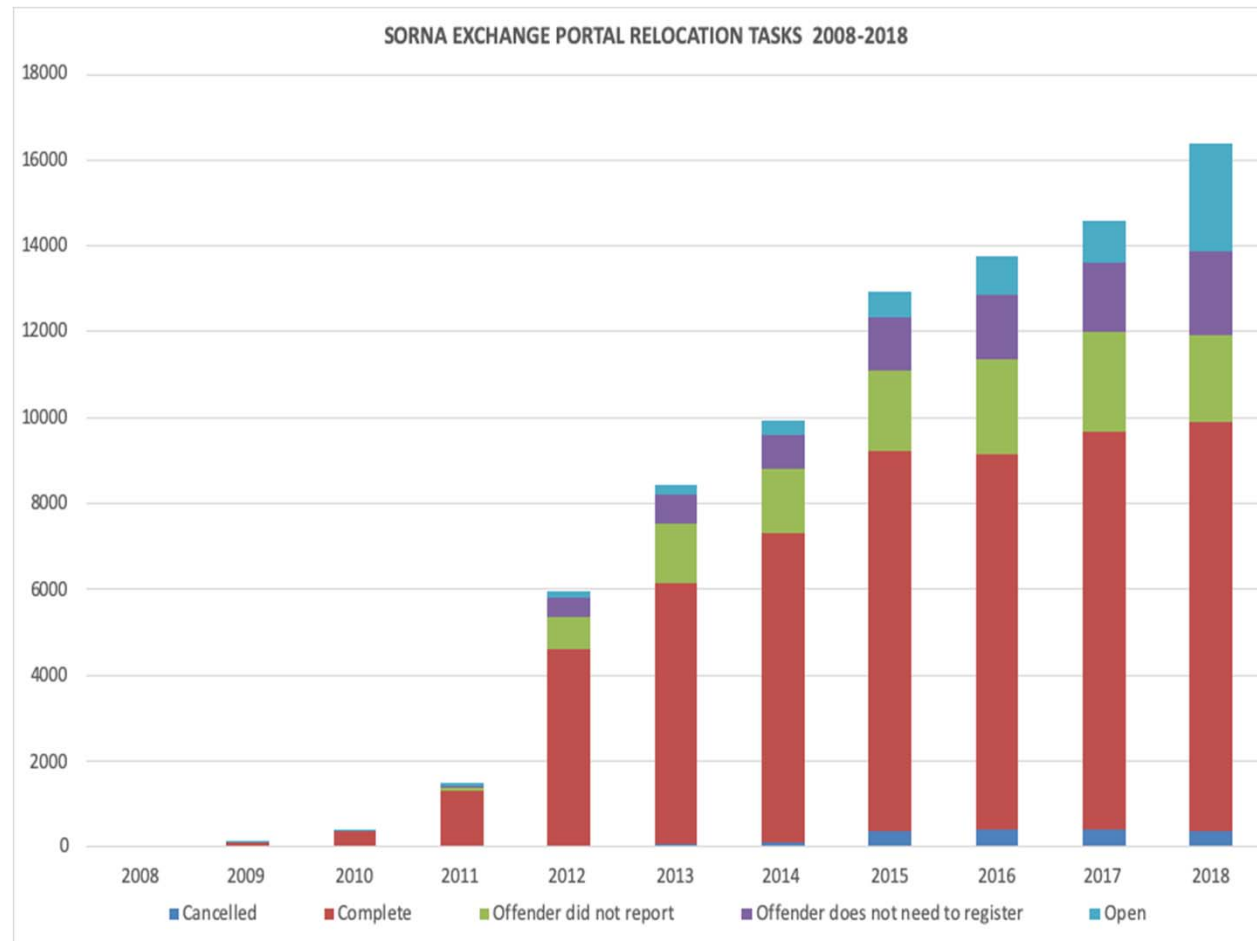 - Level and types of information provided

SORNA EXCHANGE PORTAL RELOCATION TASKS 2008-2018

Legend: Cancelled | Complete | Offender did not report | Offender does not need to register | Open

Factors Affecting Portal Use

- **Legal constraints**
  - e.g., sharing with non-law enforcement
- **Operational constraints**
  - Limited number of authorized users
  - Bandwidth/availability of registry resources
  - Information system interfaces and workflow
- Reliance on **alternative methods**

SORNA EXCHANGE PORTAL RELOCATION TASKS 2008-2018

Legend: Cancelled, Complete, Offender did not report, Offender does not need to register, Open
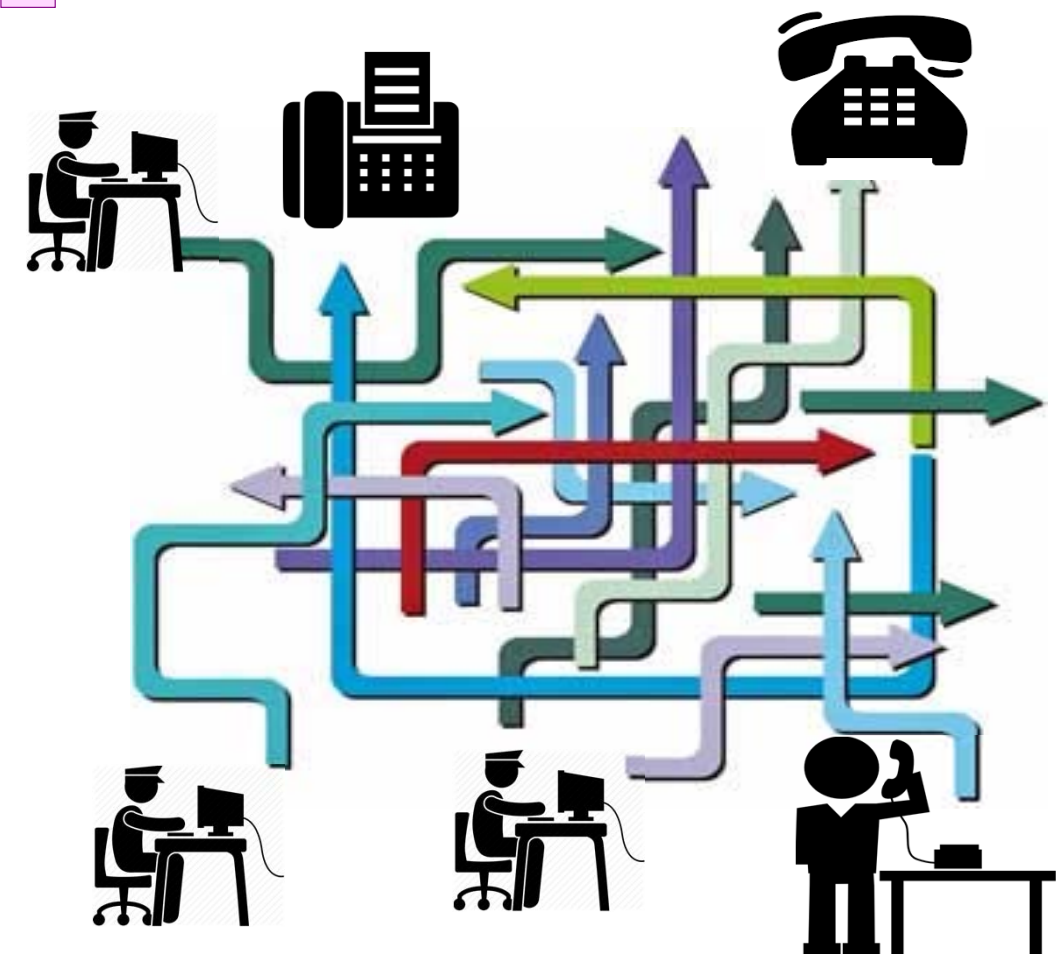
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BS6   Duplicate slide. remove?
Blazucki, Sarah, 7/9/2019
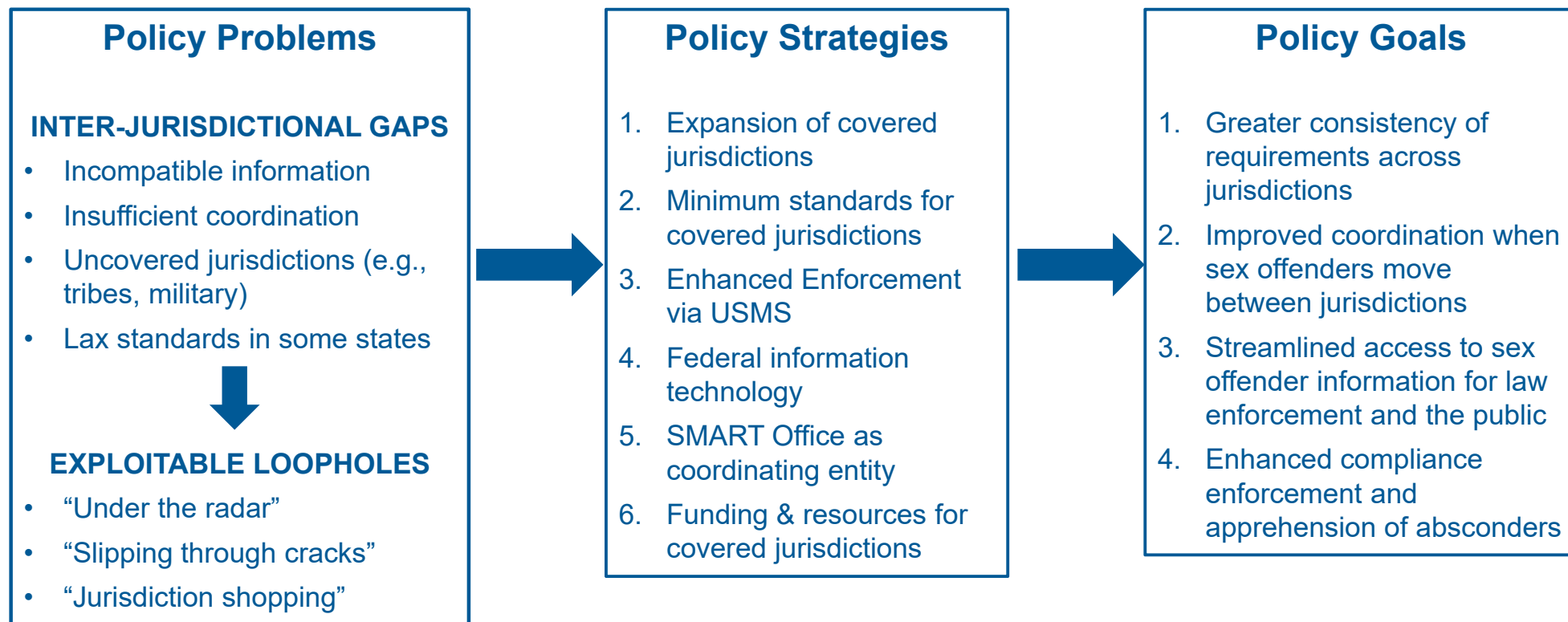
Other Areas Examined Through Study

- Probation and parole roles in, and interface with, sex offender registration and notification systems

- Registries as sources of public information

- State–tribal nexus and coordination

- **For more details, contact us!**

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SORNA Policy Goals Revisited

Policy Problems

INTER-JURISDICTIONAL GAPS

- Incompatible information
- Insufficient coordination
- Uncovered jurisdictions (e.g., tribes, military)
- Lax standards in some states

EXPLOITABLE LOOPHOLES

- "Under the radar"
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1. Greater consistency of requirements across jurisdictions
2. Improved coordination when sex offenders move between jurisdictions
3. Streamlined access to sex offender information for law enforcement and the public
4. Enhanced compliance enforcement and apprehension of absconders

Areas of Success

- **Progress toward SORNA standards: Most met by most states (and vice versa)**

- **Expanded attunement to inter-jurisdictional issues and culture of information sharing**
- **USMS facilitation role**

- **Growing use of SORNA Exchange Portal**
- **NSOPW enhancements**
- **SORNA grants for improvements to state systems**

- **Expanded USMS and NSOTC role in enforcement operations**
- **SORNA grants for enforcement and verification operations**

Policy Goals

1. **Greater consistency of requirements across jurisdictions**

2. **Improved coordination when sex offenders move between jurisdictions**

3. **Streamlined access to sex offender information for law enforcement and the public**

4. **Enhanced compliance enforcement and apprehension of absconders**

Areas for Development

- **Limited but persistent gaps between some state policies and SORNA framework**

- **Disparate methods of communication**
- **Gaps in protocols, e.g., "ownership problem"**

- **Uneven SEP utilization**
- **States' needs for richer array of reliable and actionable information**

- **Need for enhanced data management systems for tracking and identifying potential absconders.**

Looking Ahead

- Upcoming presentations
  - American Society of Criminology (San Francisco, November 2019)
    - o Selected project findings
    - o Sex Offender Registration and Notification policy and practice showcase/forum (California and Washington)
- Final project report
  - Draft submitted to NIJ and SMART — September 2019
  - Peer and agency review (September–November)
  - Final revised report – December 2019
- Additional expected work products (2020)
  - Policy and model practice briefs
  - Journal publications

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Thank you for your time and attention.

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