



STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES
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ANDREW M. CUOMO
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November 15, 2011

Ms. Carmen Maldonado
Audit Director
Office of the State Comptroller
110 State Street
Albany, NY 12236

Re: Report 2011-F-3

Dear Ms. Maldonado:

Thank you for the opportunity to comment on the above-referenced follow-up report covering the actions taken by the Division of Criminal Justice Services (Division) with respect to implementation of recommendations contained in the Office of the State Comptroller's (OSC) audit report, Sex Offender Registry (SOR) Program (Report 2006-S-21).

As requested, the Division is responding to the recommendations that show a status of "Partially Implemented" or "Not Implemented". For ease of review, we have listed those recommendations in the same order that they appear in the report. Each "Partially Implemented" or "Not Implemented" recommendation is followed by the Division's comments detailing any planned actions.

Recommendation 1

Implement procedures to maintain accuracy of drivers' license information on the SOR. Use information available in DMV records for this purpose.

Status – Not Implemented

In OSC audit report 2006-S-21, it was noted that there were a number of discrepancies between the driver's license identification number recorded in the SOR and DMV records. The Division determined that a programming problem within the SOR application caused the discrepancies. In response, the Division corrected the programming problem and requested that DMV conduct a match between DMV records and SOR records to identify incorrect drivers' license numbers. The Division provided DMV with a file containing the offender's name, address, social security number, SOR identification number and gender. DMV matched the Division's file to the corresponding data elements in the DMV system to get the offender's driver's license number. DMV then provided the Division with a file containing the correct

corresponding drivers' license numbers. All SOR drivers' license data was then deleted and replaced with the correct DMV data.

The Division acknowledges its responsibility for collecting offender provided data under the law. However, the Division does not believe it is empowered under the statute to unilaterally modify information submitted by an offender. Rather, the Division must present discrepancies and errors to the offender so that the offender can certify the accuracy of the corrected information. This requires additional time and staff resources.

Our analysis shows that the driver's license number is rarely used by the public when calling the toll-free telephone number to inquire whether an individual is required to register as a sex offender. Only about .33% of callers provide a driver's license number as an identifier. In addition, law enforcement agencies do not rely on the Sex Offender Registry to verify the accuracy of an offender's driver's license number. As such, the Division has determined that the cost of resources needed to validate the accuracy of offenders' drivers' license numbers far outweighs the benefits. This is especially true during a time when OSOM staffing resources are already stretched.

Recommendation 4

Update disaster recovery plan and document test results.

Status – Partially Implemented

The full Sex Offender Management Systems (SOMS) was migrated to the IJ Portal on the high availability infrastructure in October 2011. The application is now supported at two locations which can operate independently if operations are interrupted at the other site. Development of the full disaster recovery plan is dependent upon additional funding and guidance from the Office for Technology.

Recommendation 6

Disclose on the SOR website cases where the offenders' addresses have not been verified so that users are not misled. Such disclosure should indicate the time period for which the verification has not been obtained.

Status – Partially Implemented

The SOMS II project was completed in late October. The functionality that would allow disclosure of non-verification (and time period) of an offender's address is being incorporated with other changes into the next release of SOMS which is scheduled first quarter of 2012.

Recommendation 7

Evaluate use of taping calls as a quality assurance measure.

Status- Partially Implemented

As discussed, during the closing conference, the Division will document and maintain any future analysis conducted with respect to evaluating the use of taping calls as a quality

assurance measure. In addition, the Division is awaiting results of a statewide study underway assessing the potential for a single call center system with the ability to tape calls.

Recommendation 8

Document training activities for telephone operators.

Status – Partially Implemented

In response to the above recommendation, the Division began documenting training activities for telephone operators back in March 2011. All training is documented in each operator's personnel record showing the month, year and type of training received. The Division will continue efforts to document training activities for all telephone operators.

Recommendation 10

Disclose the offender's responsibility to pay the \$10 fee for each change of address on the change of address form.

Status – Not Implemented

The Division does not concur with this recommendation, and we reiterate our concern that disclosing this fee on the change of address form might deter certain offenders from updating their address or cause a delay in the returning the form. Our main concern is that offenders notify us of address changes so that accuracy can be maintained. The Division plans on resubmitting a proposal to the legislature to delete the requirement from the act.

Recommendation 11

Document and monitor the camp operator inquiries and results.

Status –Not Implemented

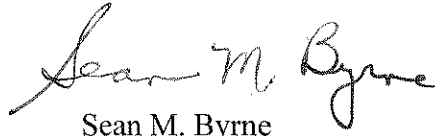
The Division strongly disagrees with the Comptroller's interpretation of the intent of the Child Safety Act (Act) and subsequent amendments that allow youth service organizations and camp operators to submit inquiries to the SOR to determine whether perspective employees are registered sex offenders. The intent of the Act and subsequent amendments allowing youth service organizations and camp operators access to SOR information was to protect children from life destroying encounters with sex offenders. The Act was not expanded to require the SOR to separately document and monitor camp operator inquiries and results.

The Division routinely searches the SOR for numerous agencies seeking to cross-reference individuals for employment applications, public housing applications, nursing home applications (employee, volunteers and residents), and Medicaid applications. These include requests from local government agencies, not-for-profit and non-profit youth organizations, municipal housing authorities, sports centers, school bus companies, home care agencies and daycare centers.

If asked, the Division could recreate a search request from a camp operator to show who was reviewed and the response to the camp operator, could identify camp operators that did not submit an inquiry of their employees as required and could verify if a camp operator did submit

an inquiry. However, absent additional resources, the Division will continue to focus its efforts on the efficient processing of over 55,000 inquiries received annually.

Very truly yours,

A handwritten signature in cursive script, reading "Sean M. Byrne". The signature is written in dark ink and is positioned above the printed name and title.

Sean M. Byrne
Acting Commissioner

cc: M. Bonacquist
A. Roest
R. Sugarman
R. Wright