

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

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MAR 14 10 57 AM '01

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia State Police TITLE NUMBER: 81

RULE TYPE: Procedural CITE AUTHORITY: 15-12-1 to 10, 19A-3-1 etc.

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 14

TITLE OF RULE BEING AMENDED: Guidelines Pertaining to the West Virginia Sex Offender Registration Act

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON May 1, 2001 AT 3:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Sex Offender Registry

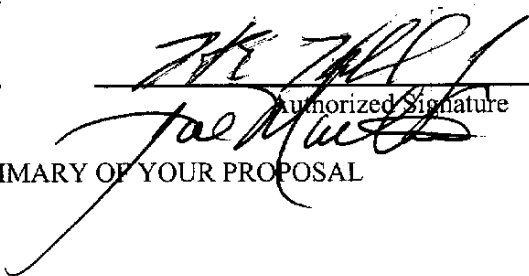
Records

West Virginia State Police

725 Jefferson Road

South Charleston, WV 25177

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$7.60

This amended Rule, Title 81, Series 14 is being proposed to accommodate the changes that have gone into effect following changes made to the Act during the 2000 Legislative session, as well as some needed operational changes . This includes:

a.) The addition of persons required to register who were found not guilty of qualifying offenses by reason of mental illness, mental retardation or addiction.

b.) The addition of certain registration information to be collected from the registrant. This includes their place of employment or occupation, school or training facility.

c.) The State Police releasing detailed information on registrants to Campus Police.

d.) The strengthening of penalties for failure to register or supplying false or incomplete information.

e.) The requirement of those persons registered as a sex offender in another state to register in West Virginia if they work, carry on an occupation, attend school or visit for more than 15 continuous days in West Virginia.

f.) Instructions for digital cameras that have been purchased for the specific purpose of photographing sex offender registrants.

g.) Expanding operational procedures for the West Virginia Sex Offender Advisory Board.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Guidelines Pertaining to the West Virginia sex Offender Registration Act

Type of Rule: _____ Legislative _____ Interpretive _____ Procedural

Agency: West Virginia State Police

Address: Sex Offender Registry

Records

725 Jefferson Rd.

South Charleston, WV 25309

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	0	0	0	0	0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

The WV Sex Offender Registry (SOR) is currently operational and is staffed and funded within the current state police budget. The SOR has received several grant to purchase equipment and provide training. The WV Sex Offender Registry Advisory Board has also received grant funds to provide training to Board members.

3. Objectives of These Rules:

To comply with 15-12-2, which promulgates the Superintendent of the WV State Police to establish rules concerning the operation of the SOR. The rules explain the role of the SOR, the Advisory Board, the community education/notification program and the responsibilities of all involved parties

Rule Title: Guidelines Pertaining to the West Virginia Sex Offender Registration Act

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

The SOR is currently budgeted and funded. This should impose no new impact on State Government

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

No economic impact foreseen.

C. Economic Impact on Citizens/Public at Large.

No Economic impact foreseen.

Date: 14 March 01

Signature of Agency Head or Authorized Representative:

Joe Martin
Joe Martin

FILED

Title 81
Procedural Rule
West Virginia State Police
Series 14
Guidelines Pertaining to the West Virginia
Sex Offender Registration Act

1.6 Effective Date APR 14 10 57 AM '01

81-14-1 General

1.1. Scope - This procedural rule explains the responsibilities and the administration of the West Virginia Sex Offender Registry, the community/education notification program, the West Virginia Sex Offender Registration Advisory Board and the responsibility of other parties involved. The Sex Offender Registration Act is regulatory in nature and not penal. The provisions of this Act apply retroactively and prospectively.

1.2. Legislative Intent and Findings: The intent of the Sex Offender Registration Act is to assist law-enforcement agencies' efforts to protect the public from sex offenders by requiring sex offenders to register with State Police detachment in the county where they reside, work, attend school or visit for more than fifteen (15) continuous days and by making certain information about sex offenders available to the public. It is not the intent of the Legislature that the information be used to inflict neither retribution nor additional punishment on any person requiring registration under the West Virginia Sex Offender Registration Act.

1.3. Severability. If any sections or subsections of this rule are determined to be invalid, it shall not be construed to invalidate any of the provisions not otherwise affected.

1.4. Authority. This rule is issued under authority of WV Code §15-12-1 et. Seq. and §62-12-2.

1.5 Filing Date-

14-2. Definitions

As used in this rule, unless in a context that clearly requires a different meaning the following terms are defined as such:

2.1. The Sex Offender Registration Advisory Board, hereon known as the "Board," a board created within the Division of Military Affairs and Public Safety whose primary purpose is to assist the circuit courts by delivering a report setting forth the findings and recommendations of the board on whether a person before the sentencing court is a sexually violent predator.

2.2. Bodily injury - substantial physical pain, illness or impairment of physical condition.

2.3. Central Registry - hereon known as the "Registry," the West Virginia Sex Offender Registry maintained by the West Virginia State Police and housed in the Criminal Records Section.

2.4. Deadly weapon - any instrument, device or thing capable of inflicting death or serious bodily injury and designed or specially adapted for use as a weapon or possessed, carried or used as a weapon.

2.5. Forcible compulsion- as defined in article 61-8B-1 of the West Virginia Criminal Code, physical force that overcomes such earnest resistance as might reasonably be expected under the circumstances; or threat or intimidation, expressed or implied; placing a person in fear of immediate death or bodily injury to himself or herself or another person will be kidnaped; or fear by a person under 16 years of age caused by intimidation expressed or implied by another person who is at least 4 years older than the victim.

2.6. Mental abnormality - a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

2.7. Predatory act - any act directed at a stranger or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

2.8. Post conviction supervisory status - monitored or supervised behavior of the person following their conviction or release from incarceration. This status may include, but is not limited to, probation, parole, home detention or work release.

2.9. Sex Offender Registration Act - hereon known as the "Act," article 15-12-1 et. Seq., as amended, of the West Virginia Criminal Code, that sets forth the duties of various entities as it pertains to the registration of sex offenders and the duty of the West Virginia State Police to promulgate rules prescribing the manner of registration procedures.

2.10. Sexual criminal offenses - those offenses that require registration as a sexual offender upon conviction or when found not guilty by reason of mental illness, mental retardation or addiction. These offenses include, but are not limited to, §61-8B-3,4,5,6,7,8,9, §61-8C-2 or 3, §61-2-14, §61-8-6 or 7, §61-8D-5 or 6, § 61-8-12 or §61-11-8 (attempt to commit the previous offenses). These also include, but not limited to, offenses with similar provisions in another state, federal or military jurisdiction.

2.11. Sex offender- a person convicted of any of the offenses referred to in W. Va. §15-

12-2 or offenses with similar provisions in another state, federal or military jurisdiction, or a person convicted of the attempt to commit the above referred offenses or a person that was found not guilty of the above referenced offenses by reason of mental illness, mental retardation or addiction or a person convicted of a criminal offense, which at the time of sentencing, was found by the sentencing judge to have been sexually motivated.

2.12. Sexually violent offenses - any criminal offense set forth in §61-8B or offenses with similar provisions in another state, federal or military jurisdiction which include forcible compulsion, bodily injury or the use of a deadly weapon.

2.13. Sexually violent predator - person who has pled guilty to, has been convicted or found not guilty by reason of mental illness, mental retardation or addiction, of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes a person likely to engage in predatory sexually violent offenses.

14-3. Purposes

3.1. Assist local law enforcement agencies' efforts to protect their communities by regulating how sex offenders register with the Sex Offender Registry at their local state police detachments.

3.2. Give local communities adequate notice and information of a persons' release, through the community notification program and quarterly releases of offender lists, so the community can develop constructive plans to prepare themselves and their children for the persons release.

3.3. Inform the community, law enforcement, the criminal justice entities and

the offender of their rights and responsibilities as it pertains to the Act.

3.4. To prescribe the manner of how a person is to register and the manner of how information pertinent to the registry originating from the probation officers, parole officers, courts, and law enforcement officers is to be forwarded to the Registry.

14.4 Objectives

4.1. To enter all sex offenders into the Registry as prescribed in §15-12-1 et. Seq., as amended, in a timely and thorough manner.

4.2. To form collaborative partnerships with the Prosecuting Attorneys, family related community organizations and victims' advocates in conducting community/education notification programs.

4.3. To conduct community notification/education programs that provide education for the community on characteristics of sex offenders, the sex offender registry law, strategies for protecting an individual and their children and the resources available for victims.

4.4. Educate the public through the community education program to reduce vigilante-like actions by citizens.

4.5. Inform public entities and care givers as prescribed by §15-12-1 et. Seq., as amended, of the sex offenders living, working, attending school or visiting for more than fifteen (15) continuous days in their areas.

4.6. Achieve compliance by law enforcement as it pertains to the offender registration and the confirmation of offenders' addresses, address changes or registration information by law enforcement.

14-5 Persons Required to Register

5.1. All persons who are convicted, enter a plea of guilty or found not guilty by reason of mental illness, mental retardation or addiction, of committing any of the following criminal sexual offenses are to register.

5.1.a. Sexual assault in the first degree §61-8B-3,

5.1.b. Sexual assault in the second degree §61-8B-4,

5.1.c. Sexual assault in the third degree §61-8B-5,

5.1.d. Sexual assault of a spouse §61-8B-6 (repealed as of June 7, 2000),

5.1.e. Sexual abuse in the first degree §61-8B-7,

5.1.f. Sexual abuse in the second degree §61-8B-8,

5.1.g. Sexual abuse in the third degree §61-8B-9,

5.1.h. Incest §61-8-12,

5.1.i. Detention of person in place of prostitution §61-8-6 involving a minor,

5.1.j. Procuring for house of prostitution §61-8-7,

5.1.k. Abduction of person, kidnaping or concealing a child §61-2-14,

5.1.l. Use of minors in filming sexually explicit conduct §61-8C-2,

5.1.m. Distribution and exhibiting of material depicting minors engaged in sexually explicit conduct §61-8C-3,

5.1.n. Sexual abuse by parent, guardian or custodian §61-8D-5,

5.1.o. Guardian or custodian allowing sexual abuse to be inflicted on a child §61-8D-5,

5.1.p. Displaying of sex organs by a parent, guardian or custodian §61-8D-5,

5.1.q. Sending, distributing, exhibiting, possessing, displaying or transporting material by a parent, guardian or custodian, depicting a child engaged in sexually explicit conduct §61-8D-6,

5.2. All persons who are convicted, enter a plea of guilty or are found guilty by reason of mental illness, mental retardation or addiction of attempting to commit (§61-11-8) any of the previous criminal sexual offenses are to register.

5.3. All persons convicted of offenses with similar provisions in another state, federal or military jurisdictions are to register in West Virginia if they plan to live, work, attend school or visit for more than fifteen (15) continuous days in the state.

5.4. All persons convicted of any criminal offense, which at the time of sentencing, was found by the sentencing judge to have been sexually motivated.

14.6 Duration of registration

6.1. Persons required to register shall comply with this rule, except during periods of incarceration, for a period of ten (10) years from the time of a person's release from prison or jail or from the time the person entered a plea of guilty or was convicted prior to actual incarceration.

6.2. Certain persons are required to register for life. The conditions for lifetime registration include:

6.2.a. One or more prior convictions or offenses where they had been found not guilty by reason of mental illness, mental retardation or addiction for sexually criminal offenses or

6.2.b. Conviction or a finding of not guilty by reason of mental illness, mental retardation or addiction of a sexually violent offense or

6.2.c. The person has been determined to be a sexually violent predator or

6.2.d. The victim of qualifying offense was a minor or

6.2.e. The qualifying offense involved multiple victims or multiple violations of the qualifying offense.

14.7. Responsibilities of administrators of incarceration facilities, probation or parole officers.

7.1. Administrator, probation or parole officers include, but are not limited to:

7.1.a. Commissioner of Corrections or his/her delegated agent or

7.1.b. Regional jail administrator or his/her delegated agent or

7.1.c. Chief or Sheriff operating a jail or his/her delegated agent or

7.1.d. Probation officer or

7.1.e. Parole officer or

7.1.f. Such person who supervises the person to be registered following their release.

7.2. Release from incarceration shall include, but is not limited to:

7.2.a. Granted probation or

7.2.b. Granted a suspended sentence or

7.2.c. Release on probation or

7.2.d. Release on parole or

7.2.e. Release on home detention or confinement or

7.2.f. Release on work release or

7.2.g. Discharge the sentence or

7.2.h. Any other type of release from incarceration.

7.3. The administrator, probation or parole officer who supervises a person required to be registered or accepts supervision of a person registered as a sexual offender in another state, shall within three (3) days of receiving notification of the person's release, obtain the information required by way of a written notice.

7.3.a. The written notice shall be a WVSP170 (Offender Registration Form) or an agency equivalent and shall include:

7.3.a.1. Full name of the person to be registered including any aliases, nicknames or other names used by the registrant.

7.3.a.2. Full address, including county(ies), where the person resides or intends to reside, work or attend school at time of registration and

7.3.a.3. Name and address of employer or place of occupation at time of registration or any anticipated future employers or places of occupation and

7.3.a.4. Name and address of any school or training facility the person is attending at time of registration or expects to attend and

7.3.a.5. Person's social security number and

7.3.a.6. Recent photographs of the person and

7.3.a.7. Brief description of the crime for which the person was convicted and

7.3.a.8. Duplicate full set of fingerprints and

7.3.a.8.A. One full set to be placed on WVSP 40 (WV State Fingerprint Card),

7.3.a.8.B. One full set to be placed on FD-249 (FBI Fingerprint Card).

7.3.a.9. Right thumb print and

7.3.a.10. If applicable, the name and telephone number of the probation or parole officer and

7.3.a.11. Jurisdiction of arrest or conviction and

7.3.a.12. The date of conviction and

7.3.a.13. If incarcerated, the date of release from incarceration and

7.3.a.14. If the person has been determined to be a sexually violent predator, the notice shall also include:

7.3.a.14.A. Identifying factors, including physical characteristics and

7.3.a.14.B. History of the offense and

7.3.a.14.C. Documentation of any treatment received for mental abnormality or

personality disorder.

7.4. The administrator, probation or parole officer shall have the person sign a WVSP 196 (Notification of Sex Offender Responsibility) or agency equivalent.

7.5. The administrator, probation or parole officer, shall send the original of the WVSP 170 (Offender Registration Form) and WVSP 196 (Notification of Sex Offender Responsibility) (or agency equivalents) to the Registry and a copy of each to the State Police detachment in the county(ies) where the person will reside, work or attend school.

7.5.a. A copy of the WVSP 170 (Offender Registration Form) will be maintained by the administrator, probation or parole officer and.

7.5.b. A copy of the WVSP 196 (Notification of Sex Offender Responsibility) will be given to the person to be registered.

7.6. The administrator, probation or parole officer shall have the signatures applied to WVSP 196 (Notification of Sex Offender Responsibility) (or agency equivalent) notarized. The form shall have an embossed official seal or official stamp placed upon them.

14.8 Responsibilities of the sentencing court.

8.1. At the time the person is convicted of the crimes set forth in §13.5 of this rule, the sentencing court shall:

8.1.a. Inform the person of the requirement imposed on them by the Act. The court shall interrogate the defendant or their counsel until satisfied that the defendant has received notice and understands the provisions of the Act.

8.1.b. Have the person sign in open court, a statement acknowledging that the person understands the requirements imposed

by the Act.

8.2. The sentencing court shall determine if a person who has been convicted of a sexually violent crime is a sexually violent predator or is no longer a sexually violent predator.

8.2.a. The proceeding to determine if a person is a sexually violent predator shall be initiated by the filing of written information by the prosecuting attorney.

8.2.b. The proceeding to determine if a person is no longer a sexually violent predator shall be initiated by the filing of a petition by the person who has been determined to be a sexually violent predator.

8.3. Before determining sexually violent predator status, the sentencing court may order a psychiatric or other clinical examination. Following the examination, the court may order a period of observation. The observation is to be conducted at an appropriate facility within the state. The choice of the facility is to be made after consulting with the Director of the Division of Health.

8.4. Before determining sexually violent predator status, the court shall, by order, request a report from the Board.

8.4.a. The order shall be issued within thirty (30) days of the filing of the information by the prosecuting attorney or a petition by the sex offender.

8.4.b. The court shall forward its order, the information or petition, as well as the entire criminal record, all medical and/or psychiatric records and any other relevant materials to the Board.

8.4.b.1. The court's order shall provide that any and all records, documents and materials received by the Board are confidential and not subject to public disclosure or dissemination.

8.5. At the hearing to determine sexually violent predator status the court shall:

8.5.a. Allow the person whose status is in question to be present.

8.5.b. Allow the person whose status is in question to be represented by counsel, introduce evidence and cross-examine witnesses.

8.5.c. Allow the person whose status is in question access to a summary of the medical evidence to be presented by the state.

8.5.d. Allow the person whose status is in question to be examined by an independent expert of their choice and use this expert's testimony as evidence on their behalf.

8.5.e. At the end of the hearing, make a finding of fact on the person's sexually violent predator status based on a preponderance of the evidence.

8.6. After the court has made its determination the clerk of the court shall forward a copy of the order and the following information to the Registry by certified or registered mail.

8.6.a. Name of the offender and

8.6.b. Date of birth and

8.6.c. Social Security number and

8.6.d. The crime for which the person was convicted and

8.6.e. Date of conviction and

8.6.f. Sentence imposed.

8.7. The court may, at the time of sentencing of any criminal offense that is not covered in §5 of this rule, determine that the offense was sexually motivated, thus requiring the person convicted of the offense to register as a sex offender.

14.9 Responsibility of Circuit Court.

9.1. A Circuit Court may, upon petition of a resident of a county, order the Registry to release information about persons residing in

that county that are required to register.

9.1.a. When petitioned to release information, the court shall determine if the requested information is relevant to public safety and outweigh the need for confidentiality of the registrants.

9.1.a.1. The court may further order limitation upon secondary dissemination of the information released by the Registry by the resident seeking the information.

14.10 Responsibility of the Prosecuting Attorney

10.1. Following the conviction of a person required to be registered or when receiving knowledge that a person required to be registered is being released from incarceration, the Prosecuting Attorney may initiate proceedings seeking to establish that a person is a sexually violent predator by filing of a written information with the circuit court that sentenced the offender.

10.1.a. The written information shall describe a record of judgment of the court regarding the person's conviction.

10.1.b. The written information shall contain a short and plain statement of the claim that the person suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexual offenses.

10.2. When notified that a sexually violent predator intends to reside in their county, the Prosecuting Attorney shall, in cooperation with the Registry, conduct a community notification/education program.

10.3. When notified that a person required to register for life intends to reside in their county, the Prosecuting Attorney shall cooperate with the Registry in conducting a community notification/education program.

14.11 Sex Offender Registration Advisory Board

11.1. General

11.1.a. The scope of the Sex Offender Registration Advisory Board is defined in W. Va. Code §15-12-2b and applies to all court orders that are pending and those filed with the Board after this effective date. The Act is regulatory in nature and not penal. The provisions of the Act apply retroactively and prospectively.

1.1.b. Liberal Construction. The provisions of this rule will be liberally construed to permit the Board to discharge its statutory functions and to secure just and expeditious determination of all matters before the Board; therefore, for good cause, the Board may, at any time suspend the requirements of any of these regulations.

11.1.c.. Immunity. The Board shall be immune from civil liability for damages arising out of any action for carrying out its responsibilities in the administration of WV Code §15-12-1 et. Seq., as amended, except when the board acts with gross negligence or in bad faith.

11.1.d. Delegation of Powers and Duties. Except where contrary to law, the Board may delegate any of its powers to the employees or agents of the Board.

11.1.e. Meetings. The West Virginia Sex Offender Registration Advisory Board shall meet on the first Wednesday of odd number months or as often as called for by the Board President, a majority of the members or the Secretary of the department of Military Affairs and Public Safety. A quorum consists of three members, one of whom shall be a mental health professional. Meeting location will be at the discretion of the Board.

11.1.f. Mail. The West Virginia Sex Offender Registry located at West Virginia State Police Headquarters, shall be responsible for the receipt of all correspondence and

requests for reports from the courts.

11.2. Referral by Circuit Court.

11.2.a. After the court sentences a person convicted of a sexually violent offense as provided in §15-12-2 et. Seq. and upon the commencement of a summary proceeding, the court shall, by order, request a report from the West Virginia Sex Offender Registration Advisory Board. The order shall be issued within thirty (30) days of the filing of the information by the prosecuting attorney or a petition by the sex offender.

11.2.b. The report shall set forth the Board's findings, conclusions and a recommendation on the issue of whether the sex offender is or is not a sexually violent predator subject to the registration requirements in WV Code §15-12-4 or is no longer a sexually violent predator.

11.2.c. The court shall request and receive the report prior to the hearing to determine if the sex offender is or is not a sexually violent predator or is no longer a sexually violent predator.

11.2.d. The court's order, the information or petition as well as the entire criminal record, all medical and/or psychiatric records and any other relevant materials shall be forwarded to the West Virginia Sex Offender Registration Advisory Board, West Virginia State Police Headquarters, 725 Jefferson Road, South Charleston, West Virginia 25309.

11.2.e. The court's order shall provide that any and all records, documents and materials received by the Board are confidential and not subject to public disclosure or dissemination.

11.2.f. Faxed materials are accepted only if the original documents are received within five (5) days of the date of the fax transmission.

11.2.g. Submission dates shall be determined by postmark, or if hand-delivered, by office receipt stamp and the date of the fax

transmission.

11.2.h. Upon receipt of the court's order and all relevant documents, the Sex Offender Registry shall forward copies of the same to each member of the Board. All copies of documents mailed or delivered to individual Board members shall be destroyed after the Board issues its findings, conclusions and recommendation to the court. The original shall be maintained at the office of the Sex Offender Registry.

11.2.i. In the event the Board cannot make a decision based on the information provided by the court, then the Board shall inform the court of the specific information needed to make findings, conclusions and a recommendation. The Board may request the court to order the information listed in §11.3.c. of these procedural rules be made available.

11.3. Duties of the Sex Offender Registration Advisory Board.

11.3.a. The Board shall issue a report setting forth its findings, conclusions and a recommendation in a timely manner from the date the Board received the court's order requesting the report.

11.3.b. The Board shall consider all case records, interview data, mental health and treatment summaries, relevant materials submitted by sex offender as well as any other relevant documents that have been timely submitted to the Board.

11.3.c. Other factors that may be considered include, but are not limited to, are:

11.3.c.1. The sex offender's criminal record from the National Criminal Information Center (NCIC) and the Interstate Identification Index (III);

11.3.c.2. Probation and parole records;

11.3.c.3 A copy of the complaint;

11.3.c.4. The police investigation report;

11.3.c.5. Witness statements;

- 11.3.c.6. A copy of the indictment;
- 11.3.c.7. A copy of the plea agreement;
- 11.3.c.8. The victim(s) impact statement;
- 11.3.c.9. The sex offender's use of alcohol, illegal drugs and misuse of prescription drugs;
- 11.3.c.10. Psychological and psychiatric assessments defined by the Board;
- 11.3.c.11. Participation in sex offenders programs in and/or out of correctional facilities.
- 11.3.c.12. Any mental illness or mental disability of the sex offender;
- 11.3.c.13. Any mental hygiene hearing reports;
- 11.3.c.14. The nature of the sexual contact with the victim;
- 11.3.c.15. Demonstrated patterns of sexual abuse performed by or against the sex offender;
- 11.3.c.16. Any display of unusual cruelty during the commission of any and all convicted offenses;
- 11.3.c.17. Any behavioral characteristics that contribute to the sex offender's conduct;
- 11.3.c.18. A review of commonly accepted sex offender risk factors;
- 11.3.c.19. An assessment of the sex offender's empathy and remorse for the offense he or she was convicted of;
- 11.3.c.20. An assessment of the sex offender's understanding and intentions regarding the registration stature;
- 11.3.c.21. An assessment of the sex offender's plans to not re-offend;
- 11.3.c.22. An assessment of the sex offender's cognitive, affective and behavioral resources to not re-offend;
- 11.3.c.23. An assessment of the sex offender's psycho social history;
- 11.3.c.24. Trial transcript; and;
- 11.3.c.25. Relevant reports from the

West Virginia Department of Health and Human Resources.

11.4. Findings and Conclusions.

11.4.a. When the Board reaches the conclusion that the sex offender is a sexually violent predator; the following findings shall have been made:

11.4.a.1. The sex offender was convicted of an eligible offense as provided in WV Code §15-12-2 and

11.4.a.2. The sex offenders suffers from a mental abnormality or personality disorder and

11.4.a.3. The sex offender is likely to engage in predatory violent offenses.

11.4.b. When the Board reaches the conclusion that the sex offender is not a sexually violent predator; the following findings shall have been mad:.

11.4.b.1. The sex offender was not convicted of an eligible offenses(s) or

11.4.b.2. The sex offender does not suffer from a mental abnormality or

11.4.b.3. The sex offender is not likely to engage in violent predatory offenses.

11.4.c. When the Board reaches the conclusion that the sex offender is no longer a sexual violent predator, the following findings shall have been made:

11.4.c.1. The sex offender no longer suffers from a mental abnormality and

11.4.c.2. The sex offender is not likely to engage in sexually violent predatory offenses.

14.12 Responsibilities of the State Police.

12.1. The State Police detachments will serve as the local law enforcement agency that administers the registration procedures upon the person required to be registered.

12.2 When a person required to be registered arrives at the State Police detachment located in the county where they reside, intend to reside, work, attend school or visit for more than fifteen (15) continuous days, the Detachment Commander, or in his/her absence, another uniformed member, shall:

12.2.b. Complete a WVSP 196 (Notification of Sex Offender Responsibility) on the person.

12.2.c. Complete a WVSP 170 (Offender Registration Form) on the person, including obtaining a right thumb print.

12.2.c.1. Insure that the WVSP 170 (Offender Registration Form) is signed by both the person and the officer.

12.2.d. Take a full set of duplicate fingerprint cards.

12.2.d.1. One set will be on WVSP 40 (State Police Fingerprint Card) and

12.2.d.2. One set will be on FD-249 (FBI Fingerprint Card).

12.2.e. Take at least two (2) full face photographs of the person.

12.2.e.1. Additional photographs may be taken to be placed in an investigative file located at the detachment.

12.2.e.2. The photographs shall be taken so to include the issued card that has space provided for the offender's name, the detachment's location and the date the photograph was taken.

12.2.e.3. The officer will use a Department issued camera if a digital camera or

Polaroid camera is not available,

12.2.e.3.A. If a department issued camera is used, the officer shall submit the roll of film with the original WVSP 170 (Offender Registration Form) to the Registry. The officer shall not send the roll of film directly to the Photography Laboratory.

12.2.e.3.B. If a digital camera was used, the officer shall use a computer disk from the supply issued for this purpose.

12.2.f. The original WVSP 170 (Offender Registration Form), an original photograph or roll of film or computer disk and the full set of fingerprints (WVSP 40 and FD-249) shall be mailed to the Registry within five (5) working days.

12.2.g. A copy of the WVSP 170 (Offender Registration Form) and one original photograph will be kept in the detachment's Sex Offender Registry file.

12.2.h. The officer shall make an appearance at the person's residence within fifteen (15) working days of the person's appearance at the detachment to verify the address, so to substantiate that the person does reside at the given address.

12.3. When a person arrives at the detachment to report their change of address or any other registration information, the Detachment Commander, or in his/her absence, another uniformed member, shall:

12.3.a. Complete a new WVSP 170 (Offender Registration Form) including a right thumb print.

12.3.a.1 Insure the WVSP 170 (Offender Registration Form) is signed by both the person and the officer.

12.3.b. If the person has had a significant change in appearance or if pictures were never obtained during the previous registration, take at least two full-face photographs of the person.

12.3.b.1. Additional photographs may be taken to be placed in an investigative

file at the detachment.

12.3.b.2. The photograph shall be taken so to include the issued card that has space provided for the offender's name, the detachment's location and the date the photograph was taken.

12.3.b.3 The officer will use a department-issued camera if a digital or Polaroid camera is not available.

12.3.b.4. If a department-issued camera is used, the officer shall submit the roll of film with the original WVSP 170 (Offender Registration Form) to the Registry. The officer shall not send the roll of film directly to the Photo Laboratory.

12.3.b.5. If a digital camera was used, the officer shall use a computer disk from the supply issued for this purpose.

12.3.c. The completed WVSP 170 (Offender Registration Form) and one original photograph or roll of film or computer disk (if applicable) shall be mailed to the Registry within five (5) working days.

12.3.d. A copy of the WVSP 170 (Offender Registration Form) and one original photograph (if applicable) will be kept in the detachment Sex Offender Registry files.

12.3.e. The officer shall make an appearance at the person's residence within fifteen (15) working days of the person's appearance at the Detachment to verify the address, so to substantiate that the person does reside at the given address.

12.4 When notified by the Registry that a registered person has moved out of their county, the Detachment Commander will forward all registration documents and photographs pertaining to the offender to the Registry.

12.4.a. If copies of the photographs are available, those copies may remain at the detachment in an investigative file.

12.4.b. A copy of the registration documents may remain at the detachment in an

investigative file.

12.5 When notified of a registered person's intent to move out of state, the Detachment Commander, or in his/her absence, another uniformed member, shall:

12.5.a. Complete a new WVSP 170 (Offender Registration form), including a right thumb print, showing the person's new address.

12.5.a.1. Insure that the WVSP 170 (Offender Registration Form) is signed by both the person and the officer.

12.5.b. Take a new photograph of the person.

12.5.b.1. The photograph shall be taken so to include the issued card that has space provided for the offender's name, the detachment's location and the date the photograph was taken.

12.5.c. Forward by mail, within five (5) working days, the completed WVSP 170 (Offender Registration Form) and the photograph to the Registry.

12.5.d. The officer shall make an appearance at the person's previous residence within thirty (30) working days of the person's appearance at the Detachment to verify the fact that the person no longer resides there.

12.6. The Detachment Commander, or in his/her absence, another uniformed member, shall administer the procedure for registration, when a person moving from another state moves into West Virginia; or when a person lives in another state and carries on a vocation, works or attends school in West Virginia or if a person from another state is visiting for more than fifteen (15) continuous days in West Virginia.. The officer shall:

12.6.a. Complete a WVSP 196 (Notification of Sex Offender Responsibility) on that person.

12.6.b. Complete a WVSP 170 (Offender Registration form) on the person, including a right thumb print.

12.6.b.1. Insure that the WVSP170 (Offender Registration Form) is signed by both the person and the officer.

12.6.b.2. Take at least two (2) full face photographs of the person.

12.6.b.2.A. Additional photographs may be taken to be placed in an investigative file located at the detachment.

12.6.b.2.B. The photograph shall be taken to include the issued card that provides space for offender's name, the detachment's location and the date the photograph was taken.

12.6.b.2.C. The officer will use a department-issued camera if a digital or Polaroid is not available.

12.6.b.2.D. If a department-issued camera is used, the officer shall submit the roll of film with the original WVSP 170 (Offender Registration Form) to the Registry. The officer shall not send the roll of film directly to the Photo Laboratory.

12.6.b.2.E. If a digital camera was used, the officer shall use a computer disk from the supply issued for this purpose.

12.6.b.3. Take a full set of fingerprints to be placed on FD-249 (FBI Fingerprint card).

12.6.b.4. The original WVSP 170 (Offender Registration Form), one original photograph or roll of film or computer disk and the full set of fingerprints (FD-249, FBI Fingerprint card) shall be mailed to the Registry within five (5) working days.

12.6.b.5. A copy of the WVSP 170 (Offender Registration Form) and one original photograph will be kept in the detachment Sex Offender Registry files.

12.6.b.7. The officer shall make an appearance at the person's place of employment, school or place of visitation within fifteen (15) working days of the person's appearance at the Detachment to verify the address, so to substantiate that the person does work, attend school or is visiting at the given address.

12.6.c. If the Registry informs the Detachment Commander that additional fingerprints are needed on a person moving from another state or living in another state and carrying on a vocation, working, attending school or visiting for more than fifteen (15) continuous days in West Virginia, the Detachment Commander shall:

12.6.c.1. Ascertain the location of the person and have the person report to the detachment to be fingerprinted.

12.6.c.2. When the person to be fingerprinted arrives at the detachment the Detachment Commander shall take a full set of fingerprints on an FD-249 (FBI Fingerprint card).

12.6.c.3. Mail the completed FD-249 (FBI Fingerprint card) to the Registry within five (5) working days.

12.7. When an officer makes contact with anyone convicted of a sexual criminal offense or is required to register as defined in WV Code §15-12-2 et. Seq., as amended, the Detachment Commander, or in his/her absence, another uniformed member, shall report that contact to the Registry for verification of registration requirements. This contact shall be by telephone or fax stating name and date of birth of the person and the person's current address and the offense for which they were convicted or the qualifying offense.

12.8. Within five (5) working days after receiving a completed WVSP 170 (Offender Registration Form), the Detachment Commander, or in his/her absence, another uniformed member, will distribute a copy of the WVSP 170 (Offender Registration Form) and a copy of the photograph to:

12.8.a. All law enforcement agencies including any campus police department within the counties covered by the detachment and

12.8.b. The County Superintendent of Schools and

12.8.c. The Child Protective Services investigators within the detachment's area of responsibility.

12.9. Within receiving information on an offender who resides or intends to reside in the county(ies) covered by the detachment that an offender's place of employment, school or training facility or place of visitation for more than fifteen (15) continuous days that is located in another detachment's area, the Detachment Commander, or in his/her absence, another uniformed member, shall forward a copy of the WVSP 170 (Offender Registration Form) and a photograph or copy of a photograph to the effected detachment(s).

12.10. When the detachment receives a facsimile copy from the Registry of the letter sent to the person informing them of their requirement to verify their address, the copy will serve as a notice that the person has been informed of their requirement to verify his/her address.

12.10.a. When the person arrives at the detachment with the address verification card, the Detachment Commander, or in his/her absence, another uniformed member, shall:

12.10.a.1. Insure that the card is thoroughly completed and legible.

12.10.a.2. Verify that the address given is a true physical address. A post office box number, by itself, is not an acceptable address.

12.10.a.3. Insure that the card is signed by both the person and the officer.

12.10.a.4. The officer shall consult the original registration and ascertain if there has been an address change or a change in registration information.

12.10.a.4.A. If there has been an address change or change in registration information, the officer shall:

12.10.a.4.A.1. Complete a new WVSP 170 (Offender Registration Form)

showing the person's new address or change in registration information.

12.10.a.4.A.2. Take a new photograph of the person.

12.10.a.4.A.2.a. Additional photographs may be taken to be placed in an investigative file located at the detachment.

12.10.a.4.A.2.b. The photograph shall be taken so to include the issued card that provides space for the offender's name, the detachment's location and the date the photograph was taken.

12.10.a.4.A.2.c. The officer will use a department-issued camera if a digital or Polaroid camera is not available.

12.10.a.4.A.2.d. If a department-issued camera is used, the officer shall submit the roll of film with the original WVSP 170 (Offender Registration Form) to the Registry. The officer shall not send the roll of film directly to the Photography Laboratory.

12.10.a.4.A.2.e. If a digital camera was used, the officer shall use a computer disk from the supply issued for this purpose.

12.10.a.4.A.3. Forward, by mail, within five (5) working days the completed WVSP 170 (Offender Registration Form), the address verification card and the photograph or roll of film or computer disk to the Registry.

12.10.a.5. The officer shall make a copy of the verification card, attach it to the Detachment's file of the registration, and re-file the documents.

12.10.a.6. The officer will make a written request to the local Postmaster to receive verification that the person is receiving mail at the given address. The request shall:

12.10.a.6.A. Be on West Virginia State Police letterhead.

12.10.a.6.B. Bear the signature of the officer.

12.10.a.6.C. List the persons name and address.

12.10.a.6.D. Include a statement

that the information is to be used for law enforcement purposes only, pursuant to §15-12-2 et. Seq. of the West Virginia Criminal Code.

12.10.a.7. After receiving verification from the Post Office, the officer shall document the date of verification on the detachment copy.

12.10.a.7.A. If the officer has received verbal verification by the Post Office prior to receiving written verification, the officer should document this on the detachment's copy of the address verification card.

12.10.a.8. If the Post Office is unable to verify if the person is receiving mail at the given address, the officer shall notify the Registry by sending a written statement of the response from the Post Office.

12.10.a.8.A. If the officer has received a verbal response from the Post Office prior to receiving a written statement that the Post Office was unable to supply verification, the officer should immediately notify the Registry that the Post Office was unable to provide verification.

12.10.a.9. For sexual offenders, an officer shall make an appearance at the person's residence within thirty (30) days of the persons' appearance at the Detachment to verify the address, so to substantiate that the person does reside at the given address.

14.13 Responsibilities of law enforcement agencies other than the State Police.

13.1. Assist cooperatively upon request of the Prosecuting Attorney or the Registry in conducting the community notification program.

13.2. Responsibly manage the information concerning sexual offenders residing within the county.

13.2.a. Refrain from secondary dissemination of the information.

13.2.b. Utilize the information for investigative purposes only.

13.3 When making contact with anyone convicted of a sexual criminal offense or qualifying offense, the agency shall report that contact to the Registry for verification of registration requirements. This contact shall be by telephone or fax stating the name and date of birth of the person and the person's current address and the qualifying offense or the offense of which they were convicted.

13.4 As the provisions of this Act apply both retroactively and prospectively, if informed by the Registry that they have arrested a person who was convicted prior to the enactment of the Sex Offender Registration law, but who is not registered and may be required to register, the agency shall contact the Registry with the person's current address and any available information pertaining to the person.

14.14 Responsibilities of the Sex Offender Registry

14.1. The Registry shall maintain the central registry of information on those persons who are required to be registered.

14.2. Maintain a registry of all authorized community organizations or religious organizations which regularly provide services to youths in the county who have signed the Sex Offender Non-Disclosure Agreement.

14.2.a. This registry of authorized organizations may also include individuals and organizations which provide day care services for youth or day care, residential, or respite care, or other supportive services for incapacitated, infirm or mentally incapacitated persons.

14.2.a.1. To be included in this

registry, the individual or organization shall make a written request to the Registry stating the services provided, the counties served and a statement as to why the individual or organization should be eligible to receive the sex offender information.

14.2.a.2. To be included in this registry the individual or organization shall, if applicable, provide any legal documents, charters, statute, license, etc. that authenticate the organization as a community or religious organization that regularly provides services to youths in the county or provides residential care, respite care, or other supportive services for incapacitated, infirm or mentally incapacitated persons. The individual or organization shall sign the Sex Offender Non-Disclosure Agreement.

14.2.b. The Registry shall remove an organization from the registry of authorized community organization or religious organization when that organization or member of that organization has violated the terms of the Sex Offender Non-Disclosure Agreement.

14.3. The Registry shall maintain and make available to the public at least quarterly a list of all persons who are required to register for life. This list will be separated by county of residence.

14.3.a. The list shall be released following a telephone or written request by a member of the public. The list will be for the county in which the requesting person resides.

14.3.a.1. To receive quarterly updates, the requesting person must resubmit their telephone or written request on a quarterly basis.

14.3.b. The list shall include the municipality of the person's address but will not include the street or house address.

14.4. The Registry shall maintain and make available to the public a list of all persons who are required to register for life that shall be

accessible through the Internet.

14.4.a. The list shall include the municipality of the person's address but will not include the street or house address.

14.5. Within fifteen (15) working days of receiving an offender registration, the Registry shall forward a copy of the WVSP 170 (Offender Registration Form) and a copy of the photograph to all authorized community and religious organizations that are to receive sex offender registration information.

14.6. Within fifteen (15) working days of receiving an offender registration, the Registry will notify the FBI's National Sex Offender Registry (NSOR).

14.7. Within fifteen (15) working days of receiving a lifetime person's registration, the Registry shall update its available information accessible to the public via telephone request or via the Internet.

14.8. The Registry may release sex offender registration information and documentation to federal, state and local governmental agencies responsible for conducting pre-employment checks.

14.9. The Registry may release sex offender registration information and documentation, when properly requested, to authorized law enforcement and governmental agencies of the United States, its territories, foreign countries authorized to receive the same, other states and the state of West Virginia.

14.9.a. These agencies must state in writing that this information will be used solely for law enforcement related purposes.

14.10. The Registry may release sex offender registration information and documentation, when properly requested, to the

West Virginia Crime Victims Compensation Fund.

14.11. The Registry shall release a list of sex offenders residing, working, attending school or visiting for more than fifteen (15) continuous days in a county to a resident of same county upon being properly ordered by a circuit court to make such a release.

14.12. The Registry shall remove a name from the Registry when properly ordered by a circuit court following a petition by a registered person whose conviction has been overturned.

14.12.a. Within fifteen (15) working days of notification, the Registry shall inform the FBI's National Sex Offender Registry (NSOR) when a name has been removed from the Registry.

14.12.b. Within fifteen (15) working days of notification, the Registry shall inform the State Police detachment in the county where the person resides, when that person's name has been removed from the Registry.

14.12.c. Within fifteen (15) working days of notification, the Registry shall inform all authorized community and religious organizations that have been properly registered to receive sex offender registration information when a name has been removed from the registry.

14.12.d. Within fifteen (15) working days, if the person was required to register for life, the Registry shall update the list of persons made available to the public through the Internet or by telephone request.

14.13. When notified that a person required to register has changed or intends to change their address to an address outside the county where the registrant has been residing the Registry shall:

14.13.a. If applicable, within fifteen (15) working days, inform the State Police

detachment in the county where that person resided of the change.

14.14. When notified that a person required to register has changed or intends to change their address the Registry shall, within fifteen (15) working days, if the person was required to register for life, update the list of persons made available to the public through the Internet or by telephone request.

14.14.a. When notified that a person required to register has moved or intends to move out of state, the Registry shall within ten (10) working days, inform the Sex Offender Registry point of contact for the state in which the person intends to reside and forward requested information as per their instructions.

14.15. The Registry shall notify sexual offenders by certified mail.

14.15.a. This method of communication will be utilized for address verifications.

14.15.a.1. All registered sexual predators shall be notified every ninety (90) days.

14.15.a.1.A. The certified mail will include an address verification card and instructions for the person to correctly comply with the registration requirements.

14.15.a.2. All other registered sexual offenders will be notified annually.

14.15.a.2.A. The certified mail will include an address verification card and instructions for the person to correctly comply with the registration requirements.

14.15.b. When contacted by a law enforcement agency that they have made contact with or are informed of a person that may be eligible for sex offender registration, but is not registered, the Registry shall:

14.15.b.1. Verify if the person is to be registered as a sex offender.

14.15.b.1.A. If verified as a sex offender, the Registry shall mail a certified

letter to the person notifying them of the registration requirements and instructions on how to correctly comply with such.

14.16. When notified by a court of its determination that a person is or is no longer a sexually violent predator, the Registry shall,

14.16.a. Within fifteen (15) working days, inform the State Police detachment in the county where the person resides.

14.16.b. Within fifteen (15) working days, inform all authorized community and religious organizations registered to receive sex offender registration information.

14.16.c. Within fifteen (15) working days, update the list of persons made available to the public through the Internet, by telephone request or by written request.

14.16.d. Within fifteen (15) working days inform the Prosecuting Attorney in the county where the person resides of the court's determination of the persons' sexually violent predator status.

14.17. When a court has requested a report from the Sex Offender Registration Advisory Board, the Registry shall:

14.17a. Receive and date stamp any mail, fax transmissions or hand delivered documents addressed to the Board at the Registry's office address.

14.17.b. Upon receipt of the court's order and all relevant documents, forward copies of the same to each member of the Board.

14.17.b.1. Maintain all original documents.

14.17.c. Inform the Board of a meeting time and place.

14.17.d. Assist the Board in forwarding the report to requesting court.

14.17.e. Provide the Board with relevant background information, such as a criminal history record, on the person.

14.18. The Registry shall conduct, in cooperation with the Prosecuting Attorney, a community notification/education program.

14.18.a. Arrange a time and meeting place for the program.

14.18.b. Provide handouts and brochures.

14.18.c. Request the assistance of local law-enforcement agencies.

14.18.d. Request the assistance of probation and/or parole officers.

14.18.e. Request the assistance of victims advocates and/or victim resource representatives.

14.18.f. Request the assistance of experts in the field of victimization and/or treatment of offenders.

14.15 Responsibilities of community organizations or religious organizations authorized to receive sex offender registration information.

15.1. Individuals or organizations which provide the following are authorized to receive sex offender registration information:

15.1.a. Youth or day care services or

15.1.b. Residential care or

15.1.c. Respite care or

15.1.d. Other supportive services for incapacitated, infirm or mentally incapacitated persons.

15.2. These organizations shall provide, if applicable, any legal document, charter, statute, license, etc. that authenticates the organization as a community or religious organization that provides services to youth in the county or provides residential care, respite care, or other supportive services for incapacitated, infirm or mentally incapacitated persons.

15.3. These organizations and individuals will sign and abide by the Sex Offender Non-Disclosure Agreement and

15.3.a. Limit the use of the provided information for which it was provided and

15.3.b. Use the information to develop prevention and safety strategies and

15.3.c. Destroy all documentation when it is no longer needed for the purpose for which it was provided and

15.3.d. Only allow authorized officials of said organizations access to the information and

15.3.e. Not disseminate the information to any other organization, agency or person and

15.3.f. Implement reasonable procedures to protect this information from unauthorized access, alteration or destruction.

15.4. Individuals and organizations shall responsibly manage the information pertaining to sex offenders.

15.4.a. The information shall not be used to harass or intimidate.

15.4.b. The information shall not be used in any attempt to affect a person's employment or housing status.

14.16 Responsibilities of those persons required to register.

16.1. Responsibilities at the time of conviction.

16.1.a. The person who has pled guilty, is convicted or found not guilty by reason of mental illness, mental retardation or addiction of those crimes listed in §5 of this Rule that require registration, or those offenses determined by the sentencing court to have been sexually motivated, shall sign in open court and on the record, a statement that they understand the sex offender registry requirements.

16.1.a.1. The statement, once signed and witnessed, constitutes prima facie evidence that the person has knowledge of the sex offender registry requirements.

16.1.b. The person shall respond to the court's interrogation to verify that the person has received notice and understands the provisions of the Act.

16.2. Responsibilities concerning sexually violent predator status.

16.2.a. At the hearing to determine sexually violent predator status, the person whose status is in question, shall be present.

16.2.b. At the hearing to determine sexually violent predator status, the person whose status is in question shall have the right to be represented by counsel, introduce evidence and cross examine witnesses.

16.2.c. Prior to the hearing to determine sexually violent predator status, the

person whose status is in question shall have the right to an examination by an independent psychiatric or clinical expert of their choice.

16.2.d. The person whose status is in question shall have the right to utilize the testimony of such expert as a medical witness on their behalf.

16.2.e. If determined by a court to be a sexually violent predator, the person must comply with all registration requirements pertinent to a sexually violent predator.

16.2.f. The proceeding seeking to establish that a person is no longer a sexually violent predator is initiated by the filing of a petition by the person determined to be a sexually violent predator.

16.3. Responsibilities while residing in an incarceration facility prior to the release from the facility.

16.3.a. At least three (3) days prior to the persons release, the person shall provide the following information to the incarceration facility:

16.3.a.1. Full name, including any aliases, nicknames or other names used by the registrant and

16.3.a.2. Full address, including the county, where the person intends to reside and

16.3.a.3. Name and address of any anticipated employer or place of employment and

16.3.a.4. Name and address of any school or training facility the person anticipates on attending and

16.3.a.5. Social security number and

16.3.a.6. A recent photograph.

16.4. Responsibilities of person upon release from an incarceration facility.

16.4.a. Within three (3) days of release the person shall physically appear at the State Police Detachment in the county of residence and supply information necessary to complete a WVSP 170 (Offender Registration Form).

16.4.a.1. The person shall affix their signature to the WVSP 170 (Offender Registration Form).

16.4.b. The person shall also submit to the following:

16.4.b.1. Photographs and

16.4.b.2. Right Thumb print and

16.4.b.3. Full set of fingerprints in duplicate.

16.4.b.3.A. One full set of fingerprints to be placed on WVSP 40 (WV State Fingerprint Card) and

16.4.b.3.B. One full set of fingerprints to be placed on FD-249 (FBI Fingerprint Card).

16.4.c. The registrant shall read and affix their signature to WVSP 196 (Notification of Sex Offender Responsibility).

16.5 Responsibilities after conviction or plea of guilty, but prior to actual incarceration.

16.5.a. Within three (3) days of conviction or entering of a guilty plea, the person shall physically appear at the State Police Detachment in the county of residence and supply information necessary to complete a WVSP 170 (Offender Registration Form).

16.5.a.1. The person shall affix their signature to the WVSP 170 (Offender Registration Form).

16.5.b. The person shall also submit to the following:

16.5.b.1. Photographs and

16.5.b.2. Right Thumb print and

16.5.b.3. Full set of fingerprints in duplicate.

16.5.b.3.A. One full set of fingerprints to be placed on WVSP 40 (WV State Fingerprint Card) and

16.5.b.3.B. One full set of fingerprints to be placed on FD-249 (FBI Fingerprint Card).

16.5.c. The registrant shall read and affix their signature to WVSP 196 (Notification of Sex Offender Responsibility).

16.6. Responsibilities for verification of address

16.6.a. When initially registering at the State Police detachment, the person will supply an address to the officer.

16.6.a.1. The address must be a true physical address, a post office address by itself, is not an acceptable address.

16.6.a.2. Following the registration process, the person will assist the law enforcement officer when the officer physically arrives at the person's address to verify that the given address is correct.

16.6.b. Once the person is included in the Registry, the address verification will continue to be required. The person will receive a certified letter from the Registry containing a Sex Offender Address Verification Card.

16.6.b.1. Those persons determined to be a sexually violent predator will receive the letter and card every ninety (90) days.

16.6.b.2. All other persons will receive the letter and card once a year.

16.6.c. The person shall physically appear at the State Police detachment in the county they reside within ten (10) days of receiving the letter and card.

16.6.d. The person will complete the verification card in the presence of a Trooper.

16.6.d.1. The address must be a true physical address, a post office box by itself, is not an acceptable address.

16.6.e. The person shall sign the card in the presence of the Trooper.

16.6.f. If the address on the card differs from the address on file or if any of the registration information has changed, the person shall:

16.6.f.1. Provide information for a new WVSP 170 (Offender Registration Form) and

16.6.f.2. Be photographed.

16.6.g. The person will assist the law

enforcement officer when he/she physically arrives at the persons' address to verify the correct address.

16.7. Responsibility of a registrant when changing address or encountered any change in registration information

16.7.a. Within ten (10) days prior to the actual change of address or within ten (10) days following any other change in registration information, the person shall physically appear at the State Police detachment where they last registered and advise of their intent to move as well as their new address and/or the change in registration information..

16.7.a.1. If the person is moving out-of-state or out-of-country, they must notify the State Police detachment at least ten (10) days prior to the actual move.

16.7.a.2. If incarcerated and intending to reside out-of-state or out-of-country, the person required to register must notify correctional officials before their release of such intent and the actual address where they will reside.

16.7.b. Within ten (10) days following the move, the registrant must physically appear at the State Police detachment in the county where the new address is located and provide the information necessary to complete a WVSP 170 (Offender Registration Form).

16.7.b.1 The person shall also submit to the following

16.7.b.1.A. Photographs and

16.7.b.1.B. Right thumb print and

16.7.b.1.C. Full set of fingerprints in duplicate.

16.7.b.1.C.1 One full set of fingerprints to be placed on WVSP 40 (WV State Fingerprint Card) and

16.7.b.1.C.2. One full set of fingerprints to be placed on FD-249 (FBI Fingerprint Card).

16.7.b.2. The registrant shall read

and affix their signature to WVSP 196 (Notification of Sex Offender Responsibility).

16.7.c. Within ten (10) days of a change in registration information, the registrant must physically appear at the State Police detachment in the county(ies) where they reside, work or attend school is located and provide the information necessary to complete a WVSP 170 (Offender Registration Form).

16.7.c.1. The person shall also submit to the following:

16.7.c.1.A. Photographs and

16.7.c.1.B. Right thumb print and

16.7.c.1.C. Full set of fingerprints in duplicate.

16.7.c.1.C.1 One full set of fingerprints to be placed on WVSP 40 (WV State Fingerprint Card) and

16.7.c.1.C.2. One full set of fingerprints to be placed on FD-249 (FBI Fingerprint Card).

16.7.c.2. The registrant shall read and affix their signature to WVSP 196 (Notification of Sex Offender Responsibility)

16.8. Responsibilities of out-of-state registrants.

16.8.a. All persons who are required to register as a sex offender in the state where they reside, and meet one of the following criteria, must register within three (3) days of the start of employment, work, school enrollment or visit;

16.8.a.1. Employed in West Virginia or

16.8.a.2. Carry on a vocation in West Virginia or

16.8.a.3. A student in West Virginia or

16.8.a.4. Is visiting for more than fifteen (15) continuous days.

16.8.b. The person required to register shall physically appear at the State Police Detachment in the county in which the place of employment, school, vocation and/or the place of visitation is located and provide the necessary information to complete a WVSP 170

(Offender Registration Form).

16.8.b.1. The person shall affix their signature to WVSP 170 (Offender Registration Form).

16.8.c. The person shall provide the following:

16.8.c.1. Photograph and

16.8.c.2. Right thumb print and

16.8.c.3. Full set of fingerprints in duplicate.

16.8.c.3.A. One full set of fingerprints to be placed on WVSP 40 (WV State Fingerprint Card) and

16.8.c.3.B. One full set of fingerprints to be placed on FD-249 (FBI Fingerprint Card).

16.8.d. The person shall read and affix their signature to WVSP 196 (Notification of Sex Offender Responsibility).

16.9. Responsibilities of out-of-state sex offender in another state moving to West Virginia.

16.9.a. Within ten (10) days of the change of address, the person shall physically appear at the State Police detachment in the county where they reside or intend to reside and provide the information necessary to complete a WVSP 170 (Offender Registration Form).

16.9.a.1. The person shall affix their signature to WVSP 170 (Offender Registration Form).

16.9.b. The person required to register shall submit to the following:

16.9.b.1. Photographs and

16.9.b.2. Right thumb print and

16.9.b.3. Full set of fingerprints in duplicate.

16.9.b.3.A. One full set of fingerprints to be placed on WVSP 40 (WV State Fingerprint Card) and

16.9.b.3.B. One full set of fingerprints to be placed on FD-249 (FBI Fingerprint Card).

16.9.c. The person required to register shall read and affix their signature to a WVSP 196 (Notification of Sex Offender Responsibility).

16.10 Responsibility of a person who is required to register and resides in one county and works, carries on a vocation, attends school or is visiting for more than fifteen (15) continuous days in another county.

16.10.b. The person required to register shall physically appear at the State Police Detachment in the county in which the place of employment, school, vocation or place of visitation is located and provide the necessary information to complete a WVSP 170 (Offender Registration Form).

16.10.b.1. The person shall affix their signature to WVSP 170 (Offender Registration Form).

16.10.c. The person shall provide the following:

16.10.c.1. Photograph and

16.10.c.2. Right thumb print and

16.10.c.3. Full set of fingerprints in duplicate.

16.10.c.3.A. One full set of fingerprints to be placed on WVSP 40 (WV State Fingerprint Card) and

16.10.c.3.B. One full set of fingerprints to be placed on FD-249 (FBI Fingerprint Card)

16.10.c.4. The name and address of the employer, place of employment, vocation, school and/or the place of visitation.

16.10.d. The person shall read and affix their signature to WVSP 196 (Notification of Sex Offender Responsibility).

16.11. Responsibility of a person who is qualified to be registered as a sex offender, but is not included in the Registry.

16.11.a. As the provisions of this Act apply both retroactively and prospectively, if a

person has been convicted or found not guilty by reason of mental illness, mental retardation or addiction on any offense listed in 5.1 and 5.2 of this rule or of any offenses determined by the sentencing court to have been sexually motivated and is required to register, but is not included in the Registry, they must register as a sex offender.

16.11.a.1. Within ten (10) days of being notified of their responsibility to register, the person must physically appear at the State Police detachment in the county(ies) where they reside, work and/or attend school and provide the information necessary to complete a WVSP 170 (Offender Registration Form).

16.11.a.1.A. The person required to register shall apply their signature to the WVSP 170 Offender Registration Form).

16.11.b. The person required to register shall submit to the following:

16.11.b.1. Photographs and

16.11.b.2. Right thumb print and

16.11.b.3. Full set of fingerprints in duplicate.

16.11.b.3.A. One full set of fingerprints to be placed on WVSP 40 (WV State Fingerprint Card) and

16.11.b.3.B. One full set of fingerprints to be placed on FD-249 (FBI Fingerprint Card).

16.11.b.4. If applicable, the person will provide the name and address of their employer, place of employment, school and/or place of visitation.

16.11.c. The person required to register shall read and sign a WVSP 196 (Notification of Sex Offender Responsibility).

14.17. Community Notification/Education Meetings.

17.1. The meetings shall be conducted by the Prosecuting Attorney and in collaboration with the Registry, local law-enforcement agencies, probation and/or parole,

community organizations, victim resource organizations and victims' advocates.

17.2. The meetings shall be conducted within fifteen (15) working days from the time that the Prosecuting Attorney receives notification that a Sexually Violent Predator has moved or intends to reside in that county.

17.3. Additional community/education notification meetings may be conducted at the discretion of the Prosecuting Attorney.

17.3.a. After determining that a community/education notification program will be repeated, the Prosecuting Attorney will promptly notify the Registry to initiate the proceedings for the meeting.

17.4. The community/education notification meeting shall include, but is not limited to:

17.4.a. Presentation of a montage of offenders,

17.4.b. Historical reasons for the establishment of the Sex Offender Registration Act and its origin in Federal Legislation,

17.4.c. Rights and responsibilities of the public,

17.4.c.1. Consequences of vigilante response,

17.4.d. Role of law enforcement,

17.4.e. Extent of the sex offender problem,

17.4.f. Characteristics of sex offenders,

17.4.g. Additional information about sex offenders,

17.4.h. Rights and responsibilities of the sexual offender registrants,

17.4.i. Strategies for protection and prevention,

17.4.j. Resources for victims,

17.4.k. Handouts

17.4.k.1. Handouts naming particular persons shall be passed out only at the end of

the program but prior to the open forum for questions.

17.4.k.1.A. Handouts will list the municipality of the persons' address but will not include the street or house address.

17.4.1. Open forum for questions from the public

14.18. Responsibilities of the Public.

18.1. Communities and individuals shall responsibly manage the information pertaining to sex offenders.

18.1.a. The information shall not be used to harass or intimidate.

18.1.b. The information shall not be used in any attempt to affect the persons employment or housing status.

14.19. Documents Available

Unless specifically specified in the proceeding rule, the following documents are available by contacting the Sex Offender Registry at:

Sex Offender Registry

Criminal Records

West Virginia State

Police

725 Jefferson Road

South Charleston, WV

25309

Telephone number:

304-746-2133

Fax number:

304-746-2402

19.1. Title 81: Procedural Rule, West Virginia State Police, Series 14: Guidelines pertaining to the Sex Offender Registration Act

19.1.a. This rule is also on file at the West Virginia Office of the Secretary of State.

19.2. WVSP 196, Notification of Sex Offender Responsibility.

19.3. WVSP 170, Offender Registration form.

19.4. WVSP 40, West Virginia

fingerprint card.

19.5. FD-249, FBI fingerprint card.

19.6. Sex Offender Address Verification card.

19.7. Sex Offender Information Bulletin-Notification of Release.

19.8. Sex Offender Information Non-Disclosure Release Agreement.

19.9. List of all persons, updated quarterly, and separated by county of residence who are required to register for life as a sex offender.

