

NCJTC- Fox Valley | 9 17 2020 Smart Enforcement Of Registration Requirements

Welcome, everyone, to the National Criminal Justice Training Center webinar. Our topic for today is enforcement of registration requirements. Presenters for today's session include Paul Fuentes, Christopher Lobanov-Rostovsky, and Margie Weaver. My name is Joanne Joy and I will serve as your moderator for today. Before we begin the presentation, there are some items I need to go over. Please note that today's webinar is scheduled for two hours. This is slightly different than previous webinars and we wanted to call your attention to this difference. We hope the increase in time will provide sufficient time for questions on this important topic.

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I am so pleased to welcome you again to our webinar. And I'm even more pleased to introduce you to our presenters for today. Christopher Lobanov-Rostovsky is an associate with NCJTC, as well as a licensed clinical social worker and the program director for the Colorado Sex Offender Management Board. Paul Fuentes is also an associate with the National Criminal Justice Training Center. He serves as a court administrator for the Cheyenne and Arapaho tribes.

Finally, Margie Weaver is an assistant attorney general counsel for the Oklahoma Department of Corrections and an associate with NCJTC. I am honored to now turn the time over to Chris, who will help us with the opening. Chris?

Thank you, Joanne, and hello to everybody out there. We hope everybody as well and we certainly miss seeing all of your faces. And we know that we have a number of friends out there and we are wishing that you are all well. Normally at the beginning of trainings that we do in tribal communities, we want to start in a good way. And that means we want to do some type of prayer or acknowledgment for the training. And normally we would wish everybody to be able to learn and to benefit from what's going to happen here.

But we want to step out of that just a little bit today and just to say and to acknowledge that this has been a really difficult year, particularly for those of you in tribal communities. There has been significant illness and loss in many communities. And so what we would like to do is to take a moment

here of silence where you can say a silent prayer or have a thought and, you know, think about those who have been lost during this horrible and difficult time.

So we'll take a moment here. And then I'll come back on. Thank you. OK, so thank you all very much. We can now go ahead and get started with the training here today. I hope that this is of benefit to you and I'm going to turn the training over as a way of getting started here to my very good friend, Paul Fuentes. Paul, you're up.

Thank you so much, Chris. Hello, everyone. It's my honor to be able to connect with you again today. I'm excited about our subject, which is enforcement of registration requirements. I'm going to walk through the agenda really quick. So I'll be sharing on failure to appear, failure to register, and absconded sex offenders.

So I'll just-- it'll be brief, but I'm going to talk to just about, like, what it is, and maybe give an example, and then also give some example procedures. And then Chris will come in and give us some insight on international Megan's law and monitoring and accountability. I know that he plans on sharing some code and procedure examples, as well, and maybe paint a picture on what that would look like in the life in a day of a registering official or a SORNA program on how you can implement some of those monitoring and accountability strategies.

And then Margie will come in and cover monitoring and accountability for internet use, and then also additional sanctions, special rules and conditions, and working with prosecutors. And as an attorney, I know she'll-- we'll definitely benefit from her legal perspective and experience.

So failure to appear-- a lot of our codes have, you know, whether it be a definition and maybe in the definition section or more likely just a section in the code on a failure to appear. And a common definition of it is the registry is notified that a sex offender is expected to commence residence, employment, or school attendance in the jurisdiction, but the sex offender fails to appear for registration as required.

And so I don't know really how many-- how long you've been there as a registering official. Or maybe you are with the tribe and you cover a different program, but you work with them. But a lot of our codes have a definition similar to this. And if you're in the program, I'm sure if you've been there even just a few months, you've come across a situation where you've received notice that a sex offender is going to come into your jurisdiction and then-- and then there it is whether they do it, they check in like they're supposed to, or not.

And so I kind of have an example on the next slide that will kind of walk us through what this situation would be like. So here's the example of a failure to appear. And the scenario would be that you at your SORNA program, you receive a notification through the SORNA exchange portal, or maybe by phone or email, and it's from a neighboring tribe. And they tell you that a sex offender is going to relocate to your jurisdiction and that a neighboring tribe tells you, hey, before he left, I told him-- I told the sex offender that he needs to get with your office within three days.

And so a lot of our codes, again, would say that within three business days of establishing a residence on land subject to the jurisdiction of your tribe, the sex offender must appear in person to register with the registry. And so you may be giving that person-- maybe you have in mind-- I know that that happened with us not too many months ago where a northern tribe provided us notification that someone was coming in to our land.

And then there we're waiting on being able to-- well, we're hoping that that offender will check in like they're supposed to and that we're not having to do an investigation or try to locate that person. But in this example, we'll say that the person does not do that. And so what are they in violation of? The sex offender therefore fails to appear with your jurisdiction as required by your code.

And so what is it that you do now? And let us walk through some of those procedures. So again, the person was supposed to come into your tribe. He was supposed to let you know within three days that they're there. And they failed to do so. So what procedures are out there? Now, these are some examples, again, that if your policy and procedures doesn't have, you can use this and kind of use it as an example.

Or maybe you do have it and this would serve as a good reminder about the process. So as the registration official, so you must immediately inform the jurisdiction that provided notification. And so for us, it was calling that northern tribe, replying to SORNA exchange portal, and either saying, you know, thank you, he's come in, so we're good now. We'll let you know if something changes.

Or it could be, hey, are you sure that he was supposed to be here on this date? Because it's been over three days now and this individual has never-- has never come back. And I've had a time before where-- with the tribe where we've done that. And they said, yes, I'm sorry. They were going to move and they didn't and they're here now. So then they go and take that notification off of the SORNA exchange portal.

Or again, it could be, we sent them. They're supposed to be there on that date or within three days, and they just haven't. So then we would move to our second step, and that would be to investigate

with the assistance of police, whether it be BIA, tribal, FBI, or US marshals. And for us, we don't have law enforcement. So we usually bring in BIA. We call them and let them know, hey, this person was supposed to come. He hasn't. Have you heard from the community or anywhere? Do you know where he could be at? And we start our kind of initial investigation.

So I still have some procedures to cover, I think at least one more step. But this would be a good place for Margie, if you have any insight or any examples on how Oklahoma has kind of worked to cover some of this stuff, do you have anything that comes to mind?

I did, Paul. I wanted to mention that this seems to be the most common place that we lose sex offenders. They're moving from one place to another. They tell the officials where they're at or if they're discharging from incarceration. They give an address where they're going and it fails.

And then it is a challenge to determine who is going to pick up trying to locate and charge this offender for failing to appear. So this is a time when it's really important to work with your law enforcement, whoever your prosecutors are, and specifically the Marshal Service in the instance of tribal properties, as well, because if they're transitioning across state lines or across tribal lands into another jurisdiction, the Marshal Service may be able to assist, or maybe the law enforcement office that is going to pick up a charge.

And so it is very important that agencies pay close attention to when these three days are up so that they're notifying back to the agency that sent the information so that somebody can start trying to locate these offenders. A resource also that we found that we've used a couple of times is NCMEC. They have an option. And then also the Marshal Service has a tracking service where they can try to help the jurisdictions locate an offender. And that could assist in who's actually going to end up picking up the charge and following through with prosecution.

We do have a question that has come in. And this appears to be a good time to ask it. Yes. Our question comes to us from our friends over at the state of South Dakota. And the issue they've experienced is that the state seldom notifies their offices of a new register moving into the area and within their jurisdiction. How might we overcome that challenge?

OK, great. I was able to hear it. And since-- Margie, do you mind taking that on, since you represent the state at your regular job?

Well, I think it would probably depend on how your state functions. So if your offender is leaving from an in-custody situation, then it may be that you need to contact administration at your corrections or

incarceration system and talk with them. They should be sending you through the portal the information. The other thought-- and we were going to talk about this later-- but maybe reaching out and seeing if you couldn't do some sort of joint training with the other agencies that are not necessarily as good at notifying you, because maybe if you have a networking option or a training option, they become familiar with what you need.

And then also, they feel like they're working with you as opposed to two jurisdictions doing separate activities and not really taking time to think of how it might impact the other agency.

Thank you, Margie. I think that both of those were-- are great answers. And the question was a really good question. And as we work with tribes, you know, I know that that's come up often. But Margie, you know, we represent a tribe here in Oklahoma. And you represent this the registry there at the state level. And you know, I remember when we first began. We didn't have a-- we had no status with anyone, I felt like.

But I know early on, you and I connected and we connected with other people from the Department of Corrections and have really strengthened our relationship. But you know, a lot of times it just takes one person to try to make that connection. And sometimes you have to be persistent. And sometimes maybe the first two or three people you meet you don't get the answers that you're looking for. But eventually, you know, I'm hoping that your work pays off and that you're able to make a good connection with the state or with other tribes, because, you know, it comes down to the safety of your tribe or your community. And that partnership is definitely necessary.

So thank you for that, Margie and Joanne. And we're still on these-- on the procedures for the failure to register. And this is what kind of Margie was talking about, too, about, you know, offenders falling through the gap. But it says here that if the sex offender cannot be located, then the responsible agency shall assist the jurisdiction that provided the notification with the investigation as needed.

So our tribe kind of, in that language, you know, I think it puts the primary responsibility on the jurisdiction-- on the jurisdiction that the sex offender was last registered at. But it doesn't give them complete responsibility. It still puts it on our registry to assist that program. And so I would just take a moment to encourage the programs out there, you know, to be a good partner-- be the kind of partner that you want to the other jurisdictions and really help to see through that investigation to locate the offender.

So the action steps to take if a sex offender, you know, failed to appear and register is located-- so this is, if at first you notify the jurisdiction and say, hey, I can't find them, later on you do investigate.

You continue to investigate with that jurisdiction. And you realize that you do find them, you know, the first step would be to immediately inform that jurisdiction. So go to that jurisdiction. For us, if it was the Northern Tribes, say, hey, thankfully they came in today, or thankfully we got a tip and we were able to locate that offender.

Now, with that offender, it's going to be important that you serve them with a notification of registration and that you declare to them, hey, you're in direct violation of our code already for failure to appear and register. Hopefully that's enough to get them, you know, especially if it's within the-- you know, three, four, five days-- hopefully that's enough to get them at your office and registered in your jurisdiction.

But if not, then your tribe can seek a warrant. Of course, you can get with the US Marshals and ask them to seek a warrant. And they-- we had a presentation with the US Marshals last week. And they talked about how they were willing and able to help. Even if we don't know we need them, we can always consult with them and they can make that determination.

OK, so that was failure to appear. Now we're going to move along to failure to register. And so for failure to register, many of our codes define it like this-- a sex offender who is required to register pursuant to the code but fails to do so or otherwise violates a registration requirement of the code.

And my friend, Rueben, he's a sworn officer with the Te-Moak tribe, he was telling me-- and I really think it fits this definition of an offender that he had who would come in on his verification dates like he's supposed to. But he refuses to speak. He refuses to do anything. So he's not going to answer any questions. He will just appear. And I think that that kind of fits this failure to register. In essence, you know, he's come in to register, but he's not doing it pursuant to the code.

And the code says, of course, that they have to give their name. They have to give-- submit to DNA, submit their finger palm prints, you know, give their address, you know, all these things. So they're coming to do it but they're not doing it pursuant to the code. So you may have an offender who's kind of defiant in that way. And maybe this-- maybe you identify with this the failure to register.

But let's go to the next slide. And again, we have a broken down kind of example. And so in this scenario, you have a tier three registered sex offender. This person was due to register for verification purposes last month. 30 days have passed. 40, 45 days have passed. You still have not heard from this offender.

So what does your code say about this? Your code says, a sex offender who is required to register

shall, at a minimum, appear in person at the registry for purposes of verification and keeping their registration current. Of course, for a tier three offender, they're supposed to be there every 90 days and for the rest of their lives. So they obviously aren't needing that.

So what is the violation here? The sex offender fails to register by neglecting to appear in person at the registry for purposes of verification. So that's an example-- again, if you've been in the register-- as a-- in the sex offender registry office for some time, you've probably had examples where someone has failed to register because they do not come in for verification purposes.

And when we think of, you know, this time of COVID or in major disasters, you know, sometimes you're hunting. You're trying to investigate, trying to locate an offender, because they're not coming in. On the last time I jumped into the procedures-- and I'm going to combine them. So we're going to go to the absconded sex offenders. And then I'm going to combine the procedures for the failure to register and the absconded sex offender.

So this is the last section that I'm covering here. And it's on absconded sex offenders. So let's go to the code. What does the code say? So our code probably says something like, a sex offender who avoids registration or registration requirements or leaves the jurisdiction secretly or suddenly. And we have an example of to avoid registration or service of process, prosecution, or arrest.

So that is probably what our code has on an absconded sex offender. So this is the absconded sex offender scenario code in violation. So the scenario is, the registry conducts address verifications periodically. And this tier three sex offender, he doesn't appear to live at the address that he provided. You go and talk to a neighbor and they said, hey, you know, this house has not had any activity in months.

So what code-- what does the code say about this? It says that they're supposed to appear in person at the registry at least three days in advance of any intended travel away from the tribe-- this is just an example-- that will last seven days or more, and then as required by whatever section. So in this case, if the person-- the neighbor says, hey, there's been no activity in this house for the last two months, and you know that offender knows that the code said three days prior to his move he should have alerted, he should have notified in person the registration office and he didn't, then this person would then be under the violation. The sex offender absconded by moving to some unknown place other than the registered place of residence.

And so I can tell you that, at our tribe, we've had a few examples of the absconder sex offender. And my colleague, Theresa, was able to share one last week where we couldn't locate this person. We had

totally lost him. We consulted with the US Marshals and they were able to locate him because I think he had used a card or a form of purchase at a gas station in Tulsa.

They went to the gas station, did their investigation, were able to find out that he was living nearby. So that is the example of an absconded sex offender. And let's walk through the procedures. Now, this is applicable again for the absconder, and also for the person who has failed to register. So of course we've talked about that initial investigation that the SORNA program would do.

And what I said last week was usually our initial investigation is an internal investigation purge. So we would first check here and ask, you know, the people at the front, hey, are you sure this offender hasn't come in the last week or so? Did he come and you just forgot to give me the message or not? And they'll say, no, he hasn't come in. We haven't seen him.

We'll go through our notes and make sure that our dates are correct, when the last time he came is, and if we're expecting him on the right date or if there's some kind of internal problem with the way we processed this or when we're expecting him. And if we go through all those check marks and realize that, hey, you know, I don't think that the problem is internally, then we will broaden our search. And then we'll call in BIA. We'll call in other law enforcement agencies at that time after that.

So what we're trying to do is determine if the person actually absconded or not. And if you need to, at that time, again, consult with other people. Bring in other people. That is the time to do that. So if the information indicating the possible absconding came to your notice, of course, you're going to want to notify that tribe.

But if the offender cannot be located, these are the action steps that you're going to take. So you're going to want to update the public sex offender registry website or your TTSORS page if you have TTSORS. So you're going to want to make that update there and identify that individual as an absconder. You're going to want to notify the US marshals. And we have forms available. I know our next session is going to be on code procedures and forms.

And so we'll have examples of those forms available. But you can definitely reach out to us if you need that. But we have-- many of us have a notice that this person has absconded. It's already ready and prepared to send out to the US Marshals and, you know, any other jurisdiction that would be involved. And so your tribe, you're probably going to want to seek a warrant. And of course, the US marshals could and may want to seek a warrant on that individual, as well.

Chris, this sounds like a great time to bring you along and just see if, up to this point, if you had any

comments or thoughts that you wanted to provide on the absconded defender.

Thank you, Paul. And yeah, this is a very challenging issue, I think, for those in tribal communities to be able to enforce the registry requirements. And in my work in tribal communities, what I've heard is sometimes it's hard to get engagement and responsiveness from other agencies. And my advice is to try to build those relationships with the other jurisdictions that are around you.

So if there is a state police or local Sheriff's office, local police department, and then certainly the US Marshal service, who we have consistently heard from our tribal partners that they are very helpful. But in developing those relationships and then figuring out mechanisms to make sure that there is this notification going on back and forth between the jurisdictions, so that way you're not chasing your tail. Maybe somebody is in another jurisdiction and you didn't know it and you're looking for them or whatever, or you're not being notified about it.

And so I think that developing those relationships and then getting the flow of information going can be a really helpful thing in dealing with these absconder and failure to register procedures. And we're going to talk later about sort of how you might go about then with prosecuting those cases and who's going to take that case up.

I think right now we're just trying to figure out, how do we find the offender? How do we make sure they're registered? And so having that coordination and collaboration with the other agencies I think can be so helpful. Thanks, Paul.

Chris, that's right on point. And it just-- it really does remind me of, again, when we kind of first started. And you know, at first, a lot of it could have been our own fault for not understanding, you know, the SORNA program. But when we reached out to BIA, a lot of times at first we didn't have that response that we wish that we had.

Again, a lot of it could have been because we were very confused about the program, too, early on. But you know, we had a US Marshal here who really kind of mentored us and became our friend and our go to, kind of coached us on a lot of things. And at first, it was-- it was the US marshals who would-- we would do all of the work on our end, but we would bring them along. And many times we had a successful prosecute-- I mean, every time we brought up a case that went, it was successfully prosecuted.

And so that kind of gave our program some validity, some credibility. And we were understood-- had a better understanding of our program. And then when we began to approach BIA. And you know, at

that time, then they were much more inclined to help us out. Plus, they had received additional training in our area. So I know that that really helped.

And so definitely I feel for the tribes that would like to enforce some of these things and they're having a hard time. But I would just say, don't give up. Keep trying. Whether it's with your BIA, with your law enforcement, with US Marshals, you know, keep trying and, you know, I know you're doing it for the safety and well-being of your tribe.

So remember too-- we talked early about or just a second ago about updating TTSORS. But now we want to make sure that we update NSOR. Remember that that is not the public website TTSORS or the public website that all jurisdictions feed into. NSOR is a file that the FBI maintains. And it's important that we go and update that.

And then we can also update NCIC, again, on the wanted persons file-- again, a file that FBI maintains. So definitely if you can make that update. Maybe you have an agreement, an MOU with the BIA or with the county and they're the ones who make that update for you. But make sure that that information is transmitted to them and that they make that change and that they confirm that the change has been made, because other law enforcement, they're going to benefit from receiving this information if they encounter this person. They're going to benefit from having that. So make sure that it doesn't stop at TTSORS, that you continue to make those changes in NSOR and to NCIC. And I think that's it on those subjects.

I will pass it on to my friend Chris.

Thank you, Paul. Very helpful information. And we really appreciate you sharing that. I'm going to transition now and talk about some of the individual pieces of the requirements for registry that could end up in a failure to register situation. And the first one I'm going to talk about is international travel. So Megan Kanka-- maybe you know that name. Maybe you've heard that name.

It's a very tragic story of a young girl in New Jersey who was kidnapped, sexually assaulted, and murdered by a registered sex offender. That was sort of this-- and upon what happened to Megan, we ended up with a fairly significant piece of federal legislation called Megan's Law. And that was sort of the second major law that came out after the Wetterling Act that put requirements for registration on jurisdictions like states, and ultimately later, with tribes.

And the requirement was to make sure that information about registration was provided outward, that it wasn't just kept within law enforcement. And so public notification came along with that. And

so therefore we've seen changes in the registration laws over the years. When the Adam Walsh Act was passed, that changed the landscape in terms of how to do registration.

And as part of that, Wetterling Act and Megan's Laws were both repealed. But a lot of the key components were really brought forward into the Adam Walsh Act. And then when Congress passed the International Megan's Law, they went back and they brought back and named that law in memory of Megan Kanka. And so they wanted this idea that notification needed to take place again.

And in this case, notification needed to take place with those jurisdictions where sex offenders might be traveling internationally. And so the requirements and the keys really are to make sure that notification occurs, that there is awareness on the part of the juris-- the receiving jurisdiction or the receiving country that the offender is coming, and then they can make a decision about what to do and whether to admit the offender or not.

And I think there was some recognition in this law that there is responsibility by the United States and all of us to make sure that if offenders are traveling internationally that those countries are aware of it. So we wanted to protect really everyone, not just the citizens of our own country, by this provision. And so this notification takes place. That's not to say that the US decides how an individual country does-- what they do, whether they admit the offender or not.

That is not our business. That would be a violation of us transfer-- you know, going over into another country's business. But we want to make sure that they have that information. And in particular, we're all aware of stories of sex offenders traveling to certain countries for the purposes of engaging in offending and abusive behavior and sex offending tourism types of situations.

And you know, it's a phrase that's often coined and discussed. And so this international travel provision is something that was put forward to try to deal with some of that. And so the requirements for registrants is that they must notify the registering official-- you, as the tribal SORNA official-- that there is going to be international travel going on and that they must do that 21 days in advance and provide specific information about where they're going to travel, how long they're going to be there, et cetera.

And then that information needs to be forwarded by the registration official through the exchange portal to the United States Marshal's office. And then the Marshal's office will help facilitate that being sent to the country where the offender is planning on going. And again, the Marshals Office and the US do not approve travel or not. It is the receiving country's choice about what to do.

However, what we know is that many countries have elected to not allow offenders to come into the country. And so with this notification that's done in advance, then the country at the time that the offender were to come to the country can make that decision. But we also know that there are, again, as I said, some countries that are not accepting offenders. And we have a list of those.

Lori McPherson from the SMART office has done a great deal of work. She's no longer with the SMART office, unfortunately. But she did a tremendous amount of work on this and identified some of those countries. And so there there is information out there. And so if you have somebody that's traveling, you might suggest that they do some investigation or you could do some investigation and provide that information to them.

Again, it's not your job to gatekeep in terms of whether they go to another country or not. You're just trying to provide information about offenders as they're considering traveling to another country. I've heard many examples and stories where offenders have traveled to another country, arrived, and they've been turned around upon entry into the country. So maybe they're with their family. You know, they've got business or they're on vacation, and they're told, no, I'm sorry. You cannot come in the country. And they have to immediately turn around, get back on a plane or however they came into the country and leave.

And so I think that's the worst case scenario. And so certainly, dealing with this as much as possible upfront can be beneficial through the process. It's not your responsibility, but it's something to be aware of when your registrants are doing this kind of travel.

And so what happens if the people don't let you know that and they go? That is a failure to register for not-- so long as this is within your code and this should be part of your code, your tribal code, that this is a responsibility, then if the offender fails to do this notification in advance and goes, they are in violation of your code and can be charged with failure to register.

And again, we'll talk in a little bit about what prosecution might look like in that situation if there is a decision to go forward with that. But we have a specific absconder and failure to register procedure. And we need to take action, because this is a requirement for registered offenders. And Margie, I believe you also have had some experience in your job in terms of dealing with international travel. So I wonder if you have anything that you might want to add.

I would add that when this usually comes up is we find out from family members who are calling, asking that they're wanting to take a trip and their son or brother is an offender and they want to take him with them. What are the steps? Or somebody has found out in the community that the offender

has gone on a trip and they're wanting to provide information about that after the fact, either after the offender's already left the country or once the offender's returned and they found out about it.

So I think it's important to remember what you said earlier, Chris, that the responsibility on the registry is actually just to forward the information through the portal. But you're likely to get questions about this. And although you might not have all of the information, having some information available that you can share and say you need to contact the Marshal Service, your consulate for the country that you're traveling to needs to be contacted first.

And also, if you're dealing with an offender who is doing such international travel, the requirements include specific itinerary. What day are they going? What country are they going to? If they're going to a separate country, what day is that travel going to occur? So they need to be very specific and have their plans laid out, which means they're going to have to make their travel arrangements well in advance if they're going to have to notify 21 days before that travel.

So there's some points that might help if you have this situation come up.

Thank you, Margie. Those are really good points of detail to consider. The other thing that I've experienced and I've heard from some of my tribal partners is those who perhaps are right up against, say, a foreign country. So for those on the southwest border with Mexico or up in the north with the border of Canada, and sometimes what we know is that offenders may go back and forth for employment or different type-- they may have family across the border.

And so all of these things, I think, have to be addressed and dealt with as part of this international travel requirement. So just something for you all to think about. And if you need more information, again, I think as Margie said, the US Marshals office is a great resource, as is the SMART office, for some of this.

So moving on now, we're going to talk about the different sort of registration requirements and the monitoring and accountability that go with that. And the goal of SORNA really was to increase this monitoring and accountability for registrants in the interests of community safety and victim protection. And so SORNA requires-- as you all, I'm sure, are quite well aware of at this point-- registration with where the offender lives, their residence, where they go to school, and where they work.

And so we're going to cover each of those individually and talk about some considerations for registration and enforcement related to some of those kind of things. But the goal is to monitor and

know where the offender is. Where are they going in the community? Where are they spending their time? Where are they living, going to school, and working?

And then also the notification component of that, to make sure that people are aware that the offenders are in these places. And so there is requirements for public notification with schools, with employers, and with their residents so that neighbors would have visibility on that. So in terms of the first one, the residence, this is the sort of first registry area that I'll cover. And it talks about needing to register where the offender lives.

And where they live, that can be a complicated issue. It can certainly be where they spend all of their time. It could be where they spend some of their time. You know, perhaps they have a secondary residence. There needs to be registry for that, as well, or a temporary residence if they're traveling and visiting someplace. Many tribal jurisdictions have codes that require notification if you're in the community for a certain period of time.

We also know that offenders oftentimes will spend time at other places, say they have a partner and they're spending time over there, or at their family home. So all of these considerations need to be addressed as part of residence. And I'm not going to go through and talk about how to register people in those situations, because we did do a training on registration 101, so to speak.

But just thinking about residence and the requirements, then the offender has to ensure that all of these things are addressed as part of their registry requirements. And they need to register in the jurisdiction in which they're doing these things, per the code requirements. So if your tribe requires somebody working and going to school, as it should, to register, then the offender needs to do that, and that they need to then check in per the regular SORNA requirements, which are listed there for the tier 1, tier 2, tier 3.

And then there's a requirement to verify the address. And so you can verify this in a couple of different ways. The requirement for SORNA is that you verify by an in-person visit from the registrant. They come to your office. They tell you, this is where I'm living. And then you can verify that in a variety of different ways. But so long as they've come in and done that, they've verified.

But many SORNA jurisdictions have decided to go a little above and beyond that, and you certainly can if you want to. You can check or ask for information to verify that the registrant actually lives there, you know, checking identification, checking, you know-- bring a piece of mail that shows that you're still living there. I mean, these are some things you can do.

But also, people also consider sometimes doing field verification to go out and actually verify that the offender lives at the residence that they are registering to. This is an optional piece of SORNA that you can add on to really ensure that the offender is living where they say they are, because we know unfortunately sometimes offenders will register one place but actually be living somewhere else. You know, they're not being completely honest. That may be a shock to you all.

But you know, these are the challenges that we experience. And so doing those kind of sweeps or compliance checks through a multi-jurisdictional approach can be something. And we'll talk about that in just a minute. But again, the responsibility is to verify that their address-- that the address that they're reporting is the address where they're living.

And if they're not residing there-- so they may register an address and they're not living there. That's one violation. That's one failure to register. They may be living somewhere else and not have registered there. That's also a failure to register. And so if the person is not living where they're supposed to and maybe falsely reporting-- and/or falsely reporting where they're living, then you would follow the procedures that Paul was talking about before related to absconders and failure to register.

So I was referring just a second ago to the idea of doing multi-jurisdictional address verification checks. And many tribes and many other jurisdictional law enforcement and registry personnel have used this strategy to really ensure that offenders are accountable for where they're saying they're living. And I think there can be some deterrent value. I don't have necessarily research on it, but it seems to me that if I'm an offender and I know someone's going to come out and check where I live, that I would then be a little more cautious about lying and misrepresenting where I live.

And so by doing those home visits, those compliance checks, it hopefully leads to a greater compliance with registry. And what we've seen in tribal communities is a collaborative often where the US Marshal service is a great resource for that. They've got resources specifically dedicated to help you with these compliance checks. So I would encourage you to get to know the Marshal in your area and to perhaps seek their assistance to go out and to do a check where you can check, say, in a couple of days all of the registrants within your tribal jurisdiction.

And then we would also maybe want to partner with others, like the state police or local sheriffs and police departments. Oftentimes we have these multi-jurisdictional approaches because sometimes offenders live in one jurisdiction, maybe work in another. Or it just is helpful, I think, to have everybody on the same page and working together. And it's sort of a force multiplier, if you will, for

you as a tribal SORNA official or law enforcement agency where you're bringing in other resources that can help support your resources.

And that enables you to do more, perhaps, than you were able to do on your own. I've even seen in some tribal communities where there's been sort of cross-deputization and cross-jurisdictional support to be able to enforce laws. And that can be a really helpful thing, as well. So when you're doing these kind of verification checks, maybe bringing the task force, the group of people together, having a plan, identifying who is it that you want to check? What is it that you're going to do? How are you going to approach it? When are you going to do it?

All of those types of things can be really, really helpful in terms of this process. And the one thing you may want to talk about-- and I think this is something that has come up with law enforcement as I've talked to them in different jurisdictions-- is sort of, what is the goal of this? Is the goal to catch the offenders in noncompliance and to prosecute them? Or is the goal to bring them back into compliance?

And that may not be a black or white issue. It may be that, you know, with people who are horrendously out of compliance, you may want to prosecute. And with people who are not as horrendously out of compliance, maybe you don't. But to talk about what are the goals of this-- and you may want to involve prosecutors. And again, Margie will talk about that in a little bit in terms of the involvement of prosecutors.

But thinking about what it is you're trying to do-- and a lot of the people that I've talked to have talked about, we just want the offenders to be registering the way they're supposed to do that. And so working towards compliance is the goal. So thinking about that and having those discussions, that way you're not working at cross purposes with other members of your multidisciplinary or jurisdictional team.

So Paul, I want to invite you in here to see if you have any thoughts from your experience at Cheyenne and Arapaho tribes in terms of this.

Thank you, Chris. You know, we do conduct address verifications often. And as I said earlier, at first we did that with the US Marshals. But then later on, we started to do that with BIA. And so usually, we're in our own vehicle. BIA is in their vehicle. And we cover 9 to 13 counties. And so usually it's an all-day thing. We're starting early in the morning. And we usually don't get back, you know, into the office till about 5:30 or 6:00.

And then we just kind of do this kind of like a snake and just try to hit all the counties in our area. And you know, we've uncovered so much on our address verifications from people being compliant and us congratulating them. Thank you for giving us the right information. We see that you live here.

We have one of them that looked kind of like a meth home and was later busted for drugs. And so we've-- I feel like we've-- I don't say we've seen it all. But we've seen a lot going out in the field.

Thank you, Paul. I think that's the quote of the session. You know, we haven't said we've seen it all. But we've seen it all. So appreciate that. So in terms of, again, when you're actually out there and doing this, Paul kind of talked a little bit about sort of beginning to frame this. And thinking about, again, how you're conducting this, I think one of the important things is, if you're going to be working towards warrant and prosecution is to document what you're doing, making sure that you have records, so taking notes, pictures. Different things can be helpful.

If an offender is not home at that time, how are you going to notice them that you were there? So the idea of maybe putting some kind of a notice on the door and asking them to follow up with you. And if they're home, what are you going to do? Are you going to you talk to them? Maybe you're going to congratulate them for being there?

But I think you also might want to check things out, you know, as much as you can. Look around a little bit in terms of what the circumstance are. Now, I know that law enforcement has to have probable cause before they can go into a house. And so you may have to meet with them on the porch. You could certainly ask, you know, if they can invite you in or whatever, you know, and then maybe you can enter at that point. But that would be up to your policies and your procedures and your code in terms of how you do that.

I do know that if the offender is on supervision and you involve corrections, probation, and parole, some of them have the ability to go into houses. And so that can be a helpful thing in terms of being able to observe. And we have talked in previous trainings both about field safety-- so I would refer you to the webinar that we did on field safety and making sure to keep yourself safe in this process-- as well as what to look out for. There are things you can look around and see as part of this process to know whether the offender is engaging in risk behavior or not.

And so thinking about those things and having a coordinated plan and making sure that you are all on the same page, I think, is really important. And if you identify noncompliance, making sure you document, and then working, if you need to, towards warranting and prosecution, as well. Virtual monitoring and accountability-- we're in a COVID world right now. There are challenges with this. You

may not be in a position where you can go out and do in-person verification.

But there's other things you can do besides for just having somebody come to your office. And so, how can you continue to provide this insurance and validation and verification of where the offender is? And we know that there is a scarcity of resources. There's typically a lot more offenders than there are of you. And so maybe it's about prioritizing those that you're the most concerned about, those in the higher tier, or who are exhibiting that risk behavior.

But can you use other ways of being able to verify things if you want to do a little bit more above and beyond them coming to the office? And so perhaps using video conferencing or phone and, you know, verifying what's going on. You can send letters to the offender's house. And they need to respond to that. That way if they're not there and they're not getting their mail, that tells you something. And you can also use third parties and talk to other people to corroborate information.

So there's a number of things that you can do in this current world. Or, you know, even beyond that, if these are things that you want to do because you don't want to go in the field or you're not authorized to go in the field, these are things that you can use as a way of going a little above and beyond and really verifying and letting me-- the registrant-- know that you're watching sort of what they're doing.

So again, if the goal is to get them compliant with the registration requirements, verifying their address, but however, if they don't live there or if they are living at an unregistered address, then you have specific procedures and policies that you can follow in terms of addressing that. And again, we referred to that earlier.

So I'm going to move on and talk about the second piece of this now, the second sort of registration requirement, which is related to employment and being accountable and monitoring employment and the registration of employment. We know that offenders, you know, spend a great deal of their non-home time at employment if they're, like, say, full-time employed.

And so it's something that we want to be aware of. What is their home and their work environment? And how are they doing there and where is that? And so we can, from a public notification perspective, have that information. We can provide that information. And this is one where there may be separate jurisdictions between where maybe they live in the county and not in the tribal community but they're coming into your community to work or vice versa. So there needs to be that coordination between jurisdictions in terms of handling the registration requirements for employment.

So what kind of employment are we talking about here? We're talking about certainly paid employment. But we're also talking about volunteer, internship, any place where they're going and spending that time they need to register. And they have to register the name of the business where they are and the address. And they need-- and this needs to be verified in the same way.

And so when they come in and do their in-person verification per their SORNA tier, we need to check in. Are you still there or not? Are you still working? What's your status? And they are required also to let us know if there's a change in their employment in between those in-person verifications. And so hopefully they are doing that and noticing you accordingly.

So in terms of the registrant requirements, there is a specific form. And we'll be talking about the forms, as Paul said, at our next training. But there is a form that can be used to be able to declare for their employment. And this form can then be shared with-- say if you're in a tribal community, what we've seen is the real importance of sharing that information with the Human Resources department, because if people are being considered for employment, prospective employment, we want to make sure that if this person is a known offender, that they know that. And if they accept employment, then they need to be noticing and doing the immediate registration that's required within the three days.

So just thinking about that coordination within your tribal community, and particularly with human services-- or excuse me, human resources related to employment, registration is something to consider. And so this form can outline what the requirements are. It does the required disclosures. And then it also notices that failure to comply will result in certain sanctions. That's a failure to register.

So they may be in compliance with registering where they work, but not in compliance registering where they're living, or vice versa. And so they need to be in compliance with all of those things. And we need to address those things with them. And they need to know what the consequences are if they fail to do that. So again, we can do those verification checks, if we want. We can be above and beyond.

If you want to, certainly reach out and have contact with the employer and check in to make sure that they, in fact, are working in the way they have disclosed at the time, at the place, in the job description that they are saying that they have. So there is verification that can be done, or there can be certainly verification where you can go out and verify directly with the employer, as well.

So the minimum requirement is that you do the verification at the tier level once per year every six

months, every three months, in-person verification in your office. But above and beyond that, if you want to, just to make sure that the offender knows that you are tracking and you know what's going on, it can be to have that more direct contact with the employer.

Obviously, we don't want to do anything that costs the registrant their job. And so I think it's doing it in a very sensitive way. We know that offenders being employed is a protective factor. It reduces their risk for recidivism. We want them to be employed. We want them to be able to be pro-social and to support themselves and their families.

So we're balancing out this need for them to be responsible and to have this information with trying to support them in their employment. So in terms of then what happens if the person is not disclosing their employment, if they're noncompliant related to that, then again, that's a failure to register. And they can-- we can follow that procedure.

And/or if they're working in a tribal community without reporting that, then that's maybe reaching out also to where they are registered for their residence and letting that person know and coordinating then some kind of accountability with that. And that's the thing that I think many tribal communities have seen is people coming into the community, whether it's to visit for some kind of an event or working, and not noticing you about registration.

And so it needs to be very clear in the code what those expectations are. And then if they don't comply with that, that's something that can be addressed and prosecuted as appropriate. So for tribal communities, I think, again, it's about what is suitable, employment, working with your human resources department-- say, if this is somebody who has offended against children, you know, we don't want them necessarily working in a job that is connected with kids.

So thinking about that, helping provide some screening information through the registry information can be helpful with that. And also, what I've seen in tribal communities is certainly the issue of casinos and working at casinos. And there are limits on people who have got criminal convictions on what jobs they can do. And do you want-- is this the type of offender who can have access and contact with the public or not? Or are there behind the scenes jobs that they can be doing?

And then is the person an employer? Or perhaps they're a subcontractor coming in and working for somebody else. Again, we want to make sure all of those things are addressed within the code and in coordination with human resources, and noticed to the registrants so that they're aware of these things. Again, the goal is not to prohibit them or cut them off from employment. It is to ensure that whatever employment that they have is suitable and appropriate for them.

The final area that I'll cover before I'll turn it over to Margie will be talking about monitoring and accountability related to schools. This is sort of the third area that's required in terms of registry, to register where you are attending school. And so therefore, if somebody is coming into a tribal community for a school opportunity but they don't live there, it's still expected that they register with you per the tribal code.

So again, the registrant's responsibility is to provide the name and the address of the school, when are they going to school, when will they be on the campus? And they need to register in that jurisdiction of the school if-- particularly if it's different from where they live. And so having provisions for that and then how that information is going to be shared, too.

So if you get registration information about somebody going to school, what are the protocols then for sharing it with the school? Who are you going to share that with? Again, I don't-- we don't want to discourage people from going to school. So there is a protective factor for people that seek education and advance themselves, hopefully to get a better paying job at some point in time.

But we also want to make sure that safety is ensured for the school and that there is notification that's done to the school and that the other students have visibility and awareness on that, as well. So there is requirements in terms of verifying that information the same as I've talked about with the others, ensuring that people are doing that.

And so again, that declaration form can be a way to provide that information, to let the registrant know what their responsibilities are, and to let them know what will happen if they don't comply with that. And so providing that information to the registrant and ensuring that they register and then handling that with the school, as well.

So when somebody comes in and they enroll in a school, if they are a registrant, it's expected that they go immediately register with you and that they need to do that within the time frame specified within the code. And failure to comply with that, again, as I've said about the other two categories, is a failure to register. So again, it can be addressed through the protocols that have been previously discussed.

So in terms of verification, again, minimum expectation, they come to you in your office and they verify that they're going to school. But you can take other steps, such as doing an in-person visit to the school or certainly talking to a school administrator or something like that to verify that they are, in fact, enrolled and doing what they're supposed to be doing.

The one thing to keep in mind-- and this is particularly for juveniles-- if your tribe does register juveniles, it's beneficial for kids to be able to go to school so long as they can do that safely. We don't want to do anything-- like, if you show up in a full uniform and you know the entire school sees you talking to the youth-- I know none of you would do that and I'm exaggerating for dramatic effect.

But certainly we don't want to do anything that's going to lead to unnecessary, you know, upset or turmoil within the school that could potentially lead the student to be harassed and potentially be pushed out of the school. As a youth, we want the kid to be able to be in school in a safe way. And so making sure that you're particularly careful about confidentiality related to youth under the age of 18 if they are required to register and you're doing that verification, as well.

So again, all of this is about finding balance. It's a really tough little dance that we all do here. Ensuring that they're registering lawfully, that we know where they are, that notification and that information is accessible as needed, but trying to create opportunities where people have places to live, where they can work, and where they go to school. You know, all of those things are the goal, as well.

Sort of this final piece related to school that I would say is, so if people are not registering as they're supposed to, again, you can follow those protocols and procedures, but also thinking about offenders as they go to schools, sometimes they're going there not because they're in school. So let's say you have somebody who is a registrant who is a parent of a student.

So having some discussions with the registrant about, what are the responsibilities for that? If they're going to go to the school, do they have to check in with the school? What is required of that? I mean, we, again, want people to participate as a parent in their students' experience if it's safe for them to go to the school and to do that.

But there may be certain reporting requirements. So ensuring that the registrant knows what those requirements are, coordination with the schools around having registrants on school property, all of those things are things that you might consider as part of this process above and beyond the requirements for a registrant to have to register themselves at the school.

So just food for thought, things to think about. You know, that's not part of SORNA. But that's just something that I think can be helpful. For coordination, I mean, again, we want that monitoring and accountability in place for the registrants as they're traveling within the community. And this is part of that. And so to give that some thought and to coordinate with the school can be something that might

be helpful to think about.

So with that, what I'm going to do is turn it over now to Margie, who's going to bring us through to this third part of the presentation related to prosecution. So Margie, it's now to you.

Thank you, Chris. Thank you for everybody for staying with us and hopefully I can provide some additional helpful information. I'm going to talk to a few-- talk about a few of the monitoring and accountability issues and then also talk about prosecution, how that can happen, things that your organization needs to be aware of. So first we're going to talk about sex offenders and internet restrictions.

So there's often a misconception that all sex offenders are prohibited from using the internet or from being online and doing different things. The most important thing to consider, to be aware of, and to make your community aware of is that, generally speaking, offenders who have internet or computer restrictions are those who are currently under some sort of supervision, and in many instances, sex offenders are not under any sort of supervision.

If they are currently under supervision, though, then their judgment and sentence or conditions of community supervision, rules and conditions of probation, is what you're going to look at to determine what those restrictions are. There was a case that went up to the Supreme Court. It's listed here, *Packingham vs. North Carolina*. And in that case, there was a statute that actually prohibited all sex offenders from being involved on social media. That's the way the statute was written. It was very generic, just social media.

And the Supreme Court got the case. The opinion was very specific in that sex offenders who aren't on probation can't just be restricted from complete censorship of the internet. They need to be able to access information the same as many other people in their communities. And so what the Supreme Court said in the *Packingham* case is that you cannot have a law that completely restricts access for sex offenders.

They used examples like, for social media purposes, news websites allow you to post messages back and forth to each other. Library websites might allow you to ask questions or to chat with people. And so those would actually qualify as social media type websites, anything that allowed some sort of community interaction or response by the reader. And so if you're going to have some sort of restriction in your jurisdiction, make sure that it's limited.

I think the next slide-- or not that one. I think we're going to talk about it a little bit. But if you're

dealing with an offender who's-- has sex offender restrictions and internet restrictions, make sure that you let your community supervisors know if you find out that they're using a website, if they fill their registration packet and they put some usernames, identifiers. Share that with the supervising officer, because a lot of times the registration staff are not the same as the probation staff. So make sure that you're sharing that information.

And then if you are in a place like in Oklahoma, where we have registrants who have to register with the tribe and with the state, be sure to share that information with the other jurisdictions so that they're aware of all the information necessary to investigate. If you're concerned with something that a sex offender is doing online, then of course you can contact the Marshal Service and they'll help you with investigating and taking steps to limit any damage that could be done by a sex offender using online resources.

I have a couple of slides next. The first one is about Facebook. And it tells you exactly what you need to do if you find out that a sex offender is online using Facebook. Their terms and conditions of Facebook actually prohibit sex offenders from utilizing that platform. Similarly, the next one is Instagram, which has now been taken over by Facebook. They have very similar protocols. Just a link to their look up. Or if they don't have-- if you can't find the sex offenders information online somewhere, then you can also get a copy of their sentencing documents and send that to Instagram or Facebook.

And the next one is Snapchat. These are the three that are most often used. Snapchat is becoming, I think, more utilized by sex offenders because of the option to have messages that self delete. And so there's information there on how to move forward if you think that a sex offender has a Snapchat policy. And that even allows for if you find out somebody from overseas who is a sex offender is contacting someone in your community.

So that information is good for your law enforcement, your registration staff, and also your community, if you have people who call in telling you that one of your offenders is utilizing social media to contact a child or to contact a victim or seemingly doing inappropriate things, then you can utilize that. So next we're going to go in and talk with a couple of additional things that can happen. They're not necessarily SORNA requirements or specific to enforcement. But they may be things in your community that you're going to use to deal with sex offenders in your community and/or to include sex offenders in your community.

There's nothing in the code that limits your tribe or your jurisdiction from imposing sanctions that

could limit the individual's involvement in activities or inclusion in activities or on your tribal lands. So your jurisdiction and your tribe when you're making your code needs to decide what those might look like. I believe that Chris has some examples or has some experience in dealing with some of these types of customs or traditions, if you'd like to weigh in.

Thank you, Margie. Yeah, I think this is one of the biggest challenges for tribal communities because we know that there are rituals. There are powwows. There are community events that occur. And we're talking oftentimes small communities where maybe everybody knows everybody. Maybe a victim is present at those things, as well. And so how are you going to put some kind of safety parameters around that?

Again, you may not want to completely limit someone's access. But you may want to have some provisions for how that's going to be managed, as well. And so dealing with sort of customs and traditions can be a real challenge. And we're always faced with that balance between wanting to provide for monitoring and accountability on the one hand, and yet give people access, particularly to spiritual events. You know, going to church, those types of things can be things that are-- we want people to have access. And there are certain constitutional rights that people maybe have. But I think we can certainly put safety parameters around that.

And then I've also seen some tribal communities that have actually enacted a full banishment for registered sex offenders. And so it's not something that's part of SORNA, but I've certainly seen it happen. Sometimes it's, you know, for, say, for tier three offenders alone that there's a banishment. But thinking about how to handle access to registrants in the community-- I personally am of the belief that, you know, if somebody is coming back in a good way and they are accountable and they are taking seriously their issues and can be managed safely in the community, it'd be great to figure out how to have them come back to the community in a good way.

But that's just me. I don't presume to tell you how to do your business within your tribal community. But thinking about the issue of banishment, as well as limits around some of these things I think are really worthy discussions to have within the SORNA program, probably with tribal leadership, as well. And what I've often seen also, unfortunately, is where these things will change.

I know one tribe that I worked with had a banishment rule until one of the tribal council members-- unfortunately one of their family members had a sex offense. And all of a sudden then the rule changed. So we can see that these rules can become kind of a moving target. But I think certainly thinking about offenders being able to have access to particularly ceremonial types of things and

rituals, but also considering the best interests and the safety of the victim and how can you develop safety plans or limitations that can provide everybody the access that hopefully that they want to have.

So Margie, those are a couple of experiences that I've had in dealing with some of those kind of unique things that are slightly outside of SORNA, but seem to be connected to SORNA in some ways. So back to you.

All right. Thank you, Chris. I'm going to talk about some specifics. If you're considering putting some sort of sanction or other restriction on sex offenders in your community, there's a couple of cases and/or situations that have already been experienced that we'd like to bring to your attention, so specifically the *Does vs Cooper* case in the Fourth Circuit.

That court found that when you're making restrictions on where sex offenders can attend or where they might be spending their time that you need to make sure that those restrictions are not vague or overly broad. So for instance, in that case, there was a statute or ordinance that said offenders can't be present at any place where minors gather. And so that could be anything from a gas station to the outside of a bowling alley or just a neighborhood street where it seems that kids tend to gather. And you can't necessarily restrict offenders from being in every place where kids might be.

But you can make very specific restrictions. For instance, if your community has, like, a child activity day, you could put a restriction on sex offenders from coming to the community center during child activity day. And our best advice for that is to name the specific event and/or facility that you're restricting and give as much information on what activity is going to be restricted so that the offender is very aware of what he or she is responsible for, and what they're restricted from participating in.

You also might want to consider monitoring your tribal ceremonies, your rituals. And that can be anything from what your administration or your registration staff is going to do, just being aware that an offender might be present, and/or making restrictions on where the offender is going to sit or stay during those activities, or if they're going to be allowed to participate in some part of the activity, but not others. It's really up to your community and your tribe to decide what's going to happen.

There's a couple of things that are important for your community and your offender. Make sure that when you make these considerations, you think about whether or not you're going to notify your community if a sex offender is going to attend. I know we had questions that came to our agency from a tribe who had a sex offender who was definitely going to attend a weekend long event. And they were asking what they could do.

And it was, can we put their name and information up on a building to notify everybody? Can we send notification out to the community? And some of that will depend on the way that your code is written. Some of that will depend on what's acceptable within your community standards. Also, if your victim is living in the same community, make sure that you take into consideration how your victim is going to feel if the sex offender is allowed to be present at an activity or a ceremony. And make sure that you consider taking strides to make that feel like a safe and comfortable environment for your victim.

Also in some codes and in some statutes, attending religious services is permitted. That's a right that offenders have. But in order to do so, there has to be an approval by the religious leader, whether that be a pastor, chief. Whoever it is that's leading that activity has to give permission. And the offender has to keep that-- in Oklahoma, for instance, you have to have written permission from the program leader giving the offender permission to attend activities. And those may be limited. They might allow for Sunday service, but not Wednesday night family service, or something like that. So that's up to the community-- or up to the religious service and to what they're going to allow for the offender.

OK. The next section that we're going to talk about is special rules and conditions. So if you have offenders who are on probation or parole or some sort of other community supervision, some community sentencing that your tribe has done as part of a diversion program or something, there are some things to take into consideration. When you're setting up those rules and conditions, make sure that first you talk with your prosecuting authority to make sure that those rules and conditions become part of the court record and that the judge has approved those rules and conditions, because without that approval, you're not going to have as much opportunity to enforce those rules and conditions.

Also, we've seen in Oklahoma that if jurisdictions have different rules and conditions and they're not using the same form for every case, then it gets hard to be consistent in your application. And it's difficult for your probation officers to consistently enforce the rules. So try if you can to come up with the rules and conditions for sex offenders form that utilized in every case. There can be modifications, of course, but it's better to be as consistent as you can.

And if it's part of the process, then the defendant or the offender is going to know what those are before they walk out of the courtroom when they're sentenced. They're going to sign off on it. The prosecuting attorney is going to sign off and be aware of it. And then also, the judge is going to be aware, as well. If there's a failure to comply with those rules, then you have something that you can

show that's evidence that the offender signed the document, was aware of it, admitted to being fully committed to those when he agreed to get his probated sentence.

Generally speaking, probation is given in lieu of some sort of incarceration. So if an offender is going to agree to those rules and conditions, you want them to hold their end of the bargain. Or if they're not going to-- if they're not going to follow through with the rules and conditions they've agreed to, then you can take steps to revoke their suspended or probationary sentence or to give them some sort of incarcerated sanction.

Also, like I said before, you're going to have the document signed by everybody so there's clear evidence that everybody was aware of the rules and conditions and you can move forward, if you need to, with any enforcement actions. And then the last slide on this topic is about other registration-related requirements that might come up or you might consider in your jurisdiction.

So if you're going to put something, make sure that it's narrowly tailored to the purpose. So if you're wanting to restrict access to children, make sure that you're focused when you're writing your ordinance or your code, that you limit the language to exactly what it is you're trying to restrict. Some things that have been approved by the court or upheld by the appellate courts in the United States are interstate travel restrictions, so making them report before they cross state lines. And if they fail to do that, of course, then the Marshal Service can step in and prosecute.

Here in Oklahoma, we have a statute that requires that aggravated or habitual sex offenders have a designator on their driver's license, but it actually says sex offender on their driver's license. And that has been upheld by the Tenth Circuit to say it isn't anything that restricts any of their constitutional rights. And we will continue to do that similarly. Our state-- I know there are other states that do this as well-- have a requirement that their driver's licenses are renewed more often than a regular, standard driver's license.

So if your standard driver's license issue is five years, you could have your sex offender have to do it every year. They are, of course, responsible for the fee associated with that renewal. So you have to take that into consideration as to whether or not it's too detrimental to the offender or if it provides a value. The reasoning behind a lot of those statutes, as I understand it, is it's just another way to keep an accurate address on a sex offender because if they're not going to tell the registration staff that they've moved, if they go to get a driver's license because it's expired, then they're going to have to report their new address.

So next we're going to move on to the prosecution side of things. We've talked about this a few times,

in that it's very important to strengthen the relationship between your registry staff, your tribal staff, and whoever it is going to be prosecuting the-- any violation that occurs. So once you've determined that there is an offender in your community that isn't complying with the registration requirements, you need to contact your prosecutors office, whether that be the local prosecutor, the US Marshal service who's going to help in your investigation and presentation to the US attorney's office.

Make sure that when you're talking with your prosecutor, you look to determine what elements of the violation that you're going to need to prove in order for them to successfully prosecute the case. And so that could be, as Paul mentioned earlier, there's different types of violations. There can be a failure to appear for initial registration. There can be a failure to appear for a verification six months into registration or two years after the registration has been going on.

Next you'll want to maybe get the jury instructions or the elements of the crime to make sure you have documentation to prove all of those. Things that you need to consider, and which would be true on both sides, but prosecutors offices, generally speaking, have a very heavy caseload, just like most of the registration offices. They'll have limited staff and resources. So they may not be as familiar with sex offender violations as they would be with other offenses that occur in your jurisdiction.

So as I mentioned earlier, this may be a good opportunity for you to come together with your prosecuting office and seek some training. You could do that through reaching out to the SMART office, to NCJTC, to other registration units in your area and seek a training where you all can collaborate and make sure that you're working and learning together on what best resources are going to be needed and what best practices are going to be had to make sure you get a successful prosecution.

And then, know whether or not your prosecutor is really seeking to enforce by means of incarceration or just whether or not you're trying to get compliance. There are a lot of prosecutors that I've worked with that really, their goal is just to get the offender back to being compliant as a registered sex offender. And so if that's the goal, then you may have a different approach to how you're going to prosecute these or what means you're going to take and how much resources you're going to put into prosecuting a violation.

So when you're preparing your case to give it to the prosecutor for consideration, Chris, if you'll move to the next slide, make sure that you conduct a thorough investigation. Depending on the fact pattern, like I said, if somebody never appeared, it's going to be harder to get information because you don't have documents yet because the offender hasn't arrived in your community.

But if you have an offender who's in your community, he or she's been registering for several years, hopefully you're going to have several notices or documents where you've informed the offender of all of the requirements for their registration. You're going to have pictures of the offender. You're going to have their updated verification letters or verification forms when they've come in.

And that's going to be evidence that you need to give to your prosecutor to show, look, this offender is very aware of what the requirements are and they've completed or complied with it for this amount of time and something has happened that has caused them not to comply. So make sure that you consider what sort of resources you have in order to get that information, and then what sort of resources you need in order to get the information.

So like in our community, we've had a situation prior-- before where a prosecutor really didn't want to prosecute an offender for not living at an address because it was his mother's address. And clearly, he had been at the location. But it was believed that he was living in another location with a friend or a girlfriend.

And so what happened in that instance is that the law enforcement, local law enforcement reached out to the Marshal Service, who happened to have a poll camera available for loan. And they borrowed the poll camera and stuck it outside of the home for 14 days, because it's what our statute is here-- 14 days, you can determine whether or not somebody is residing in a location and just watch the offender's comings and goings and prove that clearly the offender was only there twice during those two weeks for about an hour at a time. So he couldn't have been living at the residence in which he was registered.

And so if you have resources available to do those things, it's easier to move forward with presenting a proper case to your prosecutor. If you don't have those resources available, it's a good time, again, to reach out to other agencies who might be helpful and who you might be able to help in the future.

And so you build that relationship together. And moving forward, these prosecutions. Additionally, you're going to have to identify and prepare any witnesses. So your staff, who are going to be the ones called to the stand-- I know our registration staff are subpoenaed, of course, where we handle registration for an entire state. So our registration staff is subpoenaed regularly, generally speaking, once or twice a week, at least, to go and testify on these cases, and whether that be a failure to register or a failure to appear in the very beginning.

So make sure that your staff is comfortable with the information, that they're properly trained, that

they're familiar with the process of testifying in court. A lot of times we get administrative staff who've never been in a courtroom. So take them to a courtroom. Let them see. Let them super-- observe somebody else who's testifying on one of these types of cases because they'll benefit from that experience. And then your agency will benefit from a good presentation when a case is being prosecuted.

Things that you could use as evidence in your files-- of course, any of the copies of the forms you have, most often it seems common sense but we forget about it-- just having the sentencing document as part of your file, especially if you have offenders who are sentenced in a different community but they're moving to your community, make sure that they provide or that you obtain a copy of the sentencing document.

One of the most often challenged elements of a prosecution is whether or not the offender actually had to register in the first place. And the only way to prove that they had to register is to prove that they actually committed an offense that requires registration. So the sentencing or conviction documents are the basic, most important document that you can have. Next would be all of your acknowledgment forms, your registration forms, copies of your code, and/or any procedures that you have. Those will be important for the prosecutor to have.

If you have delinquent records, delinquent notices that have gone out and then any documentation you might have of the offender registering in another jurisdiction, as well. Other things that you could use might be checklists that you have in your office or activity logs that show what all steps you've gone through and that you're consistently using the same steps to register every offender so that your practice is standard and consistent.

And then make sure that you prepare all of those documents, you have your originals where they need to be, you have copies of everything, just in case somebody needs a copy. You don't want to lose something in a prosecution that might be important later on. So next we're going to go to challenges for SORNA programs. A lot of times, especially when you have your very first time that you're going to prosecute or request that somebody prosecute a violation of registration requirements, you're going to go to your prosecutor and say, hey, I have this great case. This offender was supposed to come in last week and he didn't show up.

What do I need to sign to get you to prosecute him? And the prosecutor is going to say, wait. We need a lot more information. We need investigation. We need further evidence. So make sure that you are open to working with your prosecutor and assisting in whatever it is they need. They may also have

their own investigator that they want to assign to the case. So be willing to collaborate with that office and support them in whatever they need in order to prosecute or hold an offender in compliance if they're on supervision and they're just considering some sort of sanction.

Be aware that there are going to be other agencies, or that even somebody in your own office might have a different viewpoint, and that's OK. Sometimes that will bring learning opportunities or ways to improve your system. Sometimes it is a challenge to work with somebody who has a completely different point of view than you do.

Also anticipate that the charges might come very quickly, but then if the offender becomes compliant, then your DA or your prosecutor may dismiss the charge because the goal was just to get compliance. And so you may spend all of this effort building this case, only to have the case dismissed. So don't get discouraged by that. Just know that the whole goal of the registration requirements is to have offenders who are registered who we know where they are in case we need that information because something terrible happens in the community later.

I know one of the biggest challenges I've seen from law enforcement in our area is that they think that the prosecutor should be tougher on these sex offenders, or that they should have stronger sentencing for these offenders who are convicted of a violation. Those are things that you really just have to be aware you don't have control of that. And so if it isn't something that you're willing to step out and seek legislative change for, then just do what you can do to best serve your community and let the prosecutor make the decision on that.

So as you can see from this slide, there was a survey done that showed that one of the biggest frustrations is that there's no accountability for registrants and that there's always this desire for more aggressive prosecution when they're noncompliant. So try not to get yourself too wrapped up in that, but also, since there is such this big frustration, it just supports the idea of building strong relationships with your prosecutors office so that you can explain to them why it's important in your community that they take steps to strongly enforce these sorts of violations.

I think that Paul has dealt with some of these challenges. So I'd like to ask him to weigh in if he has anything he thinks is beneficial that would help.

Sure. Well, again, for us early on, we didn't have, I wouldn't say, a good relationship with our prosecutor, because we were-- working in the court I've always been close to them, but maybe they didn't have a strong understanding of SORNA. And as a SORNA program, we didn't have-- we didn't make it easy for them either to know and learn about it.

And you know, just providing the code to them, you know, I think that that's an important step. But just-- but that alone isn't going to foster or build that relationship and put it where it needs to be. So some of the things that I consider, especially for tribes, is like a lot of our prosecutors, you know, they could be contract employees and some only appear once a month. Or maybe your tribe has them appearing more regularly a few times a week.

But you know, that is an issue, because sometimes, you know, you want to consult with them. And maybe you place a few phone calls and don't get a response. You know, that can be-- can make things a bit-- really difficult. We've also had the experience where we felt we've had strong evidence and we had enough information to prove that somebody's absconded and only for the attorney-- the prosecutor's office to ask us to investigate a little more.

And by the time we've done all that investigation, we spent another month or so on it, you know, out of nowhere, the offender comes in anyways and is ready to get right. Well, we-- you don't know this, but we had already spent months working this case. So those have been some blows for us. But I think when you don't have the support within your tribe, or if you're using a BIA court, if you don't have that support there, you know, maybe you can see if you can prosecute it federally through the US Marshals.

And another thing that I would-- probably the last thing that I would say, and maybe this could be a way for prosecutors to ease into these cases if they're not familiar with it, is to up front say, hey, I know you don't want this to lead to jail time or anything like that, but can it lead to a deferred prosecution where we make it a condition for this person to enter some type of treatment or get counseling, or even other things that are familiar with probation, which would be to get a job and do some of these other things.

So I would just encourage tribes to continue to foster those relationships and to try to bridge that gap one way or another.

I agree with everything you said. Thank you. That was really good information. If we can move to the next slide to kind of piggyback on what Paul said, a couple of things that you can do to improve that coordination, that relationship between your registration and probation staff and your prosecutor's office, is establishing a multidisciplinary team.

This can be just for purposes of operating your sex offender registry in your community and/or for those verifications. So it could be a multidisciplinary team, including your prosecutors office, your

registration staff, and somebody in your social services division. Or it can be an investigator from the prosecutor's office, your law enforcement agency, the Marshal Service and your registration staff.

You can use these multidisciplinary teams for lots of different steps in the registration compliance realm. So also looking at your registry statistics and data points, so whoever's operating your registry, if you can check and see how many aggravated offenders do you have? How many level one offenders do you have? How many do you see that are often in violation? Do you see a pattern with any certain group, or is it that the failure seems to be at the schools or-- what is it that sticks out that you maybe could spend some more resources improving in your community to make sure that registration is maintained?

Additionally, and we'll talk about this much more in our next presentation related to code policy and procedures, make sure that you're doing regular reviews of those. That regular review might just be annually or once every six months or so. But when you're doing those reviews, include your prosecutors office. Include other community resources in your area to make sure that your code reads effectively, but also that everybody is aware and is comfortable with the way that it's written and using it to hold these offenders accountable.

And then lastly, as I mentioned earlier, engage in training opportunities, whether that means you offer a training to your prosecutorial staff, your judicial staff, even-- because oftentimes we see that judges are not very familiar with the registration requirements. Or that means asking them to provide training to your office or coming together and getting an outside presenter to come in and offer training to everybody.

I know in our state, it was-- Paul mentioned earlier that we met each other by way of trying to gain information and it was a group of law enforcement that came together because of all the challenges they were facing in gaining compliance from registered sex offenders that we met. And that has led into, as often as can, an annual conference where we actually provide training for law enforcement and tribal partners across the state.

So try your best to engage in whatever opportunities you have and to make those opportunities available to everybody involved. I think our next slide is just resources. So with that, I'm done for the day. Thank you all again for attending and for staying in attendance and listening. And I hope that we provided some good information.

Thank you, Paul, Chris, and Margie for the excellent presentation and discussion today, and for sharing your insight and knowledge with us. We are now moving into the question and answer portion

of our webinar. If you have any questions for our group, feel free to enter them in the question box, typically located on the right side of your screen. You may need to click the orange arrow to open the dialog box.

With that, we will take a review of some of the questions that we have here. Our first question-- a possible sex offender was reported in our jurisdiction and I made contact. I ran a criminal history, but was unable to get court transcripts to verify if he's a possible convicted sex offender. Our budget doesn't allow for paying for transcripts.

Can anybody on our panel give a little bit of insight into how our SORNA partner might be able to overcome a situation like this or work through it?

I know in our-- in Oklahoma, we have worked well with NCMEC I mentioned them earlier. They have a tracking program where you can actually send in the information to their office and they provide you this in depth-- I mean, sometimes 100 page report of addresses associated with the offender, background information. And so they may be able to help. In addition with the Marshal Service tracking, they often can provide resources that a smaller jurisdiction would have no access to. And that could include running background checks that you might not have access to.

Excellent answer. Thank you, Margie. We also have a comment from a listener. Asking the head of the household if they're aware that the sex offender has let them know this offense, an elderly man was not aware and thanked me that he would be careful when his grandkids came to visit. Does anyone have additional thoughts on this topic?

So what it sounds like, what our tribal partner is saying is that maybe he or she has run into a situation where maybe the head of the household where the sex offender has found shelter or is residing for a period of time has not been made aware of the sex offender's SO status. So have any of you, perhaps Paul, have you run into this before? And how have you handled similar situations?

Yeah, sure. You know, Chris does a really good job at sharing on the community notification. And I think we did a presentation on that. But we talked about and covered the same thing with some of the things we shared today that it's not that it's required by SORNA, but a lot of times it's the registry program taking the extra step, going the extra mile, and providing a service to the community that's beneficial.

But whenever an offender moves into an area, or in this case, like the listener described, I mean, I think that that was an excellent job on their end to notify neighbors or people-- at least the people in

the household. But one can do that. Of course, I would recommend that it's always stronger or more beneficial if you could put something like that in writing that either that's an option that your program can do or maybe one that maybe you make it mandatory that the program will do on all tier three offenders, for example.

But for that to be-- to be in a policy and procedure or in a code, I think just having that backup in writing would be really great. But for that listener, you know, I would just say, you know, good job in that-- that's definitely an example of community notification.

Thank you, Paul. Margie, we have a question that I think you're probably going to be best suited to answer. What is the best evidence to show that an offender was aware of the registration requirements and failed to comply with those requirements? Margie?

Thank you, Joanne. Historically, what I've seen as being the best evidence is the sex voter registration and acknowledgment forms, sometimes called the notice of duty. I would recommend that when you're using this form, it should be the document that you give to your offenders that tell them what all their requirements are, how often they have to come in and register, and that you make certain that the offender is initialing or signing on every single paragraph or provision in that document, because then you don't have an offender who says, well, they handed me this five page document. I just signed the bottom because they told me I had to.

You want evidence to show that they actually are aware of each individual provision. And I know there are many jurisdictions that require whoever it is in their registration staff that's completing the packet with the registrant that they actually read that packet out loud. So then when they're testifying, they can say it's our general business practice that we read this form to the offender. So not only are they initialing every single provision, but they're also being told that these are going to be the requirements for them to follow.

The other thing that can be really great evidence is if you have something in the court record at their sentencing, especially for those that fail to appear where the judge put on the sentencing document and/or stated if you can get a transcript that told the offender you're required to appear at the registration office within three days, and especially if that offender has signed off on that document, as well as the judge and the prosecutor, those are the best pieces of evidence that we found for prosecuting violations.

Thank you, Margie. I do have one question on Megan's Law. Chris, if you can take this one. Does international Megan's Law require a sex offenders passport to be marked with their registration

status? Chris?

Thank you, Joanne. I think those of us who have been working with the SMART office for a while had an opportunity to go to a workshop that they put on about this. So they certainly are the experts. And I would refer the listener to the SMART office to get more information. But my understanding about what happens is that if somebody goes ahead and does an international travel request and they meet certain criteria, then they can be contacted through a program called Operation Angel Watch. And they can be asked to go in and renew their passport.

And when that renewal takes place, there was a provision as part of that for some type of a notation on their passport. So I think it's something that maybe registrars need to be aware of-- and registrants, too-- that when international travel occurs, there could be some type of notification that could come in requiring that to happen.

So my understanding is that there is a provision within that law where a passport could be noticed. And that way let's say an offender is traveling to a foreign country but has not done the proper notification that would signal to the receiving country that they are a registered sex offender. But again, for more information, I would strongly encourage you to check in with the SMART office on that. Thank you, Joanne.

Thank you again to Chris, Paul, and Margie. We are so grateful for your expertise, your time, and your commitment to this program. This concludes the question and answer portion of our webinar. If you are interested in additional training, please visit www.ncjtc.org for a listing of upcoming training opportunities or to view our on demand online training. Thank you for joining us today. Have a great day and please stay healthy.